

1972 Bill 76

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 76

The Credit and Loan Agreements Amendment Act, 1972

MR. KOZIAK

First Reading

Second Reading

Third Reading

BILL 76

1972

THE CREDIT AND LOAN AGREEMENTS AMENDMENT ACT, 1972

(Assented to _____, 1972)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. The Credit and Loan Agreements Act is hereby amended.

2. Section 8 is amended by adding after subsection (1) the following subsection:

(1.1) A seller shall furnish to the buyer on request a statement showing the net amount, and the calculation thereof, required to effect the prepayment in full of a time sale agreement between the seller and the buyer.

3. The following section is added after section 8:

8.1 (1) A credit grantor who has extended credit in a transaction to which section 5 applies shall not exact, or attempt to exact, from the buyer credit charges in excess of the amount permitted by this Act or by the *Interest Act* (Canada).

(2) Where a time sales agreement specifies the credit charge or the additional charge to be made in the event of default or both as annual percentage rates, no credit grantor shall exact or attempt to exact and no buyer shall be required to pay any greater amount than the charges calculated on the basis of the rates so specified.

(3) Where there is a variation in any time sales agreement between the credit charge or the additional charge to be made in the event of default expressed as an annual percentage rate and expressed as a money charge, no credit grantor shall exact or attempt to exact and no buyer shall be required to pay any greater amount than the lesser of the charges so expressed.

(4) Where a credit grantor who has extended credit in a transaction to which section 5 applies receives from the

Explanatory Notes

1. This Bill will amend chapter 73 of the Revised Statutes of Alberta 1970.

2. Sellers will be required to provide prepayment statements on request.

3. Restrictions on credit charges. The recovery of excessive charges will be prohibited and will be subject to the penalty provision of the Act. A civil right of recovery will also be specified.

buyer payment of any credit charges in excess of the amounts permitted by this Act, the borrower may recover from the credit grantor the amount of such excess.

4. Section 14 is amended by adding after subsection (1) the following subsection:

(1.1) A lender shall furnish to the borrower on request a statement showing the net amount, and the calculation thereof, required to effect the prepayment in full of a loan agreement between the lender and the borrower.

5. The following section is added after section 14:

14.1 (1) A credit grantor who has extended credit in a transaction to which section 11 applies shall not exact, or attempt to exact, from the borrower credit charges in excess of the amount permitted by this Act or by the *Interest Act* (Canada).

(2) Where a loan agreement specifies the credit charge or the additional charge to be made in the event of default or both as annual percentage rates, no credit grantor shall exact or attempt to exact and no borrower shall be required to pay any greater amount than the charges calculated on the basis of the rates so specified.

(3) Where there is a variation in any loan agreement between the credit charge or the additional charge to be made in the event of default expressed as an annual percentage rate and expressed as a money charge, no credit grantor shall exact or attempt to exact and no buyer shall be required to pay any greater amount than the lesser of the charges so expressed.

(4) Where a credit grantor who has extended credit in a transaction to which section 11 applies receives from the borrower payment of any credit charges in excess of the amounts permitted by this Act, the borrower may recover from the credit grantor the amount of such excess.

6. Part 3 is renumbered as Part 5 and the following Parts are added after section 15:

PART 3 CREDIT CARDS

15.1 In this Part,

- (a) “credit card” means a card, document or similar instrument by means of which goods or services may be obtained on a deferred payment basis or by means of which cash may be obtained;

4. Lenders will be required to provide prepayment statements on request.

5. Restrictions on credit charges. The recovery of excessive charges will be prohibited and will be subject to the penalty provision of the Act. A civil right of recovery will also be specified.

6. New provisions will be added dealing with unsolicited credit cards and also with disclosure in credit advertising.

- (b) "unsolicited credit card" means a credit card which has not been requested in writing by the person whose name appears thereon but does not include a credit card replacing or renewing a credit card previously used by the person.

15.2 (1) No person shall issue an unsolicited credit card to another person.

(2) Where an unsolicited credit card is received, the recipient has no legal obligation to the person issuing the card in respect thereto or for any transaction made thereby unless and until the recipient advises the issuer in writing of his acceptance of the card.

(3) Where an unsolicited credit card has not been accepted by the recipient in the manner set out in subsection (2), no action lies in the event of loss or misuse of the card or for the value of goods, services or cash obtained by the use of the card.

(4) This section does not apply to an unsolicited credit card in the possession of the person whose name appears thereon prior to July 1, 1972.

PART 4 ADVERTISING

15.3 In this Part, "advertisement" includes

- (a) any price tag, ticket or notice attached to goods or displayed publicly,
- (b) any advertisement in a newspaper, magazine or other publication that circulates in Alberta, and
- (c) any message broadcast by television or radio that can reasonably be expected to be received by persons in Alberta.

15.4 Where a credit grantor advertises or causes to be advertised information respecting his credit charges, the advertisement

- (a) shall state only that he makes a credit plan available at his usual rates, or
- (b) shall state
 - (i) the full credit charges as an annual percentage rate expressed in the manner required by section 5 or 11 and by the regulations,
 - (ii) the sum to be actually received in cash by the borrower or the actual cash price of the goods,
 - (iii) the amount of the down payment, if any, to be made on the purchase price of the goods,
 - (iv) the amount of each installment, and

- (v) the number of installments required to pay the total indebtedness including the cost of borrowing.

7. Section 23 is amended by adding the following clause after clause (c):

- (d) the manner and content of advertising by credit grantors of the cost of borrowing and other costs of credit,

8. This Act comes into force on July 1, 1972.

7. Section 23 reads:

23. The Lieutenant Governor in Council may make regulations not inconsistent with this Act to facilitate the carrying out of the intent and purpose of this Act and without restricting the generality of the foregoing may make regulations prescribing

- (a) the manner in which the annual percentage rate shall be expressed, calculated and applied,**
- (b) the forms in which the particulars required to be given in time sale agreements and loan agreements shall be set out, and**
- (c) the manner in which credit charges shall be apportioned under section 8 and section 14,**

and defining any words used in this Act and not defined herein.