



**CONSUMER
PROTECTION BC**

Guide to Payday Lending Inspections in BC

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Introduction

Consumer Protection BC and Payday Lending

Consumer Protection BC is responsible for the administration of the *Business Practices and Consumer Protection Act* (“Act”) and the *Payday Loans Regulation* (“Regulation”). Together this Act and Regulation govern the conduct of persons and businesses engaged in the activity of payday lending in British Columbia, and legislates the licensing requirements for payday lenders in the Province.

Consumer Protection BC Compliance Inspectors (“Inspectors”) are empowered under sections 149 and 150 of the Act to conduct inspections for the purpose of determining compliance with the Act, the Regulation, licensing conditions, and orders issued by Consumer Protection BC. Inspectors have the authority to enter businesses, make inquiries, examine/copy records and retain documents and other items for the purposes of examination and inspection process.

The material in this guide provides information to payday lenders on what to expect and how to prepare for inspections performed by Consumer Protection BC.

This guide is not intended to provide legal advice and is by no means an exhaustive review of all the requirements affecting payday lenders in BC. We recommend that anyone regulated under the Act and Regulation obtain copies and review them in detail. You can find them online or printed versions may be ordered from:

CROWN PUBLICATIONS INC.
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Victoria BC CANADA V8V 1M9
TEL: (250) 386-4636
TOLL FREE 1-877-747-4636
FAX: (250) 386-0221

As a payday lender, it is your responsibility to operate your business so that it complies with the law and the terms and conditions of your licence. These terms and conditions may be printed on the face of your licence or contained in letters issued to you by Consumer Protection BC.

For more general information, please contact Consumer Protection BC at:

Consumer Protection BC
307-3450 Uptown Boulevard
Victoria BC V8Z 0B9
Phone: 604 320-1664
Fax: 250 920-7181
Toll free: 1 888 564-9963
www.consumerprotectionbc.ca

Inspections

Inspectors conduct inspections of payday lenders, sometimes unannounced, to make sure the business and its employees are following the Act, the Regulation, and the terms and conditions of their licence. Inspectors may also carry out the following functions at an inspection:

- Explain the terms and conditions of your licence
- Inspect the physical layout of your establishment
- Inspect your legal, financial and business records
- Observe and record your business practices, identifying gaps or weaknesses that are likely to lead to non-compliance, and
- Identify any contraventions of the Act, the Regulation, or the terms and conditions of your licence

An Inspector will show you their official identification if you request. You must give Inspectors access to all areas of your business and not obstruct, hinder or interfere with their entry or inspection. It is an offence to obstruct, hinder, or interfere with an inspection, and a serious contravention that may result in administrative penalties and/or cancellation of your licence.

What will be inspected?

Business Location

The inspector will examine the physical place of business and review items such as:

- If the licensee has a mailing address that is different from the physical business address, that the mailing address is listed on all items given to the consumer.
- If a licensee has changed their name, senior directors or beneficial ownership of the shares of the licensee, that they have provided notice to the Director within 14 days of the change.
- If a payday lender is located outside British Columbia, the inspector will ensure that the payday loan agreement contains the address of the payday lender's office in British Columbia for service of documents.
- That the name used to carry on business is exactly as it appears on the license.
- That the licensee has a copy of the Act and Regulation at the business location.
- That all required signs and notices and disclosures conform to the regulations for size, color and/or content.
- If the licensee is an internet based lender or uses online storage of data, records review and information gathering protocols will be communicated to the licensee at inspection notification.

Licence

During inspection, the Inspector will examine the Consumer Protection BC license that is required to be displayed.

If the payday lender does business by means of the internet, the Inspector will ensure that the licence number and other identification is being displayed in the form approved by the Director, and that the licence number and other identification are displayed prominently at or near the top of the website's introduction page for British Columbia borrowers.

Loan Agreements

An examination of past loan agreements will focus on the inclusion of proper content, acknowledgements, prescriptive requirements and limitations as is set out in the Act and the Regulation.

Document review

During an inspection, an Inspector may request, copy and/or examine any of the following:

- A copy of all the forms used by the licensee – this includes current payday loan; agreement, receipts and copies of any other form created by the licensee that is given to a consumer;
- A copy of any records held by the licensee – this includes past payday loan agreements, receipts and copies of any other form the inspector deems relevant to the inspection;
- That the payday loan agreement in use by the licensee contains all required contents outlined in the Regulation;
- All payday loan agreements, receipts and other documents used for each payday loan in the prior 2 years;
- Any marketing materials such as brochures, pamphlets or advertisements;
- The inspector may review in advance any other marketing tools used by the licensee including mass media, internet and other devices;

The above noted list is not exhaustive of what an inspector may review at inspection. An inspector may request further records, documents, statements, or reports that are deemed relevant to an inspection.

You must allow an Inspector to inspect documents and records associated with your business and, if necessary, remove documents and records for the purpose of making copies. If documents are removed from your business, the Inspector will provide you with a receipt of the items taken.

Inspection Process

Scheduling and preparation

1. Inspectors are responsible for routine and complaint based inspections;
2. A complaint based inspection may come from various sources, including our licensing and inquiry office;
3. Routine inspections are a potential requirement;
4. Each Inspector is responsible for conducting inspections throughout the Province.

Notification

1. Routine inspections may be pre-arranged, but unannounced inspections may also take place.
2. Inspectors will attend businesses at reasonable times.
3. Generally, an inspection will not take more than three hours. If it is anticipated that an inspection will take more than three hours, the payday lender may be notified in advance.

Inspection

1. There will be two parts to a routine inspection: (i) a meet and greet between the Inspector and the licensee or person-in-charge; (ii) A review of material and discussion on matters that may arise.
2. Key aspects of inspection include the licence review, inspection of the businesses physical location and websites, and an examination of documents and records.
3. Routine documentation examination will include, but is not limited to, a review of templates and contracts, forms, records, brochures, and any marketing materials.

Conclusion of Inspection

1. Once the inspection is complete, the Inspector will review the results with the licensee or the person-in-charge, and discuss any deficiencies identified.
2. A digital Certification of Inspection will be prepared by the Inspector and an e-mailed copy of the Certification will be delivered to the contact e-mail provided to Consumer Protection BC by the business.

Post Inspection Report and Follow Up

1. After returning to the office, the Inspector will document the inspection, update the licensee's file and, if required, inform other departments within Consumer Protection BC of the inspection results.
2. If deficiencies are noted at the inspection, the Inspector will deliver a post inspection report to the licensee. The post inspection report will identify the alleged violations that the licensee must correct and/or the alleged violations that will be recommended for enforcement to the Director. For more information on the enforcement process please see the section below entitled "Enforcement."
3. The Inspector may conduct a follow up inspection to ensure that deficiencies noted have been corrected.


Enforcement

If an Inspector detects violations that they believe should proceed to enforcement of an administrative penalty, they will notify the licensee of these alleged contraventions in a Post Inspection Report. The Inspector will also prepare for the Director of Enforcement a Notice of Enforcement Action Recommended Report (NEAR). A copy of the NEAR will be also be sent to the licensee. The NEAR report will identify the allegation(s) proceeding to enforcement and the Inspector's recommended penalty. The licensee will be given an opportunity to respond to the report. The Director of Enforcement will then decide whether the allegation took place, and the administrative penalty, if any, to be applied. Note: the decision to impose an administrative penalty is at the discretion of the Director of Enforcement or delegated decision maker; neither is bound to the recommended administrative penalty in the NEAR.

If you are dissatisfied with the decision, you may apply for a reconsideration of the decision.

Further information on the policies and procedures relating to the administrative penalty process can be found by visiting our website at www.consumerprotectionbc.ca

Appendix

 CONSUMER PROTECTION BC 200 – 4946 Canada Way, Burnaby BC V5G 4H7 P 604.320.1667 F 604.320.1663 TF 1.888.564.9963 E info@consumerprotectionbc.ca W www.consumerprotectionbc.ca					License #: _____	
					Date of inspection: _____	
Question	Payday Lending Inspection Report			Y	N	N/A
LICENSED LOCATION						
1	BPCPA 143 License Required?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	PLR 8 Payday Lender/Broker Using the Registered Name or DBA?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	PLR7 License displayed?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	PLR13 Internet Display of Notice?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	PLR13 Phone Business Disclosure?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	PLR13 Entrance Sign Correct?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	PLR13 Sign Visible Where Loans Negotiated?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RECORDS						
8	PLR13 Sign Visible Where Loans Negotiated?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	PLR11 Loan Agreements Retained 2 Years?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	BPCPA 112.06(2)(d) Borrowers Name on all Agreements?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	BPCPA 112.06(1) Agreements Signed and Dated by Borrowers?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	BPCPA 112.06(2)(e) Date of Advance(s) Listed in Agreement?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	BPCPA 112.06(4)(a)(b) Review of Information and Borrower Initials?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	BPCPA 112.06(2)(k) APR/Cost of Credit Calculations Correct?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15	PLR10 (1)(2) Documents Submitted in use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Question	PROHIBITED PRACTICES CONTINUED	Y	N	N/A
16	BPCPA 112.01 Loan Amounts and Terms Correct?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	PLR17(3) Default Charges within Maximums	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	PLR21 (3) Pre-Authorized Debits Specific to Loans?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	BPCPA 112.08(1)(f) Post-Dated Cheques with Correct Amounts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	PLR 22 Post-Dated Cheques Payable to Lender?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	PLR 18 Loans Less than 50% of Borrowers Net Income?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	BPCPA 112.08(1)(k)(l) Loans Free of Security Requirement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23	PLR 19(1) Supply of Other Goods/Services Optional?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24	BPCPA 112.08(1)(a) No Rollovers Granted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	PLR 17(1) Maximum Amount Charged/Required/Accepted Permissible?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26	BPCPA112.04 (1)(a) All Charges Permissible?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27	BPCPA 112.08(1)(b) One Loan at a Time to Borrowers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DEBT COLLECTION				
28	DCIR 8(1) Properly Licensed (Business)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	BPCPA 143(b) Properly Licensed (Employees)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30	BPCPA 115(1)(a)(b)(c) Disclosures with Debtors Complete?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

31	BPCPA 115(2) Verbal Disclosures Initiated Correctly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	BPCPA 116(1)(a)(b)(c) Communication with Debtors at Employment Permissible?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Question	DEBT COLLECTION CONTINUED	Y	N	N/A
33	BPCPA 116(3)(a)(b)(c) Verbal Disclosures Made?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34	BPCPA 116(4)(a)(b)(c) Request for Limited Collection Activity Followed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35	BPCPA 114(1) Collection Activity Non-Harassing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	BPCPA 118(2)(a)(b)(c) Collection Activity Times Permissible?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PAYDAY LOAN AGREEMENT (if different than submitted at licensing)				
37	PLR 14 Statement Regarding Consumer Protection BC?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38	PLR 19(1)(2) No Conditions Requiring Supply of Other Goods or Services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39	PLR 19(3) Statement Supply of Other Goods or Services is Separate and Optional?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40	PLR 20 No Condition re: Collection from Employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41	BPCPA 112.06(2)(q) Cancellation Rights and Methods Statement Complete?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42	BPCPA 112.04(1)(b) All Fees, Penalties, and Charges Disclosed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43	BPCPA 112.06(3) Agreement Clear and Comprehensible?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44	BPCPA 112.06(2)(r) Statement about Remedies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45	BPCPA 112.06(2)(b) Name, Business Address, Mailing Address?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

46	BPCPA 112.06(2)(c) License Number, Phone, Fax and E Mail?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47	BPCPA 112.06(2)(d) Borrower's Name?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Question	PAYDAY LOAN AGREEMENT (if different than submitted at licensing)	Y	N	N/A
48	BPCPA 112.06(2)(h) Dates of Agreement and Advances?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49	BPCPA 112.06(2)(f) Principal of the Loan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
50	BPCPA 112.06(2)(g) Loan Term?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
51	BPCPA 112.06(2)(h) Amount of Cash Advanced/Transferred to Borrower?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
52	BPCPA 112.06(2)(s) Credit Available to Borrower on Cash Card?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
53	BPCPA 112.06(2)(j) Expiry date for Cash Card?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
54	BPCPA 112.06(2)(j) Cost of Credit Listed/Stated as an APR?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
55	BPCPA 112.06(2)(l) Statement that Interest Applies only to Principal of Loan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
56	BPCPA 112.06(2)(n) Listing of Permissible Charges?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
57	BPCPA 112.06(2)(o) Repayment Dates and Amounts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
58	BPCPA 112.06(2)(p) Statement re "High Cost Loan"?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
59	Did licensee have active "my Account" and did inspector review/update active status at the time of inspection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

