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Utah Requires Commercial Lenders and Factors to Register as a Commercial Financing Provider

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Under a [new Utah law](#), most providers of commercial financing or factors which are located in Utah or who lend to a Utah resident are required to register as a commercial financing provider with the [Utah Department of Financial Institutions](#). Additionally, certain disclosures are required before engaging in most transactions. To some extent, the law mirrors Truth in Lending type acts passed in New York and California. Utah, however, has added a registration component on top of a disclosure requirement.

While the law does not take effect until January 1, 2023, Utah began taking applications for new commercial financing providers on September 1, 2022. The new law applies to entities that enter into a business purpose transaction, including extending a commercial loan to a business, extending a commercial open-end credit plan, or consummating an accounts receivable purchase transaction.

Registration under the new law will occur through the Nationwide Multistate Licensing System and Registry (NMLS). [Here](#) is the link to register. Because most NMLS renewals begin on November 1, the State recommends that new commercial financing registrants submit their applications sooner, rather than later, so that these new registrations don't get stuck in a bogged down system in November and December.

Disclosures required under the law include:

- the total amount of funds provided to the business under the terms of the transaction;
- the total amount of funds disbursed to the business under the terms of the transaction, if less than the amount described in Subsection (2)(a);
- the total amount to be paid to the provider under the terms of the transaction;
- the total dollar cost of the commercial financing transaction, calculated by finding the difference between (i) the total amount of funds provided to the business under the transaction, and (ii) the total amount to be paid to the lender under the terms of the transaction;
- the manner, frequency, and amount of each payment; or
- a statement of whether there are any costs or discounts associated with prepayment under the transaction; and

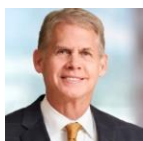
- the amount of funds provided to a broker in connection with the commercial financing transaction.

There are also some requirements that depend on the type of transaction. For instance, a commercial open-end credit plan requires the provider to make disclosures after any disbursement of funds and no later than 15 days after the last day of the calendar month when disbursement of funds occurs.

Pursuant to the new law, commercial financing providers must both register with the Utah Department of Financial Institutions and maintain a valid registration or else face penalties of up to \$500 per violation and up to \$20,000 from violations in a single transaction, and up to \$50,000 if a party continues to violate after having received notice of a violation.

The penalties and requirements associated with this new law highlight the need for expert legal advice when navigating the complexities of commercial finance.

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