

**BUSINESS TRANSACTIONS AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to transactions involving banks and gift cards.

**Highlighted Provisions:**

This bill:

- ▶ permits a state-chartered bank to sell to another Federal Deposit Insurance Corporation insured financial institution;
- ▶ removes the prohibition on a pawn or secondhand business purchasing gift cards.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 13-32a-103.1**, as enacted by Laws of Utah 2019, Chapter 309
- 13-32a-104**, as last amended by Laws of Utah 2022, Chapter 201

ENACTS:

**7-3-41**, Utah Code Annotated 1953

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

Section 1. Section **7-3-41** is enacted to read:



28 7-3-41. Sale of bank.

29 (1) As used in this section:

30 (a) "Business combination" means the same as that term is defined in Section  
31 16-10a-1802.

32 (b) "Surviving entity" means an entity into which one or more other entities are  
33 merged, whether the entity existed before the merger or is created by the merger.

34 (2) (a) Subject to the requirements of this section, a bank chartered under this chapter  
35 may, with the approval of the commissioner:

36 (i) enter into a business combination with another bank, savings bank, savings and loan  
37 association, or other entity; or

38 (ii) sell or transfer all, or substantially all, of the bank's assets, liabilities, and  
39 businesses to another bank, savings bank, savings and loan association, or other entity.

40 (b) The buyer or transferee, or surviving entity of a bank that enters into a business  
41 combination, shall be a financial institution insured by the Federal Deposit Insurance  
42 Corporation.

43 (c) The terms and conditions of the transaction shall be lawfully agreed upon, adopted,  
44 and approved in accordance with:

45 (i) Title 16, Chapter 10a, Part 11, Merger and Share Exchange; or

46 (ii) Title 16, Chapter 10a, Part 18, Business Combinations.

47 (d) The capital stock of the surviving entity shall be not less than required under  
48 applicable law for the surviving entity.

49 (e) All the rights, franchises, interests, property, and choses in action of the combined  
50 entities shall be deemed transferred to and vested in the surviving entity without any deed or  
51 other transfer.

52 (f) The surviving entity shall hold and enjoy the same and all rights of property,  
53 franchises, and interests in the same manner and to the same extent as were held and enjoyed  
54 by the institution combined under this section.

55 (3) (a) A national bank, state or federal savings and loan association, or state or federal  
56 savings bank may apply for conversion into a state-chartered bank:

57 (i) upon the affirmative vote of the shareholders owning at least two-thirds of its  
58 capital stock outstanding, or 51% or more of the total number of the members; and

59 (ii) at a meeting called by the directors, notice of which, specifying the purpose, shall  
60 be given in the manner required by the bylaws, or in the absence of such bylaw, then by  
61 sending the notice to each shareholder of record by registered mail at least ten days before the  
62 meeting.

63 (b) (i) Upon an affirmative vote described in Subsection (3)(a), the converting  
64 institution may apply for a certificate of authority by filing with the commissioner a certificate  
65 signed by the converting institution's president and cashier.

66 (ii) The certificate described in Subsection (3)(b)(i) shall:

67 (A) set forth the corporate action required under this section; and

68 (B) assert that the institution has complied with applicable laws of the United States.

69 (c) The converting institution shall file with the commissioner the plan of conversion  
70 and the proposed amendments to its articles of incorporation as approved by the stockholders  
71 for the operation of the institution as a state-chartered bank.

72 (d) (i) Upon receipt of the required application, the commissioner shall examine all  
73 facts associated with the conversion.

74 (ii) The expenses and cost incurred for an examination described in Subsection  
75 (3)(d)(i) shall be paid by the institution applying for permission to convert.

76 (iii) The commissioner shall present the commissioner's findings and recommendations  
77 to the Board of Bank Advisors for consideration.

78 (iv) Upon approval by Board of Bank Advisors, the commissioner shall issue a  
79 certificate of authority to the applicant allowing the conversion to proceed.

80 (e) A bank, savings and loan association, or savings bank chartered under this chapter  
81 may convert into, consolidate with, or merge with a national bank, with the national bank  
82 charter surviving, without approval of the commissioner or Board of Bank Advisors or any  
83 state authority.

84 (f) (i) Notwithstanding any provision of law to the contrary, if a bank, savings and loan  
85 association, or savings bank chartered under this chapter has engaged or proposes to engage in  
86 a business combination, sale, or transfer of substantially all assets that is not authorized under  
87 this section, the commissioner shall enforce the provisions of this section by issuing a cease  
88 and desist order.

89 (ii) The bank, savings and loan association, or savings bank may appeal a cease and

90 desist order described in Subsection (3)(f)(i) to district court if the appeal is filed within thirty  
91 days from the date the order was issued.

92 Section 2. Section **13-32a-103.1** is amended to read:

93 **13-32a-103.1. Transaction or gift cards.**

94 (1) A retail business engaging in a transaction involving a transaction card or gift card  
95 issued by that retail business and that bears the branding of that retail business is not subject to  
96 this chapter.

97 (2) A pawn or secondhand business may not [~~purchase or~~] pawn a gift card or  
98 transaction card.

99 (3) This chapter does not prohibit a pawn or secondhand business from issuing or  
100 accepting as payment a gift card that:

101 (a) is issued solely by the pawn or secondhand business; and

102 (b) bears the brand or name of the pawn or secondhand business.

103 Section 3. Section **13-32a-104** is amended to read:

104 **13-32a-104. Tickets required to be maintained -- Contents -- Identification of**  
105 **items -- Exceptions -- Prohibition against pawning or selling certain property.**

106 (1) A pawn or secondhand business shall keep a ticket for property a person pawns or  
107 sells to the pawn or secondhand business. A pawn or secondhand business shall document on  
108 the ticket the following information regarding the property:

109 (a) the date and time of the transaction;

110 (b) whether the transaction is a pawn or purchase;

111 (c) the ticket number;

112 (d) the date by which the property must be redeemed, if the property is pawned;

113 (e) the following information regarding the individual who pawns or sells the property:

114 (i) the individual's full name and date of birth as they appear on the individual's  
115 identification and the individual's residence address and telephone number;

116 (ii) the unique number and type of identification presented to the pawn or secondhand  
117 business;

118 (iii) the individual's signature; and

119 (iv) (A) subject to any rule made under Subsection (8), an electronic or tangible legible  
120 fingerprint of the individual's right index finger, or if the right index finger cannot be

121 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint  
122 and the reason why the right index fingerprint was unavailable; and

123 (B) notwithstanding the other provisions of this Subsection (1), an electronic legible  
124 fingerprint is not required to be documented on the ticket;

125 (f) the amount loaned on, paid for, or value for trade-in of each article of property;

126 (g) the full name of the individual conducting the pawn transaction or secondhand  
127 merchandise transaction on behalf of the pawn or secondhand business or the initials or a  
128 unique identifying number of the individual, if the pawn or secondhand business maintains a  
129 record of the initials or unique identifying number of the individual; and

130 (h) an accurate description of each article of property, with available identifying marks,  
131 including:

132 (i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers,  
133 color, manufacturers' names, and size;

134 (B) metallic composition, and any jewels, stones, or glass;

135 (C) any other marks of identification or indicia of ownership on the property;

136 (D) the weight of the property, if the payment is based on weight;

137 (E) any other unique identifying feature; and

138 (F) gold content, if indicated; or

139 (ii) if multiple articles of property of a similar nature are delivered together in one  
140 transaction and the articles of property do not bear serial or model numbers and do not include  
141 precious metals or gemstones, such as musical or video recordings, books, or hand tools, the  
142 description of the articles is adequate if it includes the quantity of the articles and a description  
143 of the type of articles delivered.

144 (2) (a) A pawn or secondhand business may not accept property if, upon inspection, it  
145 is apparent that:

146 (i) a serial number or another form of indicia of ownership has been removed, altered,  
147 defaced, or obliterated; or

148 (ii) the property is not a numismatic item and has indicia of being new, but is not  
149 accompanied by a written receipt or other satisfactory proof of ownership other than the seller's  
150 own statement[; ~~or~~].

151 [~~(iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card,~~

152 ~~transaction card, or other physical or digital card or certificate evidencing store credit.]~~

153 (b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or  
154 secondhand business is the original seller of the property and is accepting a return of the  
155 property as provided by the pawn or secondhand business' established return policy.

156 (c) Property is presumed to have had indicia of being new at the time of a transaction if  
157 the property is subsequently advertised by the pawn or secondhand business as being new.

158 (3) (a) An individual may not pawn or sell any property to a business regulated under  
159 this chapter if the property is subject to being turned over to a law enforcement agency in  
160 accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

161 (b) If an individual attempts to sell or pawn property to a business regulated under this  
162 chapter and the employee or owner of the business knows or has reason to know that the  
163 property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or  
164 owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid  
165 Personal Property, and may not receive the property in pawn or sale.

166 (4) A coin dealer is subject to Section [13-32a-104.5](#) and not subject to this section.

167 (5) An automated recycling kiosk operator is subject to Section [13-32a-104.6](#) and is not  
168 subject to this section.

169 (6) A catalytic converter purchaser is subject to Section [13-32a-104.7](#) and is not subject  
170 to this section.

171 (7) A violation of this section is a class B misdemeanor and is also subject to civil  
172 penalties under Section [13-32a-110](#).

173 (8) The division shall establish standards and criteria for fingerprint legibility by rule  
174 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

175 (9) (a) As used in this Subsection (9), "jewelry" means:

176 (i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry  
177 and watches; or

178 (ii) any jewelry pawned to a pawnbroker and the contract period between the  
179 pawnbroker and the pledgor has expired, including scrap jewelry and watches.

180 (b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

181 (i) a color digital photograph clearly and accurately depicting:

182 (A) each item of jewelry; and

183 (B) if an item of jewelry has one or more engravings, an additional color digital  
184 photograph specifically depicting any engraving; and  
185 (ii) a color digital photograph of an item that bears an identifying mark, including:  
186 (A) a serial number, engraving, owner label, or similar identifying mark; and  
187 (B) an additional photograph that clearly depicts the identifying mark described in  
188 Subsection (9)(b)(ii)(A).