



Province of Alberta

FAIR TRADING ACT

PAYDAY LOANS REGULATION

Alberta Regulation 157/2009

With amendments up to and including Alberta Regulation 183/2016

Office Consolidation

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Note

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(Consolidated up to 183/2016)

ALBERTA REGULATION 157/2009

Fair Trading Act

PAYDAY LOANS REGULATION

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Definitions

1 In this Regulation,

(a) “Act” means the *Fair Trading Act*;

(b) to (h) repealed AR 134/2016 s2.

Application

2(1) The provisions of this Regulation apply

(a) to every payday lender who offers, arranges or provides a payday loan to a borrower in Alberta, whether the payday lender operates from business premises or on the Internet, and

(b) to each payday loan, regardless of the number of payday lenders involved in the payday loan.

(2) The *General Licensing and Security Regulation* (AR 187/99) applies to the payday loan business.

(3) This Regulation does not apply to a payday loan made before the coming into force of this Regulation, except to the extent that it relates to an extension or renewal of a payday loan made or granted after the coming into force of this Regulation.

Licensing

3(1) The class of licence to be known as the payday loan business licence is established.

(2) A person who holds a payday loan business licence is authorized to engage in the payday loan business.

Multiple locations

4(1) If a payday lender engages in the business of making payday loans at more than one location, the licence referred to in section 3(2) must specify each location at which the payday lender engages in the business of making payday loans.

(2) A payday lender must prominently display a copy of the licence in each location named to which the licence pertains.

(3) If the payday lender engages in the payday loan business by means of the Internet, the payday lender must display a copy of the licence, prominently at or near the top of the introductory page of the website for Alberta borrowers.

Prohibition

5(1) A payday lender shall not engage in the business of making payday loans at any of the payday lender's locations in Alberta under a business name that differs from the name on the licence.

(2) Where a payday lender who holds a licence in respect of one or more locations intends to engage in the payday loan business at a new location, the payday lender shall not engage in any business at the new location until the payday lender has obtained a licence for that location.

Representations

6(1) A payday lender shall not represent, expressly or by implication, that a payday loan business licence is an endorsement or approval of the payday lender by the Government of Alberta.

(2) Subsection (1) does not preclude a payday lender from representing that the payday lender is licensed under this Regulation.

Term and fee

7(1) The term of a licence under this Regulation shall not exceed 2 years.

(2) The fee for a licence and the first location is \$1000 per year plus \$500 per year for each additional location specified on the application.

(3) The fee to issue an amended licence, including the transfer of a licence to another licensed payday lender, is \$75.

(4) The fee to add new locations to a licence is \$500 per year for each location.

Requirements for licence

8 An applicant for a licence must submit to the Director

(a) a copy of each of the following documents that the applicant uses or intends to use:

(i) the standard loan agreement;

(ii) the cancellation notice form;

(iii) the form for acknowledging the receipt of the loan cancellation;

(iv) the form for acknowledging receipt of payments made by the borrower;

(v) a copy of the signs required under section 20(1),

and

(b) any other information or documentation required by the Director.

Security

9(1) A payday loan business licence shall not be issued or renewed unless the applicant submits to the Director a security in a form and an amount approved by the Director.

(2) The Director may, if the Director considers it appropriate, increase the amount of the security that is to be provided by a

payday lender before the term of the payday lender's licence expires.

Notification required

10(1) Subject to subsection (3), the holder of a payday loan business licence shall notify the Director in writing respecting any change in

- (a) any licensing information provided to the Director in accordance with section 8, and
- (b) the number of locations and the addresses of the locations at which the holder is operating as a payday lender,

within 15 days of the change.

(2) If a payday lender makes changes to any document that was submitted to the Director under section 8, the payday lender must submit copies of the changed document to the Director within 15 days of making the change.

(3) Where a payday lender who holds a licence in respect of one or more locations intends to engage in the payday loan business at a new location, the notice referred to in subsection (1) must be provided to the Director, together with the applicable fee, prior to conducting any business at the new location.

Financial literacy information

10.1(1) The Director may, with the approval of the Minister, establish the form and content of financial literacy information, including contact information respecting financial literacy programs, services and resources for the purposes of this section.

(2) Before a prospective borrower enters into a payday loan agreement with a payday lender, the payday lender shall provide the prospective borrower with

- (a) financial literacy information, including contact information respecting financial literacy programs, services and resources, in the form and content, if any, established by the Director, and
- (b) a cost of credit disclosure provided in accordance with section 64(1)(a) of the Act.

(3) A payday lender shall display financial literacy information including contact information respecting financial literacy programs, services and resources, in the form, content and manner, if any, established by the Director,

- (a) in its payday loan business premises,
- (b) in its marketing displays, and
- (c) on its website.

(4) A payday lender shall provide any facilities and equipment specified by the Director in connection with the provision of financial literacy information.

AR 183/2016 s2

Payday loan instalment payment on day other than payday

10.2 Despite section 124.2(1)(e) of the Act, if a borrower is paid on a monthly basis and no payday will occur from the 42nd day to the 62nd day of the term of the payday loan, the payday lender shall ensure that the instalment plan in the payday loan agreement requires a payday loan instalment payment on a day, within the time period set out in section 124.3(2) of the Act, that is not a day on which the borrower will receive his or her pay or other income.

AR 183/2016 s2

Instalment payment terms

10.3(1) A payday loan agreement must provide the following terms:

- (a) subject to section 10.2, a term providing that the payday loan instalment payments are due on each payday during the term of the payday loan agreement;
- (b) a term providing payday loan instalment payment amounts that do not differ from each other by more than \$10.

(2) Despite subsection (1)(b), if a borrower is paid on a monthly basis, and the final payday loan instalment payment is due on a day other than a day on which the borrower receives his or her pay or other income,

- (a) a payday loan instalment payment due on a day the person receives his or her pay or other income may be set in the payday loan agreement at an amount that does not exceed 50% of the total repayment amount owed, and
- (b) the final payday loan instalment payment may be set in the payday loan agreement at an amount that is at least 25% of the total repayment amount owed.

AR 183/2016 s2

Dishonoured instalment payment by pre-authorized debit

10.4(1) Subject to subsection (2), after an attempt by a payday lender to process a payday loan instalment payment by a pre-authorized debit provided by a borrower is dishonoured, the payday lender shall not make a further attempt to process the payday loan instalment payment by the pre-authorized debit.

(2) Subsection (1) does not prohibit a further attempt to process the payday loan instalment payment by the pre-authorized debit if

- (a) the further attempt is the 2nd attempt, for which the attempted payday loan instalment payment
 - (i) is in the same amount as the first attempt plus the fees permitted under section 124.61(3) of the Act, and
 - (ii) is processed within 30 days after the payday lender received notice that the first attempt to process the payday loan instalment payment was dishonoured,

or

- (b) the further attempt is in accordance with the express written consent provided by the borrower after the previous attempt was dishonoured, in respect of a specific payment amount, plus only the fees permitted under section 124.61(3) of the Act, to be processed on a specific date.

AR 183/2016 s2

11 to 23 Repealed AR 134/2016 s3.

Offences

24 A person who contravenes or fails to comply with any of the following provisions is guilty of an offence:

- (a) section 5;
- (b) section 10;
- (c) section 10.1(2), (3) or (4);
- (d) section 10.2;
- (e) section 10.4(1).

AR 157/2009 s24;134/2016;183/2016

25 Repealed AR 134/2016 s5.

Expiry

26 For the purposes of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2018.

AR 157/2009 s26;92/2016

27 Repealed AR 134/2016 s5.



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