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**FINANCIAL INSTITUTION AND CONSUMER  
NOTIFICATION AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: A. Cory Maloy

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to commercial financing transactions and consumer lender notifications.

**Highlighted Provisions:**

This bill:

- repeals provisions relating to disclosures for commercial financing transactions;
- requires a consumer lender to submit to the commissioner of financial institutions evidence of registration through the Nationwide Multistate Licensing System and Registry; and
- defines terms; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 7-27-101**, as enacted by Laws of Utah 2022, Chapter 449
- 7-27-202**, as enacted by Laws of Utah 2022, Chapter 449
- 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
- 70C-8-203**, as last amended by Laws of Utah 2014, Chapter 97

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

27 Section 1. Section **7-27-101** is amended to read:

28 **7-27-101 . Definitions.**

29 As used in this chapter:

30 (1) "Accounts receivable purchase transaction" means a transaction in which a business  
31 forwards or otherwise sells to a person all or a portion of the business's accounts, as  
32 defined in Section 70A-9a-102, or payment intangibles, as defined in Section  
33 70A-9a-102, at a discount to the accounts' or payment intangibles' expected value.

34 (2) (a) "Broker" means [a person who, for compensation or the expectation of  
35 compensation, arranges a commercial financing transaction between a third party and  
36 a business in the state] a person who:

37 (i) for compensation or the expectation of compensation, obtains a commercial  
38 financing product or an offer for a commercial financing product from a third  
39 party that, if executed, would bind the third party; and

40 (ii) communicates the offer described in Subsection (2)(a)(i) to a business located in  
41 the state.

42 (b) "Broker" does not include:

43 (i) a provider; or

44 (ii) a person whose compensation is not based or dependent on the terms of a specific  
45 commercial financing product that the person obtains or offers.

46 (3) "Business" means a private enterprise carried on for the purpose of gain or economic  
47 profit.

48 (4) (a) "Business purpose transaction" means a transaction from which the resulting  
49 proceeds that a business receives are:

50 (i) provided to the business; or

51 (ii) intended to be used to carry on the business.

52 (b) "Business purpose transaction" does not include a transaction from which the  
53 resulting proceeds are intended to be used for personal, family, or household  
54 purposes.

55 (c) For purposes of determining whether a transaction is a business purpose transaction,  
56 a provider may rely on a written statement of intended purpose, signed by an  
57 individual authorized to sign on behalf of the business. The written statement may be  
58 contained in an application, agreement, or other document signed by an individual  
59 authorized to sign on behalf of the business.

60 (5) "Commercial financing transaction" means a business purpose transaction:

- 61 (a) under which a person extends a business a commercial loan or a commercial  
 62 open-end credit plan; or  
 63 (b) that is an accounts receivable purchase transaction.
- 64 (6) "Commercial loan" means a loan to a business, regardless of whether the loan is secured.  
 65 (7) "Commercial open-end credit plan" means commercial financing extended to a business  
 66 on terms under which:  
 67 (a) the creditor reasonably contemplates repeat transactions; and  
 68 (b) subject to any limit set by the creditor, the amount of financing that the creditor may  
 69 extend to the business during the term of the plan is made available to the extent that  
 70 any outstanding balance is repaid.
- 71 (8) "Motor vehicle dealer" means a dealer as defined in Section 41-3-102.
- 72 (9) (a) "Provider" means a person who consummates more than five commercial  
 73 financing transactions in the state during any calendar year.  
 74 (b) "Provider" includes a person who, under a written agreement with a depository  
 75 institution, offers one or more commercial financing products provided by the  
 76 depository institution via an online platform that the person administers.
- 77 Section 2. Section **7-27-202** is amended to read:  
 78 **7-27-202 . Disclosures for commercial financing transactions.**
- 79 (1) ~~[(a)]~~ Before consummating a commercial financing transaction, a provider shall  
 80 disclose the terms of the commercial financing transaction in accordance with this  
 81 section and rules made by the commissioner.  
 82 ~~[(b) In addition to the requirements of Subsection (1)(a), for a commercial open-end~~  
 83 ~~credit plan, the provider shall make the disclosures described in this section:]~~  
 84 ~~[(i) after any disbursement of funds that occurs after the parties consummate the~~  
 85 ~~commercial financing transaction; and]~~  
 86 ~~[(ii) no later than 15 days after the last day of the calendar month in which the~~  
 87 ~~disbursement of funds occurs.]~~
- 88 (2) A provider shall disclose the following information in connection with each commercial  
 89 financing transaction:  
 90 (a) the total amount of funds provided to the business under the terms of the commercial  
 91 financing transaction;  
 92 (b) the total amount of funds disbursed to the business under the terms of the  
 93 commercial financing transaction, if less than the amount described in Subsection  
 94 (2)(a);

- 95 (c) the total amount to be paid to the provider under the terms of the commercial  
 96 financing transaction;
- 97 (d) the total dollar cost of the commercial financing transaction, calculated by finding  
 98 the difference between:
- 99 (i) the amount described in Subsection (2)(a); and  
 100 (ii) the amount described in Subsection (2)(c);
- 101 (e) (i) the manner, frequency, and amount of each payment; or  
 102 (ii) if the amount of each payment may vary, the manner, frequency, and estimated  
 103 amount of the initial payment; and
- 104 (f) a statement of whether there are any costs or discounts associated with prepayment  
 105 under the commercial financing transaction, including a reference to the paragraph in  
 106 the commercial financing transaction agreement that creates each cost or discount[~~;~~  
 107 ~~and~~] .
- 108 [~~(g) any amount of the funds described in Subsection (2)(a) that the provider pays to a~~  
 109 ~~broker in connection with the commercial financing transaction.]~~
- 110 (3) The commercial financing transaction agreement shall include a description of the  
 111 methodology for calculating any variable payment amount and the circumstances that  
 112 may cause a payment amount to vary.
- 113 (4) The provisions of this section apply to a commercial financing transaction  
 114 consummated on or after January 1, 2023.
- 115 Section 3. Section **70C-1-302** is amended to read:
- 116 **70C-1-302 . Definitions.**
- 117 As used in this title:
- 118 (1) "Agreement" means the bargain of the parties in fact as stated in a written contract or  
 119 otherwise as found in the parties' language or by implication from other circumstances,  
 120 including:
- 121 (a) course of dealing;  
 122 (b) usage of trade; or  
 123 (c) course of performance.
- 124 (2) "Commissioner" means the commissioner of financial institutions appointed under  
 125 Section 7-1-202.
- 126 [~~(2)~~] (3) "Contract" means a document containing written terms and conditions of a credit  
 127 agreement.
- 128 [~~(3)~~] (4) (a) "Creditor" means:

- 129 (i) a party:
- 130 (A) who regularly extends consumer credit that is subject to a finance charge or is
- 131 payable by written agreement in more than four installments, not including a
- 132 down payment; and
- 133 (B) to whom the obligation is initially payable, either on the face of the note or
- 134 contract, or by agreement when there is no note or contract;
- 135 (ii) an issuer of a credit card that extends either open-end credit or credit that:
- 136 (A) is not subject to a finance charge; and
- 137 (B) is not payable by written agreement in more than four installments; and
- 138 (iii) an issuer of a credit card that extends closed-end credit that:
- 139 (A) is subject to a finance charge; or
- 140 (B) is payable by written agreement in more than four installments.
- 141 (b) (i) For purposes of this Subsection [~~(3)~~] (4), a party is considered to extend
- 142 consumer credit regularly only if the party extends credit in the preceding calendar
- 143 year:
- 144 (A) more than 25 times; or
- 145 (B) more than five times for a transaction secured by a dwelling.
- 146 (ii) If a person does not meet the numerical standards described in Subsection [
- 147 ~~(3)(b)(i)~~] (4)(b)(i) in the preceding calendar year, the numerical standards shall be
- 148 applied to the current calendar year.
- 149 [~~(4)~~] (5) "Dwelling" means a residential structure attached to real property that contains one
- 150 to four units including any of the following if used as a residence:
- 151 (a) a condominium unit;
- 152 (b) a cooperative unit;
- 153 (c) a manufactured home; or
- 154 (d) a house.
- 155 [~~(5)~~] (6) "Earnings" means compensation paid or payable to an individual or for the
- 156 individual's account for personal services rendered or to be rendered by the individual
- 157 whether denominated as wages, salary, commission, bonus, or otherwise, and includes
- 158 periodic payments pursuant to a pension, retirement, or disability program.
- 159 [~~(6)~~] (7) "Installment" means a payment upon a debt that is part of a series of payments,
- 160 each of which is less than the original amount of the debt and scheduled as to a specific
- 161 amount and due date by agreement of the parties for the purpose of repaying the debt.
- 162 (8) "Nationwide database" means the Nationwide Multistate Licensing System and

163 Registry, described in 12 U.S.C. Sec. 5101.

164 [(7)] (9) "Party" means an individual and any other entity legally capable of entering into a  
165 binding contract.

166 Section 4. Section **70C-8-202** is amended to read:

167 **70C-8-202 . Notification.**

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

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

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

173 (i) state the name of the party;

174 (ii) state the name in which the business is transacted if different from that required in  
175 Subsection (1)(c)(i);

176 (iii) state the address of the party's principal office, which may be outside this state;

177 (iv) state the address of:

178 (A) each office or retail store, if any, in this state at which credit is offered or  
179 extended to a consumer; or

180 (B) in the case of a party taking an assignment of an obligation, each office or  
181 place of business within this state at which business is transacted;

182 (v) if credit is extended to a consumer other than at an office or retail store in this  
183 state, state a brief description of the manner in which the credit transaction occurs;

184 (vi) state the name and address in this state of a designated agent upon whom service  
185 of process may be made;

186 (vii) [~~submit~~] include evidence satisfactory to the commissioner that the [~~person~~] party  
187 is authorized to conduct business in this state as a domestic or foreign entity  
188 pursuant to filings with the Division of Corporations and Commercial Code under  
189 Title 16, Corporations, or Title 48, Unincorporated Business Entity Act; [~~and~~]

190 (viii) include evidence satisfactory to the commissioner that the party is registered  
191 with the nationwide database; and

192 [~~(viii)~~] (ix) [~~provide~~] include any other information considered pertinent by the  
193 department.

194 (2) If information in a notification becomes inaccurate after filing, a party is not required to  
195 file further notification until required to renew the party's notification.

196 (3) (a) A party who fails to file a notification or pay a fee required by this part may not

- 197 extend credit to a consumer in this state until the party fully complies with this part.
- 198 (b) A party who willfully violates this Subsection (3) is guilty of a class B misdemeanor.
- 199 Section 5. Section **70C-8-203** is amended to read:
- 200 **70C-8-203 . Fees -- Examinations.**
- 201 (1) A party required to file notification under Section 70C-8-202 shall, on or before [  
202 ~~January 31~~] December 31 of each year, pay to the department an annual fee of \$100.
- 203 (2) In addition to filing notification, a party subject to this part, and a depository institution  
204 subject to this title:
- 205 (a) may be required to make a book or record relating to a consumer credit transaction  
206 available to the department or its authorized representative for examination; and
- 207 (b) shall pay to the department a fee to be set by the department based on an hourly rate  
208 per each examiner.
- 209 (3) No portion of a fee paid or owed to the department under this part is refundable because  
210 a party voluntarily or involuntarily ceases to extend credit to consumers:
- 211 (a) during the period covered by the fee; or
- 212 (b) before the time of an examination by the department of a book or record pertaining  
213 to a preceding consumer credit transaction.
- 214 Section 6. **Effective date.**
- 215 This bill takes effect on May 1, 2024.