

PLEASE READ:

- The following are the exact changes to the *Business Practices and Consumer Protection Act* and the Payday Loans Regulation. It also includes the new Government Cheque Cashing Regulation. The new rules are effective September 1, 2018.
- The **red** text references NEW provisions in the law. The ~~strikethroughs~~ reference provisions that are being repealed (removed).
- Consumer Protection BC does not make changes to the law. We are providing the following for your information only.
- Please note: the official (legal) versions of the amended Act and Regulation can be found in print published by the Queen's Printer and/or on www.bclaws.ca.

Business Practices and Consumer Protection Act
PART 6.2 — GOVERNMENT CHEQUE CASHING FEES

Effective Sept. 1, 2018

Definitions

112.12 In this Part:

"cheque cashing fee" means any of the following:

- (a) a fee, rate, commission, consideration, charge or other amount charged, paid or given for cashing or negotiating a government cheque;
- (b) any other fee, rate, commission, consideration, charge or other amount designated by regulation as a cheque cashing fee;

"government body" means a government body within the meaning of the *Financial Administration Act* that is designated by regulation under section 112.15;

"government cheque" means a cheque, or other written order to pay, that is drawn on an account of any of the following:

- (a) the government of British Columbia;
- (b) the government of Canada;
- (c) a government body;
- (d) a local government body;

"local government body" means a local authority within the meaning of the *Community Charter* that is designated by regulation under section 112.15.

Unauthorized cheque cashing fees prohibited

112.13 A person must not charge, require or accept a cheque cashing fee except as permitted by regulations under this Part.

Consequence of failure to comply

112.14(1) If a person contravenes section 112.13,

(a) a consumer who pays or is charged or required to pay the cheque cashing fee or any part of it is not liable to pay that cheque cashing fee, and

(b) the person must, immediately on demand by the consumer or the director, reimburse the consumer in cash for

(i) the total amount paid as a cheque cashing fee, and

(ii) the value of any other consideration given.

(2) Subsection (1) is in addition to any other penalty that the person may be subject to under this Act or the regulations.

Regulations

112.15 The Lieutenant Governor in Council may make regulations as follows:

(a) designating a fee, rate, commission, consideration, charge or other amount as a cheque cashing fee for the purposes of this Part;

(b) designating a government body under the *Financial Administration Act* as a government body for the purposes of this Part;

(c) designating a local authority under the *Community Charter* as a local government body for the purposes of this Part;

(d) setting the maximum amount, or establishing a rate, formula, tariff or method of determining the maximum amount, that may be charged, required or accepted as a cheque cashing fee;

(e) exempting any transaction or class of transactions or any person or class of persons from the application of this Part or a regulation under this Part;

(f) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable for the administration of this Part.

Offences

189(4) A person who contravenes any of the following sections commits an offence:

- (a) section 107 (1) *[obtaining credit report without consent]*;
- (b) section 108 (1) *[providing information except in a report]* or
- (2) *[obtaining report in unauthorized circumstances]*;
- (c) section 109 (1) or (3) *[contents of credit report]*;
- (d) section 110 (1), (4) or (5) *[notice of denial of benefit or increase of cost of benefit]*;
- (e) section 111 (2) *[explanation]*;
- (f) section 112 (1) *[false or misleading information]*;
- (f.1) section 112.02 (2) *[limits on total cost of borrowing — payday loans]*;
- (f.2) section 112.03 (1), (2) or (3) *[prohibitions respecting interest charges]*;
- (f.3) section 112.04 (1) *[fees, penalties and charges prohibited unless allowed by regulation]*;
- (f.4) section 112.06 (2) or (5) *[payday loan agreements: required terms and disclosure statements]*;
- (f.5) section 112.08 (1) *[other prohibited payday lender practices]*;
- (f.6) section 112.13 *[unauthorized cheque cashing fees prohibited]*;

Business Practices and Consumer Protection Act
PAYDAY LOANS REGULATION

Effective Sept. 1, 2018

Application for a licence

- 4(1) An applicant for a licence must submit the following to the director:
- (a) if the applicant is a corporation, the names and addresses of
 - (i) the senior officers, as defined in the *Business Corporations Act*, of the corporation, and
 - (ii) the beneficial owners of the shares of the corporation;
 - (b) if the applicant is a partnership, the name and address of each partner in the partnership;
 - (c) if the applicant is a sole proprietor, the name and address of the proprietor;
 - (d) if the head office of an applicant is located outside British Columbia, a certificate of registration in the applicant's home jurisdiction showing the applicant's name and any other names under which the applicant is doing business.
- (2) An applicant for a licence must also submit to the director
- (a) a copy of the following documents that the applicant uses or intends to use:
 - (i) the standard loan agreement;
 - (ii) a sample loan agreement for \$300 for 14 days, with all fees and charges;
 - (iii) the rate structure for a payday loan, including interest and permissible charges;
 - (iv) the cancellation notice form;
 - (v) a form acknowledging the receipt of the loan cancellation;
 - (vi) a sample debt collection notification as required by section 115 of the Act, and
 - (b) aggregate data ~~from the last completed fiscal year of the applicant~~, in a form and containing the information required by the director.
- (3) Without limiting paragraph (b) of subsection (2), the aggregate data submitted under that paragraph must include data respecting the number of loans, number of transactions, loan amounts, loan duration and number of default charges.

Signs and notices

- 13(1)** A payday lender must display at each of the lender's places of business
- (a) a sign visible to borrowers immediately on entering the place of business, and
 - (b) a sign visible to borrowers at each place where a payday loan is negotiated.
- (2) A sign under subsection (1) (a) must contain the information referred to in subsection (4) and
- (a) be a minimum of 61 centimetres in width by 76 centimetres in height,
 - (b) be white and have a 5 centimetres wide purple border,
 - (c) have text in a colour that contrasts with the background, and
 - (d) have text at least 72 points in size.
- (3) A sign under subsection (1) (b) must contain the information referred to in subsection (4) and have text at least 28 points in size.
- (4) A sign required under this section must consist of only the following information in the following order:
- (a) the words:
"Maximum charges permitted in British Columbia for a payday loan: ~~17%~~
15% of the principal";

Prescribed cancellation period

- 14.2(1)** For the purposes of section 112.05(1) of the Act, the prescribed cancellation period in which a borrower may cancel a payday loan
- (a) begins on the date on which the borrower receives the first advance, and
 - (b) expires at the end of the day on the second day that the payday lender is open for business following the date referred to in paragraph (a).
- (2) For certainty, section 112.05(2)(b) of the Act applies in the case that the prescribed cancellation period expires on a holiday.

Permissible charges

- 17(1)** The maximum amount that may be charged, required or accepted by a payday lender for a loan is ~~17%~~ 15% of the principal.
- (2) In addition to subsection (1), if the repayment amount specified in the agreement is not paid, a payday lender may charge an amount up to the following maximum amounts as default fees:

- (a) interest at a rate of 30% per annum on the outstanding principal;
- (b) a one-time fee of \$20 for a dishonoured cheque or a dishonoured pre-authorized debit.

(3) The maximum charges under this section include all amounts collected directly or indirectly from the borrower.

Prohibited practices – personal information

20.1(1) In this section, "**personal information**" has the same meaning as in Section 1 of the *Personal Information Protection Act*.

(2) A payday lender must not require, request or accept consent from a borrower of a payday loan to use or disclose the borrower's personal information for a purpose other than offering, arranging or providing a payday loan under the Act.

Business Practices and Consumer Protection Act
GOVERNMENT CHEQUE CASHING REGULATION

Effective Sept. 1, 2018

Definition

1 In this regulation, “government assistance cheque” means a government cheque that is issued

- (a) to a recipient under the *Employment and Assistance Act* to provide income assistance, hardship assistance or a supplement under that Act, or
- (b) to a recipient under the *Employment and Assistance for Persons with Disabilities Act* to provide disability assistance, hardship assistance or a supplement under that Act.

Government cheques

2 Subject to this regulation, a person may charge, require or accept a cheque cashing fee.

Government assistance cheques

3 Despite section 2, a person may charge, require or accept a cheque cashing fee in relation to a government assistance cheque only if the cheque cashing fee does not exceed the lesser of

- (a) \$2.00 plus 1% of the face value of the government cheque, and
- (b) \$10.00.