

1976 Bill 46

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Second Session, 18th Legislature, 25 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 46**

THE CREDIT AND LOAN AGREEMENTS AMENDMENT ACT,  
1976

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MRS. CHICHAK

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First Reading .....

Second Reading .....

Third Reading .....

## BILL 46

1976

### THE CREDIT AND LOAN AGREEMENTS AMENDMENT ACT, 1976

(Assented to \_\_\_\_\_, 1976)

**H**ER 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 2 is amended by striking out clause (e) and by substituting therefor the following clause:*

- (e) "credit grantor" means a person who is
- (i) the seller under a time sales agreement, or
  - (ii) the lender under a loan agreement,
- and includes any assignee of the seller's interest under a time sales agreement or the lender's interest under a loan agreement;

3. *Part 4 is amended by striking out the title "ADVERTISING" preceding section 15.3 and by substituting therefor the title "GENERAL".*

4. *The following sections are added after section 15.4:*

**15.5 (1) Where**

- (a) a buyer under the terms of a time sales agreement or a borrower under the terms of a loan agreement applies for any insurance in conjunction with entering into the time sales agreement or loan agreement, and
- (b) the premium for the insurance is charged to the buyer or borrower,

the credit grantor shall promptly forward the application for insurance to the insurer and shall furnish proof of the insurance to the buyer or borrower as soon as it is effected.

(2) A buyer or borrower is liable to pay to a credit grantor only the premium payable with respect to the period from the time the insurance becomes effective to

## **Explanatory Notes**

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

**2.** Assignees will be included in the definition of "credit grantor".

**3.** Self-explanatory.

**4.** The first amendment will provide for insurance refunds on pay-outs. The second amendment will make disclosure mandatory on discounting income tax refunds.

- (a) the date of expiry of the policy or any extension thereof, or
  - (b) the date on which the policy is cancelled,
- whichever first occurs.

(3) Where a buyer or borrower has obtained a certificate or policy of insurance in relation to a time sales agreement or a loan agreement between him and a credit grantor and the buyer or borrower has been charged a premium or other charge in connection with the insurance then, if the buyer or borrower prepays or refinances the debt under the agreement, the credit grantor shall notify him at the time of prepayment or refinancing that he has a right to cancel the insurance.

(4) Where

- (a) insurance is sold or made available in connection with an agreement between a buyer or borrower and a credit grantor,
  - (b) the buyer or borrower has been charged with a premium or other charge in respect of the insurance, and
  - (c) the insurance is cancelled for any reason before the expiry date of the insurance,
- the credit grantor shall either
- (d) cause a refund to be made to the buyer or borrower of any unearned premium or other charge that has been charged in respect of the insurance, or
  - (e) apply the unearned premium or other charge that has been charged in respect of the insurance to reduce the debt of the buyer or borrower.

**15.6** (1) In this section,

- (a) "discounter" means a person who acting in the course of his business acquires from a taxpayer the taxpayer's right to any income tax refund which is due or will become due to the taxpayer;
- (b) "income tax refund" means the amount which a taxpayer is entitled to receive back as an overpayment of the income tax payable by him under either *The Alberta Income Tax Act* or the *Income Tax Act* (Canada);
- (c) "taxpayer" means a person who has the right to receive a refund of income tax previously paid by him.

(2) On and after January 1, 1977, no person may act as a discounter unless he is registered in accordance with this section and the regulations.



(3) Upon receipt of an application in the prescribed form from a person who requires registration under subsection (2) and who qualifies for registration under the regulations, the Supervisor shall register that person in a register maintained by him for that purpose.

(4) Every registration remains in effect until it is cancelled at the request of the discounter or is suspended or cancelled under this section.

(5) The Supervisor shall not refuse to grant registration to an applicant or cancel or suspend the registration of a discounter without advising the applicant or discounter as to his reason for proposing to do so and giving the applicant or discounter an opportunity to be heard.

(6) Every applicant for registration shall state in the application an address for service in Alberta and shall at all times following registration maintain an address for service in Alberta.

(7) Every registered discounter shall notify the Supervisor in writing of

(a) any change in his address for service, and

(b) in the case of a partnership, any change in the membership thereof,

within 15 days of the change.

(8) All notices under this Act or the regulations required or permitted to be given to a discounter are sufficiently given or served for all purposes if delivered or sent by registered mail to the latest address for service shown in the records of the Supervisor.

(9) No person shall publish or cause to be published any statement that he is registered under this Act.

(10) The Supervisor may cancel the registration of any discounter or suspend the registration of any discounter for a stated period where the supervisor determines that the discounter has contravened any provision of this Act or the regulations.

(11) An applicant who has been refused registration or a discounter whose registration has been cancelled or suspended may appeal the decision of the Supervisor to the Minister by serving a notice of appeal upon him within 30 days of the date the applicant or discounter was served with a notice of the decision.

(12) Within 30 days of being served with the notice of appeal the Minister shall appoint an appeal board to hear the appeal and where an appeal board has been so appointed the Minister may fix the time or extend the time within which the board shall hear the appeal and render a decision.

(13) The decision of an appeal board is final.



(14) Before a discounter may acquire from a taxpayer the right to receive an income tax refund which is due or will become due to the taxpayer, the discounter shall specify in writing to the taxpayer the terms of the acquisition including the following information:

- (a) the amount of the income tax refund which is due or will become due to the taxpayer;
- (b) the amount to be paid by the discounter for the income tax refund which is due or will become due less any amount charged for any service related to the acquisition of the income tax refund or the right to the refund;
- (c) the difference between the sums referred to in clauses (a) and (b), which is the amount that the taxpayer will forego as a result of the discounting agreement;
- (d) the annual percentage interest rate used to discount the income tax refund which is due or will become due expressed in the manner prescribed by the regulations.

*5. The following section is added after section 18:*

**18.1** Every credit grantor shall keep and maintain in Alberta for a period of three years from the date of each transaction a complete record and account of each time sales agreement or loan agreement into which he enters or which has been assigned to him.

*6. Section 23 is amended by striking out the word "and" at the end of clause (b) and by adding after clause (d) the following clauses:*

- (e) prescribing the requirements for registration of a discounter, and
- (f) governing the imposition of any terms or conditions on the registration of a discounter.

*7. Section 24, subsections (1) and (3) are amended by adding after the words "credit grantor" wherever they appear the words "or other person".*

*8. This Act comes into force on the day upon which it is assented to.*



**5.** This provision will require records to be kept in Alberta for the duration of the period of possible prosecution.

**6.** Consequential amendment to the section empowering the Lieutenant Governor in Council to make regulations.

**7.** Section 24 presently reads:

**24.** (1) A credit grantor who fails to comply with this Act or the regulations is guilty of an offence and liable on summary conviction

(a) in the case of a corporation, to a fine of not more than \$1,000, and

(b) in the case of an individual, to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding six months.

(2) A prosecution under subsection (1) may be commenced within three years after the commission of the offence, but not thereafter.

(3) A credit grantor shall not be convicted under subsection (1) if he establishes that the failure was accidental, was a bona fide error, was a clerical error or omission or was beyond his control.