

HB0012S03 compared with HB0012S02

~~text~~ shows text that was in HB0012S02 but was deleted in HB0012S03.

text shows text that was not in HB0012S02 but was inserted into HB0012S03.

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Representative Paul Ray proposes the following substitute bill:

CONSUMER CREDIT PROTECTION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 13, Chapter 45, Consumer Credit Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ under certain circumstances, requires a consumer reporting agency to give a consumer, prior to purchase, a written disclosure that states that the credit score the consumer reporting agency provides may be different from the credit score used by a lender;
- ▶ requires an entity that requests a consumer's credit score or credit report, for a purpose other than the extension of credit, to provide the consumer with a written disclosure that includes:

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- the name of the consumer reporting agency that calculated the credit score;
 - the ~~{unique name}~~ industry that is associated with the algorithm used to generate the credit score; ~~{}~~
 - the consumer's credit score; and
 - if the requesting entity is a consumer credit counseling agency, the consumer's credit report;
- ▶ prohibits a consumer reporting agency from refusing to sell a consumer's credit score to a requesting entity solely because the requesting entity is required to make the disclosures described in this bill;
 - ▶ requires a credit bureau to give a requesting entity written notice if the credit bureau suspends or terminates an ongoing service to the requesting entity of providing the requesting entity a consumer's credit score or credit report upon request; and
 - ▶ provides enforcement procedures for the provisions in this bill.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-45-102, as enacted by Laws of Utah 2006, Chapter 344

ENACTS:

13-45-501, Utah Code Annotated 1953

13-45-502, Utah Code Annotated 1953

13-45-503, Utah Code Annotated 1953

13-45-504, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

13-45-601, (Renumbered from 13-45-401, as enacted by Laws of Utah 2006, Chapter 344)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-45-102** is amended to read:

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13-45-102. Definitions.

As used in this chapter:

(1) "Consumer" means ~~[a natural person]~~ an individual.

(2) "Consumer credit counseling agency" means:

(a) a person that is registered with the Division of Consumer Protection to provide debt management services under Title 13, Chapter 42, Uniform Debt-Management Services Act; or

(b) a HUD-approved housing counseling agency.

~~[(2)] (3) "Consumer reporting agency" means [a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report to another person.];~~

(a) a credit bureau; or

(b) a person that obtains and resells any information, including a credit score or credit report, produced, in whole or in part, by a credit bureau.

(4) "Credit bureau" means a person that, for fees, dues, or on a cooperative basis, regularly engages in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report or credit score to another person.

~~[(3)] (5) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a[; that is used or collected in whole or part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes].~~

(6) (a) "Credit score" means a numerical value or a categorization that is:

(i) derived from information in a consumer report;

(ii) derived from a statistical tool or modeling system; and

(iii) developed to predict, at least in part, the likelihood of:

(A) future insurance claims behavior; or

(B) credit behavior.

(b) "Credit score" includes:

(i) a risk predictor; or

(ii) a risk score.

(7) "Depository institution" is as defined in Section 7-1-103.

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(8) "Electronically signed" means executed by electronic sound, symbol, or process attached to or logically associated with a record, demonstrating the intent to sign the record.

(9) "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment.

(10) "Lender" means a person that regularly offers or makes an extension of credit to a consumer.

(11) "Lender credit score" means a credit score that a mortgage lender uses to underwrite or evaluate an individual's request for a mortgage loan, and that is calculated using the same algorithm used by Fannie Mae, Freddie Mac, or a comparable entity.

(12) "Lessor" is as defined in Section 15-8-3.

~~(4)~~ (13) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., Mountain Standard or Mountain Daylight Time.

~~(5)~~ (14) (a) "Personal information" means personally identifiable financial information:

(i) provided by a consumer to another person;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by another person.

(b) "Personal information" does not include:

(i) publicly available information, as that term is defined by the regulations prescribed under 15 U.S.C. Sec. 6804; or

(ii) any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived without using any nonpublic personal information.

(c) Notwithstanding Subsection ~~(5)~~ (14)(b), "personal information" includes any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived using any nonpublic personal information other than publicly available information.

~~(6)~~ (15) "Proper identification" has the same meaning as in 15 U.S.C. Sec. 1681h(a)(1), and includes:

(a) the consumer's full name, including first, last, and middle names and any suffix;

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- (b) any name the consumer previously used;
- (c) the consumer's current and recent full addresses, including street address, any apartment number, city, state, and ZIP code;
- (d) the consumer's Social Security number; and
- (e) the consumer's date of birth.

(16) (a) "Requesting entity" means a person that requests or obtains an individual's credit report or credit score for a purpose other than the extension of credit, including a consumer credit counseling agency, credit counselor, housing counselor, lessor, or employer.

(b) "Requesting entity" does not include a depository institution.

~~[(7)]~~ (17) "Security freeze" means a prohibition, consistent with Section 13-45-201, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit.

Section 2. Section **13-45-501** is enacted to read:

Part 5. Credit Score Disclosure Requirements

13-45-501. Title.

This part is known as "Credit Score Disclosure Requirements."

Section 3. Section **13-45-502** is enacted to read:

13-45-502. Educational credit score -- Required disclosure.

(1) Except as provided in Subsection (2), when, for a purpose other than an extension of credit, a consumer requests the consumer's credit score from a consumer reporting agency and the consumer reporting agency provides a credit score that is not a lender credit score, the consumer reporting agency shall give the consumer a written disclosure in substantially the following form:

"This credit score ~~{may}~~**will** differ ~~{substantially}~~ from the credit score used by a lender for the approval of a residential mortgage or other loan. ~~{The Consumer Financial Protection Bureau has warned that this}~~**This** credit score is ~~{unreliable and may misrepresent a lender's assessment of your creditworthiness}~~**generated from a formula that is different from the formula used by lenders.** Based on the **credit** score actually used by a lender, ~~{you}~~**rather than this credit score, the lender** may ~~{be offered less favorable}~~ **offer you loan** terms that are more **or less** costly to you."

(2) If a consumer reporting agency described in Subsection (1) is also a lender, and the

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consumer reporting agency provides the consumer a credit score that is not a lender credit score that the consumer reporting agency uses when deciding whether to grant an extension of credit, the consumer reporting agency shall give the consumer a written disclosure in substantially the following form:

"This credit score is different from the credit score we use to evaluate whether to grant an extension of credit. ~~{The Consumer Financial Protection Bureau has warned that this}~~ ~~This~~ credit score is ~~{unreliable and may misrepresent our or another lender's assessment of your creditworthiness}~~ generated from a formula that is different from the formula we use to generate the credit score to evaluate whether to grant an extension of credit. Based on the credit score ~~{that }we{ would}~~ actually use, rather than this credit score, you may be offered ~~{less favorable}~~ loan terms that are more or less costly to you."

(3) A person who gives a disclosure described in Subsection (1) or (2) shall ensure that the disclosure is:

- (a) independently displayed on a separate page;
- (b) typed in at least 14-point font; and
- (c) signed by the consumer, or if the credit score is obtained online, electronically

signed by the consumer, before the consumer purchases the credit score.

(4) This section does not apply to a depository institution.

Section 4. Section **13-45-503** is enacted to read:

13-45-503. Disclosure of credit score and other information to consumer.

(1) Except as provided in Subsection (2), within 10 days after the day on which a requesting entity receives a consumer's credit score or credit report, the requesting entity shall give the consumer a written disclosure that states:

- (a) the name of the consumer reporting agency that calculated the credit score;
- (b) the ~~{unique}~~ name of the industry that is associated with the algorithm used to

generate the credit score;

(c) the consumer's credit score; and

(d) if the requesting entity is a consumer credit counseling agency, the consumer's credit report.

(2) A lessor shall disclose a consumer's credit score in accordance with Subsection (1) within three days after the day on which:

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(a) the lessor denies the consumer's application for a lease; or

(b) the consumer and the lessor enter into a lease agreement.

(3) A consumer reporting agency may not refuse to sell a consumer's credit score or credit report to a requesting entity because the requesting entity is required to disclose the credit score or the credit report to the consumer under this section.

Section 5. Section **13-45-504** is enacted to read:

13-45-504. Notification to requesting entity of suspension or termination.

If a credit bureau and a requesting entity have an ongoing arrangement by which the credit bureau provides the requesting entity with a consumer's credit score or credit report upon request, and the credit bureau suspends or terminates the service of providing the requesting entity with a consumer's credit score or credit report upon request, the credit bureau shall, within two business days after the day on which the credit bureau suspends or terminates the service, give the requesting entity a written notice of suspension or termination that:

(1) states the date on which the credit bureau suspended or terminated the service;

(2) states the reason that the credit bureau suspended or terminated the service; and

(3) provides an address and a phone number that the requesting entity may use to contact the credit bureau with any questions regarding the suspension or termination.

Section 6. Section **13-45-601**, which is renumbered from Section 13-45-401 is renumbered and amended to read:

Part 6. Enforcement

~~[13-45-401].~~ 13-45-601. Enforcement.

(1) The attorney general may enforce this chapter's provisions.

(2) A person ~~[who]~~ that violates ~~[this chapter's provisions]~~ a provision from Section 13-45-201, 13-45-202, 13-45-203, 13-45-204, 13-45-205, or 13-45-301 is subject to a civil fine of:

(a) no greater than \$2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than \$100,000 in the aggregate for related violations concerning more than one consumer.

(3) A person that violates Section 13-45-502, 13-45-503, or 13-45-504 is subject to a civil fine of:

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(a) no less than \$1,000 per violation; and

(b) no greater than \$1,000,000 in the aggregate for related violations.

~~[(3)]~~ (4) In addition to the penalties provided in ~~[Subsection]~~ Subsections (2) and (3), the attorney general may seek injunctive relief to prevent future violations of this chapter in:

(a) the district court located in Salt Lake City; or

(b) the district court for the district in which resides a consumer who is the subject of a credit report on which a violation occurs.