



Province of Alberta

CONSUMER PROTECTION ACT

HIGH-COST CREDIT REGULATION

Alberta Regulation 132/2018

With amendments up to and including Alberta Regulation 56/2019

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Office Consolidation

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(Consolidated up to 56/2019)

ALBERTA REGULATION 132/2018

Consumer Protection Act

HIGH-COST CREDIT REGULATION

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Definitions

1 In this Regulation,

(a) “Act” means the *Consumer Protection Act*;

- (b) “borrower” means the party to a high-cost credit agreement who receives or will receive high-cost credit from a high-cost credit business operator, and includes a lessee;
- (c) “fixed high-cost credit” means credit under a high-cost credit agreement that is not for open high-cost credit and that is not a high-cost lease;
- (d) “high-cost credit business operator” means a person who
 - (i) offers, arranges for or enters into a high-cost credit agreement as the party providing or offering to provide high-cost credit to the other party, and includes a lessor, and
 - (ii) is required to hold a high-cost credit business licence;
- (e) “open high-cost credit” means credit under a high-cost credit agreement that
 - (i) anticipates multiple advances, to be made when requested by the borrower in accordance with the agreement, and
 - (ii) does not establish the total amount to be advanced to the borrower under the agreement, although it may impose a credit limit;
- (f) “optional service” means a service that is offered to a borrower in connection with a high-cost credit agreement and that the borrower does not have to purchase in order to enter into the high-cost credit agreement.

Application

2(1) Subject to subsection (2), this Regulation applies

- (a) to every high-cost credit business operator who offers, arranges for or enters into a high-cost credit agreement with a borrower in Alberta, regardless of whether the high-cost credit business operator operates from business premises or on the internet, and
- (b) to each high-cost credit agreement regardless of the number of high-cost credit business operators involved in the high-cost credit agreement.

(2) This Regulation does not apply to a high-cost credit agreement entered into before the coming into force of this Regulation, except

to the extent that it relates to an extension or renewal of a high-cost credit agreement made or granted after the coming into force of this Regulation.

Calculation of rates

3 For the purpose of section 124.01(a) of the Act, the rate of a high-cost credit agreement is to be calculated as follows:

- (a) for open high-cost credit, in accordance with the industry standard for calculating annual interest rate;
- (b) for fixed high-cost credit, in accordance with section 24(3) and (4) of the *Cost of Credit Disclosure Regulation* (AR 198/99);
- (c) for a high-cost lease, in accordance with section 26 of the *Cost of Credit Disclosure Regulation* (AR 198/99).

Licence

4 The class of licence to be known as the high-cost credit business licence is established.

Multiple locations

5 If a high-cost credit business operator carries on the activities of the high-cost credit business at more than one location, the licence under section 4 must specify each location at which the high-cost credit business operator carries on the activities of the high-cost credit business.

Licence to be displayed

6(1) A high-cost credit business operator shall prominently display a copy of the high-cost credit business licence in each location for which it has been issued.

(2) If a high-cost credit business operator provides high-cost credit or carries on the activities of the high-cost credit business by means of the internet, the business operator shall prominently display a copy of the licence at or near the top of the introductory page of the website for Alberta borrowers.

Term

7 The term of a high-cost credit business licence is one year.

Fees

8(1) The fee for a high-cost credit business licence is \$1000 per year.

(2) If a high-cost credit business operator carries on the activities of the high-cost credit business at more than one location, the fee for each additional location added to the licence is \$500 per year.

Notification required

9 A high-cost credit business operator shall notify the Director in writing within 15 days of any change in the following:

- (a) the owner or owners, the partners or the directors, as applicable, of the high-cost credit business operator;
- (b) the addresses of the locations at which the high-cost credit business operator carries on the activities of the high-cost credit business.

Security

10(1) A high-cost credit business licence shall not be issued or renewed unless the high-cost credit business operator submits a security to the Director 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 high-cost credit business operator before the term of the high-cost credit business operator's licence expires.

Representations

11(1) A high-cost credit business operator shall not represent, expressly or by implication, that a high-cost credit business licence is an endorsement or approval of the high-cost credit business operator by the Government of Alberta.

(2) Subsection (1) does not preclude a high-cost credit business operator from representing that the high-cost credit business operator is licensed under this Regulation.

General Licensing and Security Regulation

12 The *General Licensing and Security Regulation* (AR 187/99) applies to the high-cost credit business.

Exemptions from licensing

13 The requirement to hold a high-cost credit business licence does not apply to the following:

- (a) a public utility, as defined in the *Public Utilities Act*, with respect to the sale of a service;
- (b) a life insurance company, with respect to a loan under a life insurance policy to the insured or the insured's assignee solely on the security of the cash surrender value of the policy;
- (c) a financial institution or other person, with respect to a loan under the *Student Loan Act*, the *Students Finance Act*, the *Student Financial Assistance Act*, the *Canada Student Financial Assistance Act (Canada)*, or the *Canada Student Loans Act (Canada)*;
- (d) a municipality or a Metis settlement, with respect to the payment of taxes under the *Municipal Government Act* or the *Metis Settlements Act*;
- (e) a financial institution regulated under the *Bank Act (Canada)*, a credit union, or ATB Financial, with respect to services provided by the financial institution, the credit union, or ATB Financial.

High-cost credit agreement

14(1) A high-cost credit business operator shall ensure the front page of a high-cost credit agreement contains a disclosure statement with the following information:

- (a) the name of the high-cost credit business operator;
- (b) the licence number of the high-cost credit business operator;
- (c) any other information required by the Director.

(2) The Director may require a high-cost credit business operator to disclose information that is specific to the type of high-cost credit the high-cost credit business operator provides.

(3) If a borrower purchases an optional service from a high-cost credit business operator, the high-cost credit business operator shall ensure the disclosure statement required under subsection (1) also contains

- (a) a description of the optional service,

- (b) a statement that the borrower is not required to purchase the optional service in order to enter into the high-cost credit agreement,
- (c) a statement that, if the optional service is of a continuing nature, the borrower has the right to cancel the optional service on 30 days' notice or any shorter period of notice that is provided for by the high-cost credit agreement,
- (d) a statement that, if the optional service is of a continuing nature and the borrower cancels the optional service in accordance with clause (c), the borrower is not liable and is entitled to a refund of any amount already paid for charges relating to any portion of the service that has not been provided at the time of cancellation, and
- (e) any other information required by the Director.

Entering into agreement

15 Immediately before or at the time a borrower enters into a high-cost credit agreement, a high-cost credit business operator shall

- (a) bring to the attention of the borrower the information required under section 14, and
- (b) give the borrower a copy of the high-cost credit agreement.

Form and content of agreement

16(1) The Director may set all or part of the form and content of high-cost credit agreements.

(2) The Director may require a high-cost credit business operator to use a high-cost credit agreement that is specific to the type of high-cost credit the high-cost credit business operator provides.

(3) A high-cost credit business operator shall use a high-cost credit agreement in the form and with the content required by the Director.

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Statement of account

17(1) Subject to subsection (4), a high-cost credit business operator shall, on written request from the borrower, provide the borrower with a statement of account containing as much of the following information as is applicable:

- (a) the period covered by the statement;
- (b) the outstanding balance at the beginning of the period;
- (c) the outstanding balance at the time money was first advanced under the high-cost credit agreement;
- (d) the amount, description and posting date of each transaction or charge added to the outstanding balance during the period;
- (e) the amount and posting date of each payment or credit subtracted from the outstanding balance during the period;
- (f) the total of all amounts added to the outstanding balance during the period;
- (g) the total of all amounts subtracted from the outstanding balance during the period;
- (h) the outstanding balance at the end of the period;
- (i) the outstanding balance at the time the request for the statement of account is made;
- (j) the credit limit, if applicable.

(2) The Director may specify a time period within which a high-cost credit business operator shall provide a statement of account to a borrower.

(3) A high-cost credit business operator may provide a statement of account to a borrower in electronic form.

(4) This section does not apply if a borrower has access to an online account that provides the borrower with the information under subsection (1) on an ongoing basis.

Part 9 of Act

18 Nothing in this Regulation affects a high-cost credit business operator's disclosure obligations under Part 9 of the Act.

Confirmation of cancellation

19 If a borrower cancels an optional service of a continuing nature under section 67 of the Act, the high-cost credit business operator shall provide confirmation of the cancellation to the borrower in written or electronic form.

Signs

20(1) The Director may set the form and content of signs that must be displayed by high-cost credit business operators.

(2) A high-cost credit business operator shall prominently display a sign in the form and containing the content set by the Director at each location where the high-cost credit business operator carries on the activities of the high-cost credit business.

Information requirements

21(1) A high-cost credit business operator shall provide to the Director the following information:

- (a) the total value of all high-cost credit agreements the high-cost credit business operator has entered into in Alberta;
- (b) the number of high-cost credit agreements the high-cost credit business operator has entered into in Alberta;
- (c) the number of repeat high-cost credit agreements the high-cost credit business operator has entered into in Alberta;
- (d) the average size and term of the high-cost credit agreements the high-cost credit business operator has entered into in Alberta;
- (e) the total value of the high-cost credit agreements that have been defaulted by borrowers and that have been written off by the high-cost credit business operator in Alberta;
- (f) any other information required by the Director.

(2) The Director may specify a time period within which a high-cost credit business operator shall provide the information under subsection (1) to the Director.

Duty to keep records

22(1) A high-cost credit business operator shall retain the following documents and records in respect of each high-cost credit agreement, as applicable:

- (a) the high-cost credit agreement;
- (b) pre-authorized debit agreements;
- (c) instructions to credit reporting agencies;

- (d) documents and records respecting the assignment or sale of the high-cost credit agreement;
 - (e) any other documents and records in respect of the high-cost credit agreement.
- (2) A high-cost credit business operator must retain the documents and records described in subsection (1)
- (a) for a period of 3 years after the date on which the high-cost credit agreement was fully repaid, or
 - (b) if the high-cost credit agreement is not fully repaid, after the later of
 - (i) the date of default, or
 - (ii) the date of last payment.

Dishonoured payment by pre-authorized debit

23(1) Subject to subsection (2), after an attempt by a high-cost credit business operator to process a payment under a high-cost credit agreement by a pre-authorized debit provided by a borrower is dishonoured, the high-cost credit business operator shall not make a further attempt to process the payment by the pre-authorized debit.

(2) Subsection (1) does not prohibit a further attempt to process the payment under the high-cost credit agreement by the pre-authorized debit if

- (a) the further attempt is the 2nd attempt, for which the attempted payment
 - (i) is in the same amount as the first attempt plus the permitted fee under subsection (3), and
 - (ii) is processed within 30 days after the high-cost credit business operator received notice that the first attempt to process the 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 fee permitted under subsection (3), to be processed on a specific date.

(3) The Director may set the amount of a fee that a high-cost creditor business operator may charge for each dishonoured pre-authorized debit.

Prohibited practices

24 A high-cost credit business operator shall not engage in any of the following practices:

- (a) attempting to process a payment under a high-cost credit agreement before the day on which it is due;
- (b) making withdrawals from a borrower's account without the express consent of the borrower;
- (c) charging any amount to a borrower in addition to the fees provided for in the high-cost credit agreement with that borrower in relation to the high-cost credit;
- (d) contacting any individual in person or by telephone for the purpose of collecting or attempting to collect an outstanding payment under a high-cost credit agreement except between 7 a.m. and 10 p.m. in Alberta;
- (e) directly or indirectly threatening or stating an intention to proceed with any action for which there is no lawful authority;
- (f) contacting an individual other than the borrower, an agent of the borrower or a guarantor of a high-cost credit agreement, except for contact in respect of
 - (i) obtaining a borrower's residential address, personal telephone number or employment telephone number, or
 - (ii) contacting a borrower's employer in respect of legal proceedings relating to the high-cost credit agreement,for the purposes of collecting or attempting to collect an outstanding payment under a high-cost credit agreement;
- (g) contacting or attempting to contact any individual in respect of an outstanding payment under a high-cost credit agreement by any means in such a manner as to constitute harassment, including but not limited to
 - (i) the use of threatening, profane, intimidating or coercive language,

- (ii) the use of undue, excessive or unreasonable pressure, or
 - (iii) the use of telephone, e-mail, or other methods of contact, other than traditional mail, to call or send messages excessively;
- (h) giving any person, directly or indirectly, by implication or otherwise, any false or misleading information, including but not limited to references to the police, a law firm, prison, credit history, court proceedings or a lien or garnishment;
- (i) contacting a borrower at the borrower's place of employment for the purposes of collecting or attempting to collect an outstanding payment under a high-cost credit agreement;
- (j) contacting a borrower at the borrower's place of employment, if the borrower
- (i) requests the high-cost credit business operator not to contact the borrower there,
 - (ii) makes reasonable arrangements to discuss the high-cost credit agreement with the high-cost credit business operator, and
 - (iii) discusses the high-cost credit agreement with the high-cost credit business operator in accordance with the arrangements;
- (k) communicating information about a high-cost credit agreement or the existence of a high-cost credit agreement to any person without the express consent of the borrower;
- (l) entering into or arranging wage assignments with a borrower or the employer of a borrower;
- (m) publishing or threatening to publish a notice of a borrower's failure to pay;
- (n) giving false, misleading or deceptive information in advertisements, solicitations or negotiations with respect to a high-cost credit agreement;
- (o) reporting a debt to a credit reporting agency if the borrower has notified the high-cost credit business operator that the debt is in dispute and that the debtor wishes the high-cost credit business operator to take the matter to court;

- (p) charging a fee to a borrower for a dishonoured pre-authorized debit that exceeds the amount set by the Director under section 23(3).

Offences

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

- (a) section 14(1) and (3);
- (b) section 23(1);
- (c) section 24.

Coming into force

26 This Regulation comes into force on the coming into force of section 1(12) of *A Better Deal for Consumers and Businesses Act*.



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