

HB0113S03 compared with HB0113S02

~~{deleted text}~~ shows text that was in HB0113S02 but was deleted in HB0113S03.

inserted text shows text that was not in HB0113S02 but was inserted into HB0113S03.

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~~{Senator Curtis S. Bramble}~~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 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

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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; 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:

None

Utah Code Sections Affected:

ENACTS:

13-11-4.1, Utah Code Annotated 1953

13-38a-401, 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 a person for whom a personal account is held by a financial institution.

(b) "Financial institution" means:

(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~~;~~ ~~or~~

(iii) a person who:

(A) is subject to Title 61, Chapter 2c, Utah Residential Mortgage Practices and

Licensing Act; and

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

(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; and

(B) not provided by the financial institution that holds the account holder's account 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 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) (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 the financial institution of the account holder, unless the supplier has written authorization from the financial institution;

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

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mail; or

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

(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:

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

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

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

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

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

Part 4. Convenience Fees

13-38a-401. Convenience Fees.

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

(a) the phone;

(b) text or similar short message service; or

(c) the internet.

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

(a) clearly disclose to the payor that the person will charge the payor a convenience fee, in a time and manner that allows the payor to accept or reject the convenience fee;

(b) disclose to the payor the amount of the convenience fee; and

(c) give the payor an alternative payment method option, using a financial transaction card for which a convenience fee does not apply.