

**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

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**LONG TITLE**

**General Description:**

This bill enacts provisions in the Utah Consumer Sales Practices Act and the Financial Transaction Card Protection 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;
- ▶ 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; and
- ▶ permits a person that accepts a financial transaction card for the transaction of business to charge a convenience fee under certain conditions.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 ENACTS:

29 [13-11-4.1](#), Utah Code Annotated 1953

30 [13-38a-401](#), Utah Code Annotated 1953

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

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

34 **13-11-4.1. Targeted solicitations involving financial information -- Restrictions.**

35 (1) As used in this section:

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

38 (b) "Financial institution" means:

39 (i) a state or federally chartered:

40 (A) bank;

41 (B) savings and loan association;

42 (C) savings bank;

43 (D) industrial bank; or

44 (E) credit union;

45 (ii) any other institution under the jurisdiction of the commissioner of Financial  
46 Institutions as described in Title 7, Financial Institutions Act; or

47 (iii) a person who:

48 (A) is subject to Title 61, Chapter 2c, Utah Residential Mortgage Practices and  
49 Licensing Act; and

50 (B) engages in the business of residential mortgage loans as defined in Section  
51 [61-2c-102](#).

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

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

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

57 (ii) "Specific account information" includes:

58 (A) a loan number;

59 (B) a loan amount; or

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

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

63 (i) is addressed to an account holder;

64 (ii) contains specific account information;

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

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

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

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

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

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

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

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

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

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

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

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

95 Section 2. Section 13-38a-401 is enacted to read:

96 **Part 4. Convenience Fees**

97 **13-38a-401. Convenience Fees.**

98 (1) Subject to Subsection (2), a person that accepts a financial transaction card for the  
99 transaction of business may charge a convenience fee for a transaction processed over:

- 100 (a) the phone;  
101 (b) text or similar short message service; or  
102 (c) the internet.

103 (2) Before a person charges a convenience fee as described in Subsection (1), the  
104 person shall:

- 105 (a) clearly disclose to the payor that the person will charge the payor a convenience fee,  
106 in a time and manner that allows the payor to accept or reject the convenience fee;  
107 (b) disclose to the payor the amount of the convenience fee; and  
108 (c) give the payor an alternative payment method option, using a financial transaction  
109 card for which a convenience fee does not apply.