

1992 BILL 271

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Fourth Session, 22nd Legislature, 41 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 271**

**INTEREST CHARGE REVIEW BOARD ACT**

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MR. CHIVERS

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 271*  
*Mr. Chivers*

## **BILL 271**

1992

### **INTEREST CHARGE REVIEW BOARD ACT**

*(Assented to , 1992)*

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

**Purpose**

**1** The purpose of this Act is to provide a quick, simple and fair review of interest that has been charged on a loan to determine whether the interest has been charged in accordance with the law and the agreement governing the loan.

**Definitions**

**2** In this Act

(a) "applicant" means a person who makes an application to the board under this Act;

(b) "financial institution" includes a bank, trust company, credit union, Treasury Branch or loan company;

(c) "Minister" means the Minister of Consumer and Corporate Affairs.

**Board established**

**3(1)** There is hereby established the Interest Charge Review Board consisting of 7 members.

**(2)** The members shall be appointed by Order of the Lieutenant Governor in Council for a term not to exceed 4 years and shall include

(a) a person representing financial institutions;

- (b) a lawyer;
- (c) an accountant;
- (d) an officer of the Department of Consumer and Corporate Affairs;
- (e) three people representing consumer interest groups.

(3) The Lieutenant Governor in Council shall by order designate one of the members to chair the board and one as a deputy.

(4) The members of the board may be paid such salary or fees and receive such remuneration of reasonable actual expenses as ordered by the Lieutenant Governor in Council out of money appropriated to that purpose by the Legislature.

Application for  
review

4 Any person who borrows money from a financial institution doing business in the province may apply to the board for a review of the amount of interest paid and the determination as to whether the interest was in accordance with the loan agreement.

Review

5(1) The board shall review every application brought to it that, in the opinion of the board, specifies sufficient information to establish a reasonable possibility that interest may have been incorrectly calculated and determine whether the interest actually charged is in accordance with the agreement and whether the agreement and related transactions between the financial institution and the applicant is in accordance with the law.

(2) Within 15 days of receiving an application the board shall commence the review, request further information from the applicant or advise the applicant that it does not propose to carry out a review, giving its reasons.

(3) If an applicant is asked to give further information or is advised that the board will not carry out a review, the applicant may appeal the decision of the board to the Minister.

(4) Where possible, the board shall complete its review and advise the applicant and the financial institution of its decision and of any order it makes, within 90 days of receiving the application.

Evidence	6 The board may receive evidence in any form it deems appropriate bearing in mind the circumstances and the facilities available to the applicant or the financial institution as the case may be and may receive evidence on oath.
Powers of board	7 The board has the powers of a commissioner appointed under the <i>Public Inquiries Act</i> with respect to the conduct of hearings, the calling of witnesses and the summoning and receipt of evidence.
Order	8 On completing its review, the board may make any order it sees fit with relation to the loan agreement and the relationship between the applicant and the financial institution which may include an order that <ul style="list-style-type: none"> <li>(a) any interest improperly charged be refunded with interest at a rate set by the board;</li> <li>(b) the loan agreement be amended to comply with the law;</li> <li>(c) the financial institution comply with any practice required by law or desist from any practice forbidden by law or which, in the opinion of the board, has or may cause confusion as to the amount of interest payable on a loan or any other terms of a loan.</li> </ul>
Registration	9 An order of the board may be registered with the Clerk of The Court of Queen's Bench and upon registration has the same force and effect as an order of the Court of Queen's Bench.
Appeal	10 An order of the board may be appealed to the Court of Appeal, on the same basis as an order of the Court of Queen's Bench.
Service	11 An order of the board shall be in writing and shall be served personally or by registered mail on the applicant, the financial institution involved and any other person ordered by the board.
Contempt	12 If any person refuses to comply with an order of the board to appear or to present written documents demanded by the board without reasonable excuse, the board may order that that person is in contempt of the board and upon the order being filed with the Clerk of the Court of Queen's Bench the order is of the same effect as an order of that Court of contempt.

Default Orders	<b>13</b> If the board has ordered the attendance of a financial institution and the financial institution fails to comply with the order or fails to present evidence related to the application, the board may make an order in default of the appearance or in default of evidence presented.
Representation	<b>14</b> An applicant or financial institution may be represented before the board in person, by counsel or by agent.
Limitation	<b>15(1)</b> Notwithstanding the <i>Limitations of Actions Act</i> , the board may make an order under this Act that relates to a transaction for the payment or non-payment of interest that took place on or after January 1, 1968.  <b>(2)</b> This section expires December 31, 1994.
Commencement	<b>16</b> This Act comes into force on Proclamation.