

**FINANCIAL SERVICES REQUIREMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses requirements for providing certain financial services.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ under certain circumstances, prohibits a financial institution from coordinating with another to deny a person a financial service;
- ▶ requires a financial institution to:
  - disclose a subjective standard incorporated as part of a financial service to current and potential customers; and
  - obtain consent from a potential customer to incorporate the subjective standard as part of the financial service;
- ▶ allows a person to bring a civil action for injunctive relief or damages if a financial institution denies a financial service in coordination with another; and
- ▶ exempts certain violations of the provisions in this bill from damage and fine caps under the Utah Antitrust Act.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **76-10-3108**, as last amended by Laws of Utah 2019, Chapter 348

31 **76-10-3112**, as last amended by Laws of Utah 2013, Chapter 285 and renumbered and  
32 amended by Laws of Utah 2013, Chapter 187

33 ENACTS:

34 **7-1-811**, Utah Code Annotated 1953

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

37 Section 1. Section **7-1-811** is enacted to read:

38 **7-1-811. Denial of financial services -- Disclosure and consent for use of subjective**  
39 **standards -- Civil action.**

40 (1) As used in this section, "subjective standard" means a standard that is intended to  
41 penalize, inflict economic harm to, or change or limit the activities of another person who does  
42 not further the following interests:

43 (a) elimination, reduction, offset, or disclosure of greenhouse gas emissions;

44 (b) institution or assessment of a board of directors or employment, composition,  
45 compensation, or disclosure criteria that incorporates race, color, sex, religion, ancestry, or  
46 national origin;

47 (c) limitation on the activities or investments of a company for:

48 (i) failing or not committing to meet environmental standards or disclosures; or

49 (ii) facilitating or supporting the manufacture, importation, distribution, marketing,  
50 advertisement, sale, or lawful use of a firearm, ammunition, or a component or accessory of a  
51 firearm or ammunition; or

52 (d) access to abortion or sex characteristic surgical procedures.

53 (2) A financial institution may not, based on a subjective standard, deny, in  
54 coordination with another person, a financial product or service that the financial institution  
55 offers.

56 (3) (a) A financial institution may not offer a potential customer a financial product or  
57 service that incorporates a subjective standard unless, before providing the financial product or  
58 service to the potential customer, the financial institution:

59 (i) provides the potential customer a written explanation of:

60 (A) the subjective standard; and

61 (B) the process to opt-out of the financial product or service; and

62 (ii) obtains the potential customer's written consent to incorporate the subjective

63 standard as part of the financial product or service.

64 (b) A financial institution shall, upon request, provide a customer a written explanation

65 of:

66 (i) any subjective standards incorporated as part of a financial product or service the

67 financial institution provides the customer; and

68 (ii) the process to opt-out of the financial product or service.

69 (4) (a) A person may bring an action to:

70 (i) enjoin a continuance of an act in violation of Subsection (2); or

71 (ii) recover damages for an injury caused by a violation of Subsection (2).

72 (b) The plaintiff in an action for a violation of Subsection (2) is entitled to recover, in

73 addition to injunctive relief, the amount of actual damages or \$10,000, whichever is greater.

74 (5) This section does not prohibit a person from seeking a remedy available to the

75 person independent of this section, including a remedy under this title, Title 61, Chapter 1,

76 Utah Uniform Securities Act, or Title 76, Chapter 10, Part 31, Utah Antitrust Act.

77 Section 2. Section **76-10-3108** is amended to read:

78 **76-10-3108. Attorney general may bring action for injunctive relief, damages,**

79 **and civil penalty.**

80 (1) (a) The attorney general may bring an action for appropriate injunctive relief, a civil

81 penalty, and damages in the name of the state, any of [~~its~~] the state's political subdivisions or

82 agencies, or as parens patriae on behalf of natural persons in this state, for a violation of this

83 act. [~~Actions~~]

84 (b) An action may be brought under this section regardless of whether the plaintiff

85 dealt directly or indirectly with the defendant. [~~This~~]

86 (c) The remedy under this subsection is an additional remedy to any other remedies

87 provided by law[~~-It~~] and may not diminish or offset any other remedy.

88 (2) [~~Any~~]

89 (a) (i) Except as provided in Subsection (2)(b), an individual who violates this act is

90 subject to a civil penalty of not more than \$100,000 for each violation. [~~Any~~]

91 (ii) A person, other than an individual, who violates this act is subject to a civil penalty  
92 of not more than \$500,000 for each violation.

93 (b) The damage caps described in Subsection (2)(a) do not apply to a person whose  
94 violation of this act is a violation of Subsection 7-1-811(2).

95 Section 3. Section **76-10-3112** is amended to read:

96 **76-10-3112. Fine for violation -- Certain vertical agreements excluded -- Nolo**  
97 **contendere.**

98 (1) (a) [~~Any~~] A person who violates Section 76-10-3104 by price fixing, bid rigging,  
99 agreeing among competitors to divide customers or territories, or by engaging in a group  
100 boycott with specific intent of eliminating competition is guilty of a third degree felony and,  
101 notwithstanding Sections 76-3-301 and 76-3-302, is subject to:

102 (i) if an individual, a fine not to exceed \$100,000; or

103 (ii) if by a person other than an individual, a fine not to exceed \$500,000.

104 (b) Subsection (1)(a) [~~may not be construed to~~] does not include vertical agreements  
105 between a manufacturer, its distributors, or their subdistributors dividing customers and  
106 territories solely involving the manufacturer's commodity or service where the manufacturer  
107 distributes its commodity or service both directly and through distributors or subdistributors in  
108 competition with itself.

109 (c) The fine caps described in Subsection (1)(a) do not apply to a person whose  
110 violation of this act is a violation of Subsection 7-1-811(2).

111 (2) (a) A defendant may plead nolo contendere to a charge brought under this title but  
112 only with the consent of the court.

113 (b) The court may accept the defendant's plea only after due consideration of the views  
114 of the parties and the interest of the public in the effective administration of justice.