

Representative Paul Ray proposes the following substitute bill:

CONSUMER CREDIT PROTECTION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Patricia W. Jones

LONG TITLE

General Description:

This bill modifies the Consumer Credit Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ under certain circumstances, requires the consumer reporting agency to give the consumer, prior to purchase, a written disclosure that states that the credit score may be different from the credit score used by a lender;
- ▶ requires an entity that requests a consumer's credit score, for a purpose other than the extension of credit, to provide the consumer with a written disclosure that includes:
 - the name of the consumer reporting agency that calculated the credit score;
 - the model used to generate the credit score; and
 - the consumer's credit score;
- ▶ prohibits a consumer reporting agency from refusing to sell a consumer's credit score to a requesting entity solely because the requesting entity is required to make the disclosures described in this bill; and
- ▶ provides enforcement procedures for the provisions in this bill.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **13-45-102**, as enacted by Laws of Utah 2006, Chapter 344

33 ENACTS:

34 **13-45-501**, Utah Code Annotated 1953

35 **13-45-502**, Utah Code Annotated 1953

36 **13-45-503**, Utah Code Annotated 1953

37 RENUMBERS AND AMENDS:

38 **13-45-601**, (Renumbered from 13-45-401, as enacted by Laws of Utah 2006, Chapter
39 344)



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

42 Section 1. Section **13-45-102** is amended to read:

43 **13-45-102. Definitions.**

44 As used in this chapter:

45 (1) "Consumer" means ~~[a natural person]~~ an individual.

46 (2) "Consumer credit counseling agency" means:

47 (a) a person that is registered with the Division of Consumer Protection to provide debt
48 management services under Title 13, Chapter 42, Uniform Debt-Management Services Act; or

49 (b) a HUD-approved housing counseling agency.

50 ~~[(2)] (3) "Consumer reporting agency" means [a person who, for fees, dues, or on a~~
51 ~~cooperative basis, regularly engages in whole or in part in the practice of assembling or~~
52 ~~evaluating information concerning a consumer's credit or other information for the purpose of~~
53 ~~furnishing a credit report to another person.];~~

54 (a) a credit bureau; or

55 (b) a person that obtains and resells any information, including a credit score or credit
56 report, produced, in whole or in part, by a credit bureau.

57 (4) "Credit bureau" means a person that, for fees, dues, or on a cooperative basis,
58 regularly engages in the practice of assembling or evaluating information concerning a
59 consumer's credit or other information for the purpose of furnishing a credit report or credit
60 score to another person.

61 [~~(3)~~] (5) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a[;
62 that is used or collected in whole or part for the purpose of serving as a factor in establishing a
63 consumer's eligibility for credit for personal, family, or household purposes].

64 (6) (a) "Credit score" means a numerical value or a categorization that is:

65 (i) derived from information in a consumer report;

66 (ii) derived from a statistical tool or modeling system; and

67 (iii) developed to predict, at least in part, the likelihood of:

68 (A) future insurance claims behavior; or

69 (B) credit behavior.

70 (b) "Credit score" includes:

71 (i) a risk predictor; or

72 (ii) a risk score.

73 (7) "Depository institution" is as defined in Section 7-1-103.

74 (8) "Electronically signed" means executed by electronic sound, symbol, or process
75 attached to or logically associated with a record, demonstrating the intent to sign the record.

76 (9) "Extension of credit" means the right to defer payment of debt or to incur debt and
77 defer its payment.

78 (10) "Lender" means a person that regularly offers or makes an extension of credit to a
79 consumer.

80 (11) "Lender credit score" means a credit score that a mortgage lender uses to
81 underwrite or evaluate an individual's request for a mortgage loan, and that is calculated using
82 the same algorithm as Fannie Mae, Freddie Mac, or a comparable entity.

83 (12) "Lessor" is as defined in Section 15-8-3.

84 [~~(4)~~] (13) "Normal business hours" means Sunday through Saturday, between the hours
85 of 6:00 a.m. and 9:30 p.m., Mountain Standard or Mountain Daylight Time.

86 [~~(5)~~] (14) (a) "Personal information" means personally identifiable financial
87 information:

88 (i) provided by a consumer to another person;
89 (ii) resulting from any transaction with the consumer or any service performed for the
90 consumer; or

91 (iii) otherwise obtained by another person.

92 (b) "Personal information" does not include:

93 (i) publicly available information, as that term is defined by the regulations prescribed
94 under 15 U.S.C. Sec. 6804; or

95 (ii) any list, description, or other grouping of consumers, and publicly available
96 information pertaining to the consumers, that is derived without using any nonpublic personal
97 information.

98 (c) Notwithstanding Subsection [~~(5)~~] (14)(b), "personal information" includes any list,
99 description, or other grouping of consumers, and publicly available information pertaining to
100 the consumers, that is derived using any nonpublic personal information other than publicly
101 available information.

102 [~~(6)~~] (15) "Proper identification" has the same meaning as in 15 U.S.C. Sec.
103 1681h(a)(1), and includes:

104 (a) the consumer's full name, including first, last, and middle names and any suffix;

105 (b) any name the consumer previously used;

106 (c) the consumer's current and recent full addresses, including street address, any
107 apartment number, city, state, and ZIP code;

108 (d) the consumer's Social Security number; and

109 (e) the consumer's date of birth.

110 (16) "Requesting entity" means a person that requests or obtains an individual's credit
111 report or credit score for a purpose other than the extension of credit, including a consumer
112 credit counseling agency, credit counselor, housing counselor, lessor, ~~H~~→ [insurer,] ←~~H~~ or
112a employer.

113 [~~(7)~~] (17) "Security freeze" means a prohibition, consistent with Section 13-45-201, on
114 a consumer reporting agency's furnishing of a consumer's credit report to a third party intending
115 to use the credit report to determine the consumer's eligibility for credit.

116 Section 2. Section 13-45-501 is enacted to read:

117 **Part 5. Credit Score Disclosure Requirements**

118 **13-45-501. Title.**

119 This part is known as "Credit Score Disclosure Requirements."

120 Section 3. Section **13-45-502** is enacted to read:

121 **13-45-502. Educational credit score -- Required disclosure.**

122 (1) Except as provided in Subsection (2), when, for a purpose other than an extension
123 of credit, a consumer requests the consumer's credit score from a consumer reporting agency
124 and the consumer reporting agency provides a credit score that is not a lender credit score, the
125 consumer reporting agency shall give the consumer a written disclosure in substantially the
126 following form:

127 "This credit score may differ substantially from the credit score used by a lender for the
128 approval of a residential mortgage or other loan. The Consumer Financial Protection Bureau
129 has warned that this credit score may greatly misrepresent a lender's assessment of your
130 creditworthiness. Based on the score actually used by a lender, you may be offered less
131 favorable terms that are more costly to you."

132 (2) If a consumer reporting agency described in Subsection (1) is also a lender, and the
133 consumer reporting agency provides the consumer a credit score that is not a lender credit score
134 that the consumer reporting agency uses when deciding whether to grant an extension of credit,
135 the consumer reporting agency shall give the consumer a written disclosure in substantially the
136 following form:

137 "This credit score is different from the credit score we use to evaluate whether to grant
138 an extension of credit. The Consumer Financial Protection Bureau has warned that this credit
139 score may greatly misrepresent our or another lender's assessment of your creditworthiness.
140 Based on the credit score that we would actually use, you may be offered less favorable terms
141 that are more costly to you."

142 (3) A disclosure described in Subsection (1) or (2) shall be:

143 (a) independently displayed on a separate page;

144 (b) typed in at least 14-point font; and

145 (c) signed by the consumer, or if the credit score is obtained online, electronically
146 signed by the consumer, before the consumer purchases the credit score.

147 Section 4. Section **13-45-503** is enacted to read:

148 **13-45-503. Disclosure of credit score to consumer.**

149 (1) Except as provided in Subsection (2), within 10 days after the day on which a

150 requesting entity receives a consumer's credit score, the requesting entity shall give the
 151 consumer a written disclosure that states:

- 152 (a) the name of the consumer reporting agency that calculated the credit score;
 153 (b) the unique name associated with the algorithm used to generate the credit score;
 154 and
 155 (c) the consumer's credit score.

156 (2) ~~H~~→ [(a) ~~An insurer shall disclose a consumer's credit score in accordance with~~
 157 Subsection (1) within three days after the day on which:

- 158 —— (i) ~~the consumer purchases insurance coverage from the insurer; or~~
 159 —— (ii) ~~the insurer denies the consumer's request for an insurance policy.~~

160 —— ~~(b)~~ ←H A lessor shall disclose a consumer's credit score in accordance with Subsection (1)
 161 within three days after the day on which:

- 162 H→ [(i)] (a) ←H the lessor denies the consumer's application for a lease; or
 163 H→ [(ii)] (b) ←H the consumer and the lessor enter into a lease agreement.

164 (3) A consumer reporting agency may not refuse to sell a consumer's credit score to a
 165 requesting entity because the requesting entity is required to disclose the credit score to the
 166 consumer under Subsection (1).

167 Section 5. Section **13-45-601**, which is renumbered from Section 13-45-401 is
 168 renumbered and amended to read:

Part 6. Enforcement

170 ~~[13-45-401].~~ **13-45-601. Enforcement.**

171 (1) The attorney general may enforce this chapter's provisions.

172 (2) A person ~~[who]~~ that violates [this chapter's provisions] a provision from Section
 173 13-45-201, 13-45-202, 13-45-203, 13-45-204, 13-45-205, or 13-45-301 is subject to a civil fine
 174 of:

175 (a) no greater than \$2,500 for a violation or series of violations concerning a specific
 176 consumer; and

177 (b) no greater than \$100,000 in the aggregate for related violations concerning more
 178 than one consumer.

179 (3) A person that violates Section 13-45-502 or 13-45-503 is subject to a civil fine of:

180 (a) no less than \$1,000 per violation; and

181 (b) no greater than \$1,000,000 in the aggregate for related violations.
182 [~~(3)~~] (4) In addition to the penalties provided in [~~Subsection~~] Subsections (2) and (3),
183 the attorney general may seek injunctive relief to prevent future violations of this chapter in:
184 (a) the district court located in Salt Lake City; or
185 (b) the district court for the district in which resides a consumer who is the subject of a
186 credit report on which a violation occurs.