

Representative Andrew Stoddard proposes the following substitute bill:

CONSUMER SALES PRACTICES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill enacts provisions in the Utah Consumer Sales Practices Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a supplier who is not the financial institution of an account holder from representing that the supplier is the financial institution of the account holder;
- ▶ establishes certain requirements and standards regarding the use of targeted solicitations; and
- ▶ provides that a person who offers a targeted solicitation in violation of this bill commits a deceptive act or practice under the Utah Consumer Sales Practices Act, administered and enforced by the Division of Consumer Protection.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



26 13-11-4.1, Utah Code Annotated 1953

27

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

29 Section 1. Section **13-11-4.1** is enacted to read:

30 **13-11-4.1. Targeted solicitations involving financial information -- Restrictions.**

31 (1) As used in this section:

32 (a) "Account holder" means a person for whom a personal account is held by a
33 financial institution.

34 (b) "Financial institution" means:

35 (i) a state or federally chartered:

36 (A) bank;

37 (B) savings and loan association;

38 (C) savings bank;

39 (D) industrial bank; or

40 (E) credit union; or

41 (ii) any other institution under the jurisdiction of the commissioner of Financial

42 Institutions as described in Title 7, Financial Institutions Act.

43 (c) (i) "Specific account information" means information that is:

44 (A) relative to the account of an account holder, in addition to the name of the account
45 holder; and

46 (B) not provided by the financial institution that holds the account holder's account to
47 the person offering a targeted solicitation.

48 (ii) "Specific account information" includes:

49 (A) a loan number;

50 (B) a loan amount; or

51 (C) any other specific account or loan information.

52 (d) "Targeted solicitation" means any written or oral advertisement or solicitation for
53 products or services that:

54 (i) is addressed to an account holder;

55 (ii) contains specific account information;

56 (iii) is offered by a supplier that is not sponsored by or affiliated with the financial

57 institution that holds the account holder's account; and

58 (iv) is not authorized by the financial institution that holds the account holder's
59 account.

60 (2) (a) A supplier who is not the financial institution of an account holder may not
61 represent, directly or indirectly, that the supplier is the financial institution of the account
62 holder.

63 (b) If a presiding officer or court determines appropriate after considering other
64 relevant factors, the following actions by a supplier who is not the financial institution of an
65 account holder establish a presumption that the supplier is representing that the supplier is the
66 financial institution of the account holder in violation of Subsection (2)(a):

67 (i) the use or reference to the name, trade name, or trademark of the financial
68 institution of the account holder, unless the supplier has written authorization from the
69 financial institution;

70 (ii) the placement of specific account information on the outside of an envelope, visible
71 through the envelope window, or on a postcard, when sending a target solicitation by direct
72 mail; or

73 (iii) the placement of specific account information in the subject line, when sending a
74 targeted solicitation by email.

75 (3) (a) A targeted solicitation, if offered in writing, shall include a clear and
76 conspicuous statement in bold type on the front page of the document containing:

77 (i) the name, address, and telephone number of the supplier offering the targeted
78 solicitation; and

79 (ii) a statement indicating that the supplier offering the targeted solicitation is not
80 sponsored by or affiliated with the financial institution that holds the account holder's account.

81 (b) If the targeted solicitation is offered orally, the supplier offering the targeted
82 solicitation shall verbally communicate the statement described in Subsection (3)(a) at the time
83 the oral solicitation is offered to the account holder.

84 (4) A supplier who violates this section commits a deceptive act or practice under
85 Subsection 13-11-4(1).