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For Immediate Release

Overview of Utah Commercial Financing Registration and Disclosure Act

Avila Beach, CA – April 1, 2022 - On March 24, 2022, the Governor of the State of Utah signed into law the Commercial Financing Registration and Disclosure Act (the “Act”). The Act generally requires companies that provide certain commercial financing products, including accounts receivable purchase transactions, to (i) register with the Utah Department of Financial Institutions (“Department”), and (ii) make certain disclosures in connection with each commercial financing product. The following provides a general overview of the Act.

General

- The Act applies to certain types of commercial financing products, including accounts receivable purchase transactions, that are business purposes transactions (meaning the proceeds are provided to a business or are used to carry on the business). The term “accounts receivable purchase transaction” is defined as a transaction in which a business forwards or otherwise sells to a person all or a portion of the business’s accounts or payment intangibles at a discount to the accounts’ or payment intangibles’ expected value.
- The Act applies to a person who consummates more than five commercial financing transactions in the State of Utah during any calendar year.
- Commercial financing transactions of more than \$1,000,000 are exempt from the Act.
- The Department is authorized to promulgate regulations implementing the Act’s requirements. The Act states that it will be enforced by the Department and that there is no private right of action. It also states that a violation does not affect the enforceability of any underlying agreement.

Registration Requirement

- Beginning January 1, 2023, it will be unlawful for a person to engage in a commercial financing transaction as a provider in Utah or with a Utah resident, unless the person registers with the Department and maintains a valid registration. A registration will have to be renewed annually. A fee will be required as part of the registration/renewal process.
- The Department may impose a fine if a provider does not register or renew its registration. The Act does not appear to provide the Department with the authority to prohibit a provider from doing business in Utah.

Disclosure Requirements

- Before consummating a commercial financing transaction, a provider must disclose the terms of the commercial financing transaction, including the total amount of funds provided to the business, the total amount to be paid to the provider, the total dollar cost of the commercial financing transaction, the manner/frequency/amount of each payment, and any prepayment penalties, among other items.
- The disclosure requirements apply to commercial financing transactions consummated on or after January 1, 2023.

The AFA will be monitoring for any proposed rulemaking by the Department associated with the Act and keep members informed as to developments.

About the American Factoring Association

The American Factoring Association (AFA) was founded in 2009 with the sole purpose of educating the public and policymakers on the availability of working capital for financing America’s small businesses and to conduct efforts in support of increasing working capital financing. It is a non-profit 501 (c) 6 corporation. The AFA has conducted over 200 meetings with various officials, including U.S. Senators and Congressmen, with the goal of educating the value that Factoring drives to the business community and economy. For more information visit www.americanfactoring.org.