

**CONSUMER LENDER NOTIFICATION AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: A. Cory Maloy

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**LONG TITLE**

**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 8 absent

**General Description:**

This bill modifies the requirements for engaging in business as a consumer lender in the state.

**Highlighted Provisions:**

This bill:

- ▶ requires a consumer lender to submit to the commissioner of financial institutions evidence of registration through the Nationwide Multistate Licensing System and Registry; and

- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**70C-1-302**, as last amended by Laws of Utah 2009, Chapter 72

**70C-8-202**, as last amended by Laws of Utah 2013, Chapter 73



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

Section 1. Section **70C-1-302** is amended to read:

**70C-1-302. Definitions.**

As used in this title:

(1) "Agreement" means the bargain of the parties in fact as stated in a written contract or otherwise as found in the parties' language or by implication from other circumstances, including:

- (a) course of dealing;
- (b) usage of trade; or
- (c) course of performance.

(2) "Commissioner" means the commissioner of financial institutions appointed under Section 7-1-202.

~~[(2)]~~ (3) "Contract" means a document containing written terms and conditions of a credit agreement.

~~[(3)]~~ (4) (a) "Creditor" means:

(i) a party:

(A) who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment; and

(B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract;

(ii) an issuer of a credit card that extends either open-end credit or credit that:

(A) is not subject to a finance charge; and

(B) is not payable by written agreement in more than four installments; and

(iii) an issuer of a credit card that extends closed-end credit that:

(A) is subject to a finance charge; or

(B) is payable by written agreement in more than four installments.

(b) (i) For purposes of this Subsection ~~[(3);~~ (4), a party is considered to extend consumer credit regularly only if the party extends credit in the preceding calendar year:

(A) more than 25 times; or

59 (B) more than five times for a transaction secured by a dwelling.

60 (ii) If a person does not meet the numerical standards described in Subsection  
61 ~~[(3)(b)(i)]~~ (4)(b)(i) in the preceding calendar year, the numerical standards shall be applied to  
62 the current calendar year.

63 ~~[(4)]~~ (5) "Dwelling" means a residential structure attached to real property that contains  
64 one to four units including any of the following if used as a residence:

- 65 (a) a condominium unit;
- 66 (b) a cooperative unit;
- 67 (c) a manufactured home; or
- 68 (d) a house.

69 ~~[(5)]~~ (6) "Earnings" means compensation paid or payable to an individual or for the  
70 individual's account for personal services rendered or to be rendered by the individual whether  
71 denominated as wages, salary, commission, bonus, or otherwise, and includes periodic  
72 payments pursuant to a pension, retirement, or disability program.

73 ~~[(6)]~~ (7) "Installment" means a payment upon a debt that is part of a series of  
74 payments, each of which is less than the original amount of the debt and scheduled as to a  
75 specific amount and due date by agreement of the parties for the purpose of repaying the debt.

76 (8) "Nationwide database" means the Nationwide Multistate Licensing System and  
77 Registry, described in 12 U.S.C. Sec. 5101.

78 ~~[(7)]~~ (9) "Party" means an individual and any other entity legally capable of entering  
79 into a binding contract.

80 Section 2. Section **70C-8-202** is amended to read:

81 **70C-8-202. Notification.**

82 (1) (a) A party who is subject to this part shall file notification with the department at  
83 least 30 days before commencing business in this state.

84 (b) After filing the notification required by Subsection (1)(a), a party shall file a  
85 notification on or before ~~January~~ December 31 of each year.

86 (c) A notification required by this Subsection (1) shall:

- 87 (i) state the name of the party;
- 88 (ii) state the name in which the business is transacted if different from that required in  
89 Subsection (1)(c)(i);

- 90 (iii) state the address of the party's principal office, which may be outside this state;
- 91 (iv) state the address of:
- 92 (A) each office or retail store, if any, in this state at which credit is offered or extended
- 93 to a consumer; or
- 94 (B) in the case of a party taking an assignment of an obligation, each office or place of
- 95 business within this state at which business is transacted;
- 96 (v) if credit is extended to a consumer other than at an office or retail store in this state,
- 97 state a brief description of the manner in which the credit transaction occurs;
- 98 (vi) state the name and address in this state of a designated agent upon whom service of
- 99 process may be made;
- 100 (vii) [~~submit~~] include evidence satisfactory to the commissioner that the [~~person~~] party
- 101 is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings
- 102 with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title
- 103 48, Unincorporated Business Entity Act; [~~and~~]
- 104 (viii) include evidence satisfactory to the commissioner that the party is registered with
- 105 the nationwide database; and
- 106 [~~(viii)~~] (ix) [~~provide~~] include any other information considered pertinent by the
- 107 department.
- 108 (2) If information in a notification becomes inaccurate after filing, a party is not
- 109 required to file further notification until required to renew the party's notification.
- 110 (3) (a) A party who fails to file a notification or pay a fee required by this part may not
- 111 extend credit to a consumer in this state until the party fully complies with this part.
- 112 (b) A party who willfully violates this Subsection (3) is guilty of a class B
- 113 misdemeanor.
- 114 Section 3. **Effective date.**
- 115 This bill takes effect on May 1, 2024.