

HB0113S01 compared with HB0113

~~{deleted text}~~ shows text that was in HB0113 but was deleted in HB0113S01.

inserted text shows text that was not in HB0113 but was inserted into HB0113S01.

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Representative Andrew Stoddard proposes the following substitute bill:

CONSUMER SALES PRACTICES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a ~~{person from using the name of a financial institution in a targeted solicitation without the express written consent of}~~ 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

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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:

13-11-4.1, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

(a) "Account holder" means ~~the same as that term~~ a person for whom a personal account is held by a financial institution.

(b) "Financial institution" means ~~the same as that term is defined in 15 U.S.C. Sec. 6809;~~

(i) a state or federally chartered:

(A) bank;

(B) savings and loan association;

(C) savings bank;

(D) industrial bank; or

(E) credit union; or

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

Institutions as described in Title 7, Financial Institutions Act.

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

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

~~(B) publically available;~~ and

~~(C);~~ (B) not provided by the financial institution that holds the account holder's account

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to the person offering a targeted solicitation.

(ii) "Specific account information" includes:

(A) a loan number;

(B) a loan amount; or

(C) any other specific account or loan information.

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

(i) is addressed to an account holder;

(ii) contains specific account information;

(iii) is offered by a ~~person~~ supplier that is not sponsored by or affiliated with the financial institution that holds the account holder's account; and

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

(2) ~~Except as required in the statement described in Subsection (4)(a), a person may not use or make~~ (a) A supplier who is not the financial institution of an account holder may not represent, directly or indirectly, that the supplier is the financial institution of the account holder.

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

(i) the use or reference to the name, trade name, or trademark of ~~a~~ the financial institution ~~in a targeted solicitation without~~ of the ~~express~~ account holder, unless the supplier has written ~~consent of~~ authorization from the financial institution ~~;~~;

~~(3) ii~~ ~~A person may not include~~ the placement of specific account information ~~;~~ ~~(a)~~ on the outside of an envelope, visible through the envelope window, or on a postcard, when sending a ~~targeted~~ target solicitation by direct mail; or

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

~~(4) 3~~ (a) A targeted solicitation, if offered in writing, shall include a clear and conspicuous statement in bold type on the front page of the document containing:

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(i) the name, address, and telephone number of the ~~{person}~~ supplier offering the targeted solicitation; and

(ii) a statement indicating that the ~~{person}~~ supplier offering the targeted solicitation is not sponsored by or affiliated with the financial institution that holds the account holder's account; ~~and~~

~~—— (iii) a statement indicating that the financial institution that holds the account holder's account;~~

~~—— (A) did not authorize the targeted solicitation; and~~

~~—— (B) did not provide any of the specific account information included in the targeted solicitation to the person offering the targeted solicitation.~~

~~f.~~

(b) If the targeted solicitation is offered orally, the ~~{person}~~ supplier offering the targeted solicitation shall verbally communicate the statement described in Subsection ~~(f4)3~~(a) at the time the oral solicitation is offered to the account holder.

~~(f5)4~~ A ~~{person}~~ supplier who ~~f~~ offers a targeted solicitation in violation of ~~f~~ violates this section commits a deceptive act or practice under ~~{Section}~~ Subsection 13-11-4(1).