

1985 BILL 56

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 56

CONSUMER CREDIT TRANSACTIONS ACT

THE MINISTER OF CONSUMER AND CORPORATE AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 56

1985

CONSUMER CREDIT TRANSACTIONS ACT

(Assented to , 1985)

TABLE OF CONTENTS

Definitions	1
PART 1	
APPLICATION OF THE ACT	
Non-application of the Act	2
Professional services	3
Mortgages of real property	4
Crown corporations and agencies	5
When Act applies to transactions	6
PART 2	
GENERAL	
Waiver	7
Failure to comply with Act	8
Calculation of annual percentage rate and credit charges	9
Application of payments	10
Single payment	11
Restrictions on credit charges	12
Overpayment of credit charges	13
Acceleration clause	14
Advertising, general	15
Advertising, leases	16
Insurance	17
Penalty for dishonoured cheques	18
Disclosure of additional information	19
PART 3	
TIME SALE AGREEMENTS, CONTINUOUS DEFERRED PAYMENT PLANS AND LOAN AGREEMENTS	
Application of Part	20
Disclosure under time sale agreements	21
Disclosure under continuous deferred payment plans	22
Purchaser's copy	23
Disclosure re loan	24
Disclosure under a loan agreement that extends credit	25
Borrower's copy	26
Prepayment	27
PART 4	
CREDIT CARDS	
Definitions	28
Unsolicited credit cards	29
Limitation of liability on loss of credit card	30
Disclosure	31

**PART 5
LEASE OF PERSONAL PROPERTY**

Disclosure	32
Lessee's copy	33

**PART 6
DISCOUNTING INCOME TAX REFUNDS**

Prohibition	34
Certificate of registration	35
Address for service	36
Change in directors or partnership	37
Suspension and cancellation	38
Appeal	49
Information to taxpayer	40

**PART 7
ADMINISTRATION**

Appointment of staff	41
Records	42
Return of information	43
Inquiry	44
Evidence	45
Offences	46
Application to court	47
Regulations	48
Amends RSA 1980 cT-9	49
Repeal	50
Commencement	51

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

Definitions

1 In this Act,

(a) "advertisement" includes

(i) an advertisement in a newspaper, magazine or other publication or circular that is distributed or circulated in Alberta;

(ii) an advertisement shown on a billboard, sign, handbill or similar item that is located elsewhere than on the business premises of the credit grantor on whose behalf the advertisement is being made;

(iii) a message broadcast by television or radio that can reasonably be expected to be received by persons in Alberta;

(b) "agreement to sell" means a contract of sale in writing under which

(i) an interest in goods may be transferred to a purchaser

(A) at a time in the future, or

(B) subject to some condition to be fulfilled,

or

(ii) services are provided to a purchaser;

(c) “annual percentage rate” means, in relation to a credit transaction, the percentage rate for each period of time that, when multiplied by the principal amount owing under the credit transaction that is outstanding at the end of each period, will produce an amount or amounts the total of which is equal to the credit charges in relation to the credit transaction, expressed as a rate per annum;

(d) “cash price” means the price at which any goods or services are offered for sale less any reduction, if any, given by the seller of the goods or services if the goods or services are paid for in full before the goods are delivered to or the services are performed for the purchaser;

(e) “consumer” means

(i) a person who purchases goods or services under a time sale agreement or a continuous deferred payment plan,

(ii) a borrower of funds under a loan agreement, or

(iii) a person who purchases goods or services or obtains money by the use of a credit card,

and includes a person not referred to in subclauses (i) to (iii) who enters into a credit agreement with a credit grantor;

(f) “continuous deferred payment plan” means a sale or an agreement to sell under which

(i) purchases on credit can be made from time to time by a purchaser, and

(ii) the credit charges, if any, are computed from time to time in relation to the unpaid balance on all the purchases;

(g) “credit agreement” means an agreement entered into by a person under which that person may enter into a credit transaction with the credit grantor;

(h) “credit card” means a card or device by means of which goods, services or cash may be obtained on a deferred payment or repayment basis;

(i) “credit charges” means

(i) the interest or discount, or both, as the case may be,

(ii) the costs of administration, including any service, transaction or activity charge, and

(iii) loan fees, finder’s fees, brokerage fees or any similar fees,

but does not include

(iv) an official fee,

(v) the amounts collected for the maintenance of a tax account,

(vi) fees for surveying,

(vii) fees and disbursements of lawyers and notaries,

- (viii) charges for an appraisal or inspection,
- (ix) fees for insurance in respect of a loan or mortgage,
- (x) charges imposed by the credit grantor
 - (A) in respect of returned cheques or bills of exchange, or
 - (B) for paying cheques or bills of exchange that overdraw or increase an overdraft in an account,

or

- (xi) charges for prepayment;

(j) “credit grantor” means a person who in the course of carrying on his business

- (i) enters into a credit agreement with a consumer,
- (ii) is the seller under a time sale agreement,
- (iii) is the seller under a continuous deferred payment plan,
- (iv) is the lender under a loan agreement,
- (v) is the issuer of a credit card,
- (vi) is the lender under a mortgage,
- (vii) is the broker under a mortgage where the money is being lent by a person other than a lender referred to in subclause (vi), or
- (viii) is the lessor under a lease,

and includes an assignee of that person where the person assigns his interest, other than as security, under a credit agreement or credit transaction;

(k) “credit transaction” means

- (i) a purchase of goods or services under a continuous deferred payment plan or a time sale agreement,
- (ii) a loan, or
- (iii) a purchase of goods or services or the obtaining of money by the use of a credit card;

(l) “Director” means the Director of Consumer Credit;

(m) “discounter” means a person who acquires from a taxpayer a right to receive the taxpayer’s income tax refund;

(n) “goods” means personal property and includes tokens, coupons, certificates and other documents or things sold that are redeemable or exchangeable for personal property or services;

(o) “income tax refund” means the amount payable to a person in respect of

- (i) an overpayment of tax paid under the *Income Tax Act* (Canada) or collected pursuant to an agreement entered into under section 7 of the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977* (Canada),

(ii) an agreement referred to in subclause (i) that is other than a refund of an overpayment of tax paid or collected,

(iii) an overpayment of unemployment insurance premiums paid under the *Unemployment Insurance Act, 1971* (Canada), or

(iv) an overpayment of contributions paid under the *Canada Pension Plan* (Canada),

including any interest payable on that overpayment or payment;

(p) “loan” means money advanced by a credit grantor who is a lender, whether the amount

(i) is due,

(ii) is accruing due, or

(iii) is a present or future advance,

and includes the amount of indebtedness secured by a loan agreement described in clause (q)(iii);

(q) “loan agreement” means a document or memorandum in writing

(i) evidencing a loan,

(ii) made or given as security for a loan, or

(iii) made or given as security for a past indebtedness arising under a previous loan agreement or time sale agreement, and made or given in substitution for the previous agreement,

and includes a mortgage of real property;

(r) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(s) “official fee” means an amount paid to a federal, provincial or municipal government authority in respect of

(i) a search made of

(A) a register under the *Land Titles Act*,

(B) a registry under the *Chattel Security Registries Act*, or

(C) another register or registry not referred to in paragraph (A) or (B) that is maintained by a government authority,

or

(ii) the registration with that government authority of a time sale agreement or loan agreement or any related document and includes a fee paid to a commissioner for oaths or a notary public who is not an employee of the credit grantor;

(t) “period of time” means the period over which the outstanding balance owing under a credit transaction is calculated;

- (u) “records” includes
 - (i) accounts, books, returns, statements, reports, financial documents or other memoranda of financial or non-financial information, whether in writing or in electronic form or represented or reproduced by any other means, and
 - (ii) the results of the recording of details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate;
- (v) “sale” includes a bargain and sale and a sale and delivery;
- (w) “taxpayer” means a person who has the right to receive an income tax refund;
- (x) “time sale” means a sale or an agreement to sell under which the purchase price and credit charges in addition to the purchase price, if any, are to be paid by one or more future payments;
- (y) “time sale agreement” means a document or memorandum in writing evidencing a time sale.

PART 1
APPLICATION OF THE ACT

Non-application
of the Act

- 2** This Act does not apply to the following:
- (a) a sale or purchase of goods or services to or by a person for purposes other than for primarily personal, family, household or farming purposes;
 - (b) a time sale where the principal amount of the sale is less than \$100;
 - (c) a loan, other than a loan secured by a mortgage of real property, where the principal amount of the loan is greater than \$50 000;
 - (d) a loan made under a credit agreement
 - (i) that is not secured by a mortgage of real property, and
 - (ii) where the principal amount that may be extended under the credit agreement may exceed \$50 000;
 - (e) a loan that is secured by a mortgage of real property where the principal amount of the loan is greater than \$150 000;
 - (f) a lease of personal property to a person where
 - (i) the term of the lease is less than 4 months,
 - (ii) the total amount payable under the lease is greater than \$50 000, or
 - (iii) the property is leased by the lessee for purposes other than for primarily personal, family, household or farming purposes;
 - (g) a lease of real property;

- (h) notwithstanding clause (a) or (i), a purchase, sale or lease of a farm implement as defined in the *Farm Implement Act*;
- (i) a sale, lease or loan to a corporation or a partnership other than for farming purposes;
- (j) a sale or loan to a municipal corporation or its agent;
- (k) a sale of a service by a public utility as defined in the *Public Utilities Board Act*;
- (l) a loan made by a life insurance company under a life insurance policy to the insured or his assignee solely on the security of the cash surrender value of the policy;
- (m) a loan made under the *Students Loan Guarantee Act*, the *Students Finance Act* or the *Canada Student Loans Act (Canada)*;
- (n) the payment of taxes under the *Municipal Taxation Act*;
- (o) a person or class of person or a transaction or a class of transaction exempted from the operation of this Act by regulation.

Professional services

3(1) This Act, except for this section and sections 46, 47 and 48(a), (c) and (o), does not apply to the provision of services or materials by a person who practises a profession or engages in an occupation enumerated by regulation if those services or materials are normally provided by a person practising that profession or engaging in that occupation.

(2) Where a person referred to in subsection (1) first renders an account for services or materials that he has provided and in respect of that account provision is made for

- (a) a credit charge, or
- (b) an additional charge as a result of a default in making payment as required pursuant to the account,

that person shall disclose in writing to the person to whom the account is rendered the amount of the credit charge or additional charge, as the case may be, as an annual percentage rate.

(3) If a person fails to make the disclosures required by subsection (2) he is entitled to recover only

- (a) the amount of the account less any credit charge or additional charge referred to in subsection (2), and
- (b) an amount, if any, in respect of the credit charges or additional charges referred to in subsection (2) that a court, having regard to the intent of this Act, considers appropriate in the circumstances.

Mortgages of real property

4 The following provisions of this Act do not apply to a mortgage of real property or the indebtedness secured by a mortgage of real property:

- section 11;
- sections 14 to 17;
- Part 3 except sections 24(2) and (3) and 26;
- Part 4;
- Part 5;
- Part 6.

Crown corporations and agencies

5 Notwithstanding section 14 of the *Interpretation Act*, this Act applies, subject to section 2, to the following:

- (a) to a loan made by the Alberta Mortgage and Housing Corporation;
- (b) to a loan made by the Alberta Agricultural Development Corporation;
- (c) to a loan made by a treasury branch.

When Act applies to transactions

6(1) Subject to section 2, this Act applies

- (a) to any credit agreement, credit transaction or lease entered into after the coming into force of this Act, and
- (b) to any credit agreement, credit transaction or lease entered into before the coming into force of this Act where that transaction is renegotiated, revised, extended, renewed or otherwise modified after the coming into force of this Act.

(2) Notwithstanding subsection (1) but subject to section 2, section 10 applies 3 years after the coming into force of this Act to any credit agreement, credit transaction or lease arising before the coming into force of this Act even though that transaction is not renegotiated, revised, extended, renewed or otherwise modified after the coming into force of this Act.

PART 2 GENERAL

Waiver

7 Any release or waiver by a person

- (a) of any rights or benefits given by this Act, or
- (b) of any of the requirements of this Act,

is void.

Failure to comply with Act

8 If a credit grantor fails to make those disclosures in a credit agreement required by section 21, 22, 24, 25 or 31, as the case may be, he is entitled to recover only,

- (a) in the case of a credit transaction that is
 - (i) a time sale agreement, the cash sale price of the goods or services purchased less any payments made;
 - (ii) a continuous deferred payment plan, the cash sale price of the goods or services being purchased under the plan less any payments made;
 - (iii) a loan agreement, the amount that the consumer actually received from or that was actually paid on his behalf by the credit grantor in respect of the loan less any payments made;
 - (iv) an agreement under which a credit card is issued, the principal amount, exclusive of any credit charges, owed in respect of credit advanced under a credit card less any payments made,

(b) the amount of the insurance charges, if any, that were actually paid to an insurance company or incurred by the credit grantor on behalf of the consumer at the consumer's request, and

(c) an amount, if any, in respect of the credit charges that a court, having regard to the intent of this Act, considers appropriate in the circumstances.

Calculation
of annual
percentage rate
and credit
charges

9(1) The credit charges shall be

(a) calculated in the manner prescribed pursuant to this Act, and

(b) expressed

(i) as an annual percentage rate, and

(ii) in those circumstances prescribed by regulation, as an amount in dollars and cents.

(2) The annual percentage rate calculated and disclosed by a credit grantor in accordance with this Act shall be accurate to within $\frac{1}{8}$ of 1%.

(3) The credit charges for a period of time in respect of a credit transaction shall be calculated by multiplying the portion of the annual percentage rate that the period is of 1 year by the principal amount that is outstanding at the end of the period.

Application
of payments

10(1) Any payment made in respect of a credit transaction shall be applied first to pay the earned credit charges and thereafter to reduce the principal amount of the loan.

(2) Notwithstanding subsection (1) and subject to the *Interest Act* (Canada), in the case of mortgages of real property, any payment may be applied first to the payment of taxes owing on the real property and thereafter shall be applied to pay the earned credit charges and then to reduce the principal amount of the loan.

Single payment

11(1) Where a person first renders an account

(a) that is to be paid in full by means of a single payment, and

(b) in respect of which provision is made for

(i) a credit charge, or

(ii) an additional charge as a result of a default in making payment as required pursuant to the account,

that person shall disclose in writing to the person to whom the account is rendered the amount of the credit charge or additional charge, as the case may be, as an annual percentage rate.

(2) If a person fails to make the disclosures required by subsection (1) he is entitled to recover only

(a) the amount of the account less any credit charge or additional charge referred to in subsection (1), and

(b) an amount, if any, in respect of the credit charges or additional charges referred to in subsection (1) that a court, having

regard to the intent of this Act, considers appropriate in the circumstances.

Restrictions on credit charges

12(1) A credit grantor who has extended credit in respect of a credit transaction shall not exact or attempt to exact from a consumer credit charges in excess of the amount permitted by this Act or the *Interest Act* (Canada).

(2) If a credit agreement specifies, as an annual percentage rate, the credit charges or the additional charges to be made in the event of default, or both,

- (a) no credit grantor shall demand or is entitled to receive, and
- (b) no consumer shall be required to pay,

an amount greater than the charges calculated on the basis of the rates specified.

(3) If, in respect of the credit charges or additional charges to be made under a credit agreement in event of default, there is a variation greater than the tolerance permitted under section 9 between those charges expressed as an annual percentage rate and as an amount of money,

- (a) no credit grantor shall demand or is entitled to receive, and
- (b) no consumer shall be required to pay,

an amount greater than the lesser of those charges expressed as an annual percentage rate and as an amount of money.

Overpayment of credit charges

13(1) If a credit grantor in respect of a credit transaction receives from a consumer payment of any credit charges, additional charges or other fees in excess of the amounts permitted by this Act, the credit grantor shall forthwith return to that consumer or credit to that consumer's account that excess amount.

(2) A person has an action in debt against a credit grantor for any amount not returned to that person or credited to that person's account under subsection (1).

Acceleration clause

14(1) Notwithstanding anything in a credit agreement, where the credit agreement contains a provision to the effect that on default by the consumer or on the occurrence of any other event, and whether or not at the option of the credit grantor, the whole or part of the balance remaining unpaid becomes immediately payable or is otherwise accelerated,

- (a) the whole or part of the balance remaining unpaid does not become payable or otherwise accelerated, and
- (b) any rate of interest made specially applicable to the amount remaining unpaid does not become effective,

until 10 days have elapsed from the day that the credit grantor has given written notice of the default or other event to the consumer.

(2) For the purposes of subsection (1) written notice is deemed to have been given when it is sent by certified mail to the consumer at

Advertising.
general

the consumer's latest address as shown on the records of the credit grantor.

15(1) This section applies to advertisements made or published by a credit grantor in respect of a transaction to which this Act applies other than

- (a) a lease, or
- (b) a loan secured by a mortgage of real property.

(2) If the advertisement includes any terms under which credit is offered in respect of a credit transaction, it shall also include the following:

- (a) the principal amount of the loan or the cash selling price, as the case may be;
- (b) the credit charges expressed as dollars and cents and as an annual percentage rate;
- (c) the down payment that is required;
- (d) the number of instalments and the amount of each instalment;
- (e) the total amount, including credit charges, that is to be repaid.

(3) Subsection (2) does not apply,

(a) in the case of a credit transaction that includes credit charges, if the only credit information contained in the advertisement consists of either

- (i) the annual percentage rate, or
- (ii) the annual percentage rate and
 - (A) the period of time over which repayments are to be made,
 - (B) the maximum or minimum credit available on which credit will be granted, and
 - (C) the nature of any charges not included in the credit charges that are required to be paid by the consumer;

(b) in the case of a credit transaction that does not include any credit charges other than a penalty for default of payment, if the only credit information contained in the advertisement consists of

- (i) the down payment, if any, expressed as dollars and cents or as a fraction or percentage of the total amount payable under the credit transaction, and
- (ii) the period of time over which repayment is to be made;

(c) in the case of a credit transaction that includes credit charges under which

- (i) the annual percentage rate being charged for a portion of the amount financed under the credit transaction is different

from that being charged for another portion of the amount financed under the credit transaction, or

(ii) an amount remains owing at the conclusion of the term for repayment of the amount financed under the credit transaction notwithstanding that all the periodic payments are paid,

if the advertisement includes

(iii) the different annual percentage rates being charged under the credit transaction, in the case of the situation referred to in subclause (i),

(iv) the amount that will remain owing at the conclusion of the term for repayment of the amount financed under the credit transaction, in the case of the situation referred to in subclause (ii),

(v) the maximum or minimum credit available on which credit will be granted, and

(vi) the nature of any charges not included in the credit charges that are required to be paid by the consumer.

(4) Notwithstanding subsection (2) or (3), if the advertising is in the form of a multi-page catalogue or advertisement, 1 example may be used with references in the presentation to that example.

(5) Subsections (2) to (4) do not apply if the only credit information in the advertisement is the statement “credit plan available” or “financing available” or words to that effect that are not objectionable to the Director.

Advertising.
leases

16 An advertisement made or published by a credit grantor in respect of a lease to which this Act applies shall include the following:

(a) a statement that the transaction is a lease;

(b) the number of payments and amount of the payments;

(c) the term of the lease if the payments are made otherwise than monthly;

(d) the down payment, security deposit or other charges required.

Insurance

17(1) When a credit grantor enters into a credit agreement with a consumer the credit grantor may, with the consumer’s written consent, enroll the consumer under the credit grantor’s credit group insurance program as defined in sections 240(d) and 348(e) of the *Insurance Act*.

(2) When

(a) a consumer is enrolled under subsection (1) in connection with a credit agreement, and

(b) the insurance premium is charged to the consumer,

the credit grantor shall furnish in writing to the consumer the terms of the insurance as soon as the insurance is effected or as soon after as is practicable.

(3) A credit grantor may furnish the material required under subsection (2) by sending it by ordinary mail to the consumer at the consumer's latest address as shown on the records of the credit grantor.

(4) A consumer is liable to pay to a credit grantor only the insurance premium payable with respect to the period commencing at the time the insurance becomes effective and concluding on

(a) the date of expiry of the insurance or any extension of that date as requested by the policy holder, or

(b) the date on which the insurance is cancelled,

whichever first occurs.

(5) If a consumer has

(a) obtained proof of insurance for insurance in which he has been enrolled, and

(b) been charged an insurance premium or other charge in connection with the insurance,

and then prepays or refinances the debt under the credit agreement, the credit grantor shall notify him in writing at the time of prepayment or refinancing that he has a right to cancel the insurance.

(6) When

(a) insurance is sold or made available in connection with a credit agreement,

(b) the consumer has been charged an insurance 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) make a refund to the consumer of any unearned insurance premium or other charge that has been charged in respect of the insurance, or

(e) apply the unearned insurance premium or other charge that has been charged in respect of the insurance to reduce the debt of the consumer.

Penalty for
dishonoured
cheques

18(1) A credit grantor shall not, in respect of a consumer transaction, charge a penalty to a consumer on account of the consumer's cheque or bill of exchange being dishonoured unless the credit agreement entered into by the consumer provides for and prescribes the amount of the penalty.

(2) Notwithstanding subsection (1), a penalty may be charged to a consumer on account of the consumer's cheque or bill of exchange being dishonoured if

(a) the cheque or bill of exchange was made out by the consumer at the business premises of the credit grantor, and

(b) at the time the cheque or bill of exchange was made out there was posted in a place readily accessible to the consumer in the credit grantor's business premises a notice stating that a penalty would be charged and setting forth the amount of the penalty.

Disclosure
of additional
information

19 Any information disclosed by a credit grantor that is in addition to the information required to be disclosed under this Act shall be of such a nature that it does not contradict, obscure or detract from that information required to be disclosed under this Act.

PART 3

TIME SALE AGREEMENTS, CONTINUOUS DEFERRED PAYMENT PLANS AND LOAN AGREEMENTS

Application
of Part

20 This Part does not apply

- (a) to a credit transaction that is
 - (i) a purchase of goods, or
 - (ii) the obtaining of money,by the use of a credit card, or
- (b) to a credit agreement under which a credit card is issued.

Disclosure under
time sale
agreements

21(1) A time sale agreement shall disclose the following:

- (a) the date the agreement is executed;
- (b) the number, amount and due dates of the instalments;
- (c) the cash price;
- (d) the description of any trade-in;
- (e) the amount, if any, being allowed for a trade-in;
- (f) the amount of any down payment;
- (g) the amount of credit granted by the credit grantor to the consumer;
- (h) each type of insurance provided in respect of the time sale agreement that is requested by the consumer and the amount of the premium payable by the consumer with respect to each type of insurance so provided;
- (i) the official fee, if any;
- (j) the total principal amount owing under the time sale agreement;
- (k) the total amount of all credit charges as an annual percentage rate of the total amount financed;
- (l) any other costs or charges not referred to in this section that are to be paid by the consumer;
- (m) the total amount to be repaid by the consumer;

- (n) a clear description of the goods or services purchased;
- (o) the model or serial number, or both, where available, of the goods purchased.

(2) Where any transportation or installation costs of any goods or services are not included in the price of the goods or services but are payable to the credit grantor by the consumer, those costs shall be disclosed and separately set out in the time sale agreement.

(3) If a time sale agreement is subject to any variation or change with respect to the disclosures referred to in subsection (1) or (2), the credit grantor shall, in writing, notify the consumer within a reasonable time of the variation or change.

(4) The information required to be disclosed under this section shall be set out in the time sale agreement or statement before or above the signature of the consumer.

(5) Where a credit grantor makes a disclosure under subsection (1)(k) in a time sale agreement, he shall not, in respect of that time sale agreement, vary the annual percentage rate as set forth in that disclosure.

Disclosure
under continuous
deferred payment
plans

22(1) If goods are purchased under a continuous deferred payment plan,

- (a) the plan and its terms shall be in writing, and
- (b) the plan, the periodic statements or the other documents supplied by the credit grantor to the consumer shall disclose the following:
 - (i) if there is a maximum aggregate amount of credit available under the plan that may be outstanding at any time, that maximum amount;
 - (ii) the period of time for which a statement of account is furnished;
 - (iii) the service, transaction or activity charge, if any, in dollars and cents and the manner in which it is calculated;
 - (iv) the annual fee, if any;
 - (v) the manner, if any, in which the person may discharge his obligation without incurring any credit charges;
 - (vi) the credit charges, if any, expressed as an annual percentage rate;
 - (vii) the minimum amount of repayment required for each period;
 - (viii) the maximum liability, if any, of the person for unauthorized purchases made under the plan;
 - (ix) the manner in which the credit charges are calculated.

(2) The credit charges payable under a continuous deferred payment plan shall be shown

(a) in the plan

(i) as a scale of money charges shown in a schedule of amounts of outstanding balances and the applicable charges, and

(ii) as an annual percentage rate or a scale of annual percentage rates,

and

(b) in the periodic statements

(i) as the actual amount of money charged with a clear indication of the balance on which the charge is calculated, and

(ii) as an annual percentage rate or a scale of annual percentage rates.

(3) When anything required to be disclosed under subsection (1)(b), other than the information described in subsection (1)(b)(i), is varied, the credit grantor shall give written notice to the consumer of the variation not less than 60 days, or a longer time period prescribed by regulation, before the variation becomes effective.

Purchaser's copy

23 A credit grantor shall, before any goods or services purchased under a time sale agreement or a continuous deferred payment plan are delivered or rendered, give a duplicate copy of the time sale agreement or continuous deferred payment plan to

(a) the consumer, and

(b) any other person who by co-signing the agreement or plan may become obligated to repay the amount owing under the agreement or plan.

Disclosure
re loan

24(1) Subject to subsection (2), when a credit grantor enters into a loan agreement with a consumer, the credit grantor shall disclose in that loan agreement,

(a) in the manner prescribed by regulation, the credit charges expressed as an annual percentage rate for any loan made under that loan agreement, and

(b) any other information required by regulation.

(2) Before a credit grantor advances to a consumer a loan that is secured by a mortgage of real property, the credit grantor shall disclose to the consumer,

(a) in the manner prescribed by regulation, the credit charges expressed as an annual percentage rate, and

(b) any other information required by regulation.

(3) If a loan referred to in subsection (1) or (2) is subject to variations in the annual percentage rate, the credit grantor shall, in writing, notify the consumer within a reasonable time of any change in the rate that

- (a) affects the amount of the regular payments to be paid by that consumer other than the last payment, or
- (b) increases the term of the loan.

Disclosure under
a loan agreement
that extends
credit

25(1) Notwithstanding section 24, when a credit grantor grants credit under a loan agreement to a consumer and the loan made or to be made pursuant to the credit and the credit charges in respect of that loan are repayable on demand in amounts that are not fixed or on dates that are not fixed, the credit grantor shall disclose in writing to the consumer

- (a) the credit charges, expressed
 - (i) as an annual percentage rate, or
 - (ii) in a manner allowing the annual percentage rate to be determined,

and

- (b) the maximum aggregate amount of loans available pursuant to the credit.

(2) A written disclosure under subsection (1) shall take place

- (a) in the credit agreement entered into or to be entered into between the credit grantor and the consumer or prospective consumer,
- (b) in a separate statement given to the consumer,
- (c) in a promissory note signed or to be signed by the consumer, or
- (d) by any combination of the methods referred to in clauses (a) to (c).

(3) When a loan referred to in subsection (1) is made by way of an overdraft, the credit grantor shall

- (a) make the required disclosure pursuant to subsections (1) and (2), or
- (b) disclose to the consumer the credit charges, expressed as an annual percentage rate,

by posting a notice in a readily accessible place in all the business premises of the credit grantor from which loans are made.

(4) For the purposes of subsection (3), the costs of administration, including any service, transaction or activity charge, shall not be included in determining the credit charges.

(5) When a change occurs in an item to be disclosed pursuant to subsection (1)(a), the credit grantor shall notify the consumer of the change by posting a notice in a readily accessible place in the business premises of the credit grantor from which the loan was made.

power's copy

26 A credit grantor shall, before any money is advanced under a loan agreement, give a duplicate copy of the loan agreement entered into by a consumer

- (a) to the consumer, and

(b) to any other person who by co-signing the loan agreement obligates himself to repay the loan if the consumer does not perform his obligations under the loan agreement.

Prepayment

27(1) A credit grantor shall furnish to a consumer on the consumer's request a statement showing

- (a) the net amount, and
- (b) the calculation of the net amount,

required to effect the prepayment of the outstanding principal amount and the earned credit charges owing under the credit agreement.

(2) For the purposes of subsection (1) credit charges shall be calculated by

- (a) multiplying the outstanding principal amount by the number of days that have elapsed since the date of the last payment or the date of the credit transaction, as the case may be,
- (b) multiplying the product determined under clause (a) by the annual percentage rate, and
- (c) dividing the product determined under clause (b) by 365.

(3) A consumer who owes money to a credit grantor in respect of a credit transaction may prepay the amount owing to the credit grantor before its due date without incurring any charge or penalty in respect of the prepayment.

PART 4 CREDIT CARDS

Definitions

28 In this Part,

- (a) "credit card customer" means the person
 - (i) to whom a credit card is issued, and
 - (ii) who is liable to the credit grantor who issued the credit card for the indebtedness incurred with the credit card;
- (b) "unsolicited credit card" means a credit card that has not been requested in writing by the person to whom the credit card is issued but does not include a credit card that replaces or renews a credit card that was previously issued to that person at that person's request;
- (c) "unauthorized use" means the use of a credit card where that use of the credit card
 - (i) is not by the credit card customer, and
 - (ii) is not authorized by the credit card customer.

Unsolicited credit cards

29 No person shall issue an unsolicited credit card to another person.

Limitation of liability on loss of credit card

30(1) Notwithstanding anything contained in an agreement or a contract entered into before or after the commencement of this section,

where a credit card is lost or stolen the credit card customer has no legal obligation for a debt incurred by the unauthorized use of the card after the time at which the credit grantor issuing the card receives actual notice of that loss or theft.

(2) A notice under subsection (1) may be oral or in writing.

(3) If a credit card is lost or stolen and one or more debts are incurred by the unauthorized use of the card prior to the receipt by the issuer of a notice under subsection (1), the liability of the credit card customer shall not exceed

(a) the lesser of

(i) \$50, and

(ii) the amount fixed or agreed to by the credit grantor issuing the credit card as the maximum amount for which that credit card customer is liable in the event of the unauthorized use of the card after its loss or theft,

if the notice was given within a reasonable time after the credit card customer first became aware of the loss or theft of the card, or

(b) the amount fixed or agreed to by the credit grantor issuing the credit card as the maximum amount for which that credit card customer is liable in the event of the unauthorized use of the card after its loss or theft, if the notice was not given within a reasonable time after the credit card customer first became aware of the loss or theft of the card.

Disclosure

31(1) The credit grantor issuing a credit card shall before or at the time of issuing a credit card to a person disclose to that person the following:

(a) if there is a maximum aggregate amount of credit available through the use of the card that may be outstanding at any time, that maximum amount;

(b) the period of time for which a statement of account is furnished;

(c) the service, transaction or activity charge, if any, in dollars and cents and the manner in which it is calculated;

(d) the annual fee, if any;

(e) the manner, if any, in which the person may discharge his obligation without incurring any credit charges;

(f) the interest payable, if any, expressed as an annual percentage rate;

(g) the minimum amount of repayment required for each period;

(h) the maximum liability, if any, of the person for unauthorized use of the card in the event that the card is lost or stolen;

(i) the manner in which the interest payable is calculated.

(2) When anything required to be disclosed under subsection (1), other than the information described in subsection (1)(a), is varied, the credit grantor issuing the credit card shall give written notice to the credit card customer of the variation not less than 60 days, or a longer time period prescribed by regulation, before the variation becomes effective.

(3) A written disclosure under subsection (1) or (2) shall be made in a periodic statement given to the credit card customer and

(a) as part of the credit agreement or proposed credit agreement between the credit grantor issuing the credit card and the credit card customer or proposed credit card customer,

(b) in a separate statement given to the credit card customer, or

(c) by any combination of the methods referred to in clauses (a) and (b).

(4) The credit charges payable in respect of a credit transaction arising out of the use of a credit card shall be shown in the periodic statements

(a) as the actual amount of money charged with a clear indication of the balance on which the charge is calculated, and

(b) as an annual percentage rate or a scale of annual percentage rates.

PART 5

LEASE OF PERSONAL PROPERTY

Disclosure

32 A credit grantor giving a lease of personal property shall disclose the following in writing:

(a) a clear description of the personal property;

(b) the model or serial number of the personal property, if that property has a model or serial number;

(c) any initial payment or down payment, as the case may be;

(d) all costs or charges to be paid by the lessee;

(e) the liability of the lessee, if any, when the lease terminates or is terminated under the conditions set forth in the lease;

(f) all warranties or guarantees, if any, given with respect to the personal property;

(g) any insurance carried by the credit grantor with respect to the personal property that is to be paid for by the lessee;

(h) any additional security or deposit required by the credit grantor;

(i) the number, amount and due dates of all payments;

(j) the total of the payments to be made by the lessee;

(k) the fair market value of the personal property at the time the lessee signs the lease, if the lessee is liable for any decrease in that value at the termination of the lease;

(l) the conditions under which the credit grantor or lessee may terminate the lease;

(m) if the lease provides that the title to the property leased may, at the lessee's option, be transferred to the lessee,

(i) the method of exercising the option, and

(ii) all information necessary to calculate the amount required to be paid to exercise the option.

Lessee's copy

33 A credit grantor shall, before any property being leased is delivered to the lessee, give a duplicate copy of the lease entered into by a lessee

(a) to the lessee, and

(b) to any other person who at the time the lease is entered into obligates himself to carry out the lessee's obligations under the lease if the lessee fails to perform those obligations.

PART 6

DISCOUNTING INCOME TAX REFUNDS

Prohibition

34 No person shall carry on the business of acquiring from a taxpayer the taxpayer's right to any income tax refund that is due or will become due to the taxpayer unless that person holds a subsisting certificate of registration under this Part.

Certificate of registration

35(1) The Director may issue a certificate of registration to an applicant making application for the issuance of a certificate of registration, if the applicant meets the requirements prescribed by regulation.

(2) The Director may issue a certificate of registration subject to any terms and conditions that he may impose in accordance with the regulations.

(3) The certificate of registration issued to a discounter or a copy of the certificate shall be posted at all the locations at which the discounter carries on business.

(4) The certificate of registration issued to a discounter remains in effect until it is

(a) cancelled at the request of the holder, or

(b) cancelled or suspended under this Part.

(5) If the Director refuses to issue a certificate of registration under subsection (1), he shall

(a) notify the applicant for the certificate of registration of his reason for the refusal, and

(b) give the applicant an opportunity to make representations to the Director in respect of the matter.

Address for service

36(1) An applicant for a certificate of registration shall state in the application an address for service in Alberta.

(2) At all times following the issuance of the certificate of registration to a discounter the discounter shall maintain an address for service in Alberta.

(3) A discounter shall notify the Director in writing of any change in his address for service within 15 days of the change.

(4) Any notice under this Act or the regulations that is required or permitted to be given or served on a discounter is sufficiently given or served for all purposes if the notice is

(a) sent by registered mail to the latest address for service shown in the records of the Director, or

(b) personally served on the discounter.

Change in
directors or
partnership

37 If the discounter is a corporation or partnership, the discounter shall notify the Director in writing of any change in the directors or the make-up of the partnership, as the case may be, within 15 days of the change.

Suspension and
cancellation

38(1) The Director

(a) may suspend the certificate of registration issued to a discounter if he has reason to believe, and

(b) may cancel the certificate of registration issued to a discounter if he determines,

that the discounter has not complied with any provision of this Act, the regulations under this Act or the *Tax Rebate Discounting Act* (Canada) or the regulations under that Act.

(2) When the Director suspends or cancels a certificate of registration he shall serve a notice of the suspension or cancellation on the discounter to whom the certificate of registration was issued.

(3) A suspension or cancellation is effective on a date specified in the notice served under subsection (2).

(4) Notwithstanding subsection (3), if the notice of suspension or cancellation is served by registered mail, the suspension or cancellation shall be effective not earlier than 5 days after the date that the notice is mailed.

Appeal

39(1) If

(a) an applicant has been refused a certificate of registration, or

(b) the certificate of registration of a discounter has been suspended or cancelled,

the applicant or discounter, as the case may be, may appeal the decision of the Director by serving a notice of appeal on the Minister not more than 30 days from the date that the applicant or discounter was notified of the refusal or served with a notice of the suspension or cancellation.

(2) Not more than 30 days after being served with the notice of appeal, the Minister

(a) shall appoint an appeal board of not more than 3 persons to hear the appeal, and

(b) may fix the time or extend the time within which the appeal board shall hear the appeal and render a decision.

(3) Where the decision of the Director is appealed, that decision remains in effect pending the determination of the appeal.

(4) The decision of an appeal board is final and shall not be questioned, reviewed or restrained by injunction, prohibition, mandamus, quo warranto or other process or proceeding in any court or be removed by certiorari or otherwise in any court.

Information
to taxpayer

40 Before a discounter may acquire from a taxpayer the right to receive an income tax refund that 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:

(a) the amount of the income tax refund that is due or will become due to the taxpayer;

(b) the amount to be paid by the discounter for the income tax refund that 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 amounts referred to in clauses (a) and (b) or the amount of the income tax refund that the taxpayer will forego as a result of the discounting agreement;

(d) the amount of the discount expressed in the manner prescribed by regulation.

PART 7 ADMINISTRATION

Appointment
of staff

41 In accordance with the *Public Service Act*, there may be appointed a Director of Consumer Credit and any other employees that are necessary for the administration of this Act.

Records

42(1) A credit grantor shall keep and maintain a complete record, including the original documents or a copy of them executed by the consumer or lessee, as the case may be, in respect of each credit agreement or lease agreement to which the credit grantor is a party or that has been assigned to him, for a period of 2 years after the final payment is received under the credit agreement or lease.

(2) Notwithstanding subsection (1), a credit grantor may return any records, documents or copies of them to a consumer or lessee at any time after the credit agreement or lease agreement is entered into by the consumer or lessee.

(3) A discounter shall keep and maintain a complete record of each acquisition from a taxpayer of the taxpayer's right to receive an income tax refund for a period of 2 years from the date of the acquisition.

Return of
information

43(1) The Director may, by notice in writing, require any credit grantor or discounter to submit to him, within the time required in the notice, one or both of the following:

(a) a written return showing in detail any information required by the notice, if the information relates to or is incidental to any transaction to which this Act applies;

(b) a return containing or pertaining to any records that relate to or are incidental to any transaction to which this Act applies.

(2) Subsection (1) does not apply to records

(a) that, being no longer required to be kept under this Part, have been destroyed, or

(b) that have been returned to the consumer or lessee pursuant to section 42(2).

(3) The person to whom notice is given under subsection (1) may comply with a request for a return under subsection (1)(b) by permitting the Director or a person designated by the Director to examine the records to which the notice relates and, on the request of the person examining the records, to take them away for further examination or copying.

Inquiry

44(1) In order to determine whether the Act and the regulations are being complied with, the Director may inquire into the business affairs of any person that he has reason to believe is engaged in the business of a credit grantor or a discounter.

(2) When the Director has reasonable and probable grounds to believe that a contravention of this Act or the regulations has taken place, he shall inquire into the alleged contravention.

(3) For the purpose of carrying out an inquiry under this section, the Director may apply to the Court of Queen's Bench for an order

(a) authorizing the Director or a person designated by him or named in the order

(i) to enter any premises where a person

(A) is engaged in the business of a credit grantor or discounter, or

(B) keeps records that relate to a transaction to which this Act applies;

(ii) to examine records that relate to a transaction to which this Act applies;

(iii) to seize and remove records that relate to a transaction to which this Act applies for the purpose of further examining and making copies of the records;

(b) requiring a person engaged in the business of a credit grantor or discounter or a person employed by him or otherwise performing services for him in respect of that business

(i) to provide information to the Director or a person designated by him or named in the order in respect of a transaction to which this Act applies;

(ii) to give all reasonable assistance to the Director or a person designated by him or named in the order in carrying out his inquiry.

- (4) An application under subsection (3)
 - (a) shall be by way of an originating notice, and
 - (b) may be made ex parte if the Court considers it appropriate in the circumstances.
- (5) On hearing an application under subsection (3) the Court may
 - (a) make an order that it considers appropriate in the circumstances, and
 - (b) award costs in respect of the matter.

Evidence

- 45(1)** The Director shall
 - (a) give to the person from whom anything is taken under section 43(3) or 44(3) a receipt for the things taken, and
 - (b) forthwith
 - (i) make copies of, take photographs of or otherwise record the things removed, and
 - (ii) return the things to the person to whom the receipt was given under clause (a).
- (2) A copy of a record obtained under section 43 or 44(3) and certified by the Director to be a true copy shall be admitted in evidence in any action, proceeding or prosecution under this Act as prima facie proof of the original record without proof of the signature or appointment of the Director.

Offences

- 46(1)** A person who fails to comply with this Act or the regulations is guilty of an offence and liable
 - (a) in the case of a corporation, to a fine of not more than \$10 000, and
 - (b) in the case of an individual, to a fine of not more than \$5000.
- (2) If a corporation has failed to comply with this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in that failure to comply with this Act or the regulations is guilty of an offence and is liable to a fine of not more than \$5000 whether or not the corporation has been prosecuted or convicted for the failure to comply with this Act or the regulations.
- (3) A prosecution under subsection (1) or (2) may be commenced not more than 2 years after the commission of the offence.

Application to court

- 47(1)** Whether or not a person is prosecuted under this Act, if the Director is of the opinion that a person is not complying with this Act or the regulations, the Director may apply to the Court of Queen's Bench for an order directing that person to comply with this Act or the regulations.
- (2) An application under this section shall be by way of an originating notice.

(3) On an originating notice being filed with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, make an interim order granting the relief that the Court considers appropriate pending the determination of the application.

(4) An interim order under subsection (3) may be made *ex parte* if the Court considers it appropriate in the circumstances.

(5) On hearing an application the Court may, if it is of the opinion that the person is not complying with this Act or the regulations, grant an order, subject to any terms and conditions the Court considers appropriate in the circumstances, doing one or more of the following:

(a) directing the person to comply with this Act, the regulations or the request of the Director;

(b) directing the person to cease carrying out any action that in the opinion of the Court does not comply with this Act, the regulations or the request of the Director;

(c) giving directions that the Court considers necessary in order to ensure that this Act, the regulations or the request of the Director will be complied with;

(d) awarding costs in respect of the matter.

Regulations

48 The Lieutenant Governor in Council may make regulations

(a) governing the manner in which annual percentage rates shall be expressed, calculated and applied;

(b) prescribing in what circumstances credit charges shall be expressed in dollars and cents;

(c) enumerating the professions and occupations to which section 3 applies;

(d) governing forms to be used under this Act;

(e) governing the particulars required to be given in a notice under this Act;

(f) governing the particulars required to be given in any agreement to which this Act applies;

(g) exempting a person, class of persons, transaction or class of transactions from the application of all or part of this Act;

(h) prescribing the requirements to be complied with by an applicant for a certificate of registration as a discounter;

(i) prescribing the fees payable by an applicant for a certificate of registration as a discounter;

(j) governing the imposition of any terms or conditions in respect of a certificate of registration issued to a discounter;

(k) governing information to be provided by credit grantors;

(l) prescribing the manner in which the amount of a discount shall be expressed;

(m) respecting disclosures made under section 24;

(n) prescribing time periods for the purposes of sections 22(3) and 31(2);

(o) defining, for the purposes of this Act or the regulations, any term not defined in this Act.

- Amends
RSA 1980 cT-9
- Repeal
- Commencement
- 49** *The Trust Companies Act is amended by repealing section 144.*
- 50** *The Credit and Loan Agreements Act is repealed.*
- 51** *This Act comes into force on Proclamation.*