



BILL NO. 114

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

An Act to Amend Chapter 92 of the Revised Statutes, 1989, the Consumer Protection Act

CHAPTER 55
ACTS OF 2011

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 15, 2011**

The Honourable John M^{ac}Donell
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
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**An Act to Amend Chapter 92
of the Revised Statutes, 1989,
the Consumer Protection Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 18A of Chapter 92 of the Revised Statutes, 1989, the *Consumer Protection Act*, as enacted by Chapter 25 of the Acts of 2006, is amended by relettering clause (a) as clause (aa) and adding immediately preceding that clause the following clause:

(a) “Internet payday loan” means a payday loan under an agreement between a borrower and a lender that is formed by Internet communications or by a combination of Internet and fax communications;

2 Section 18C of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding immediately after subsection (1) the following subsection:

(1A) No person shall offer, arrange or provide an Internet payday loan from a website to a borrower in the Province except under the authority of a permit

(a) issued to the person for a location; and

(b) that specifies that the person may offer, arrange or provide Internet payday loans from that website.

3 (1) Clause 18D(1)(a) of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by striking out “at the location specified in the permit” in the second and third lines.

(2) Section 18D of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is further amended by adding immediately after subsection (1) the following subsection:

(1A) An application for a permit must specify

(a) the location from which the applicant wishes to offer, arrange or provide payday loans; and

(b) the website, if any, from which the applicant wishes to offer, arrange or provide Internet payday loans.

(3) Section 18D is further amended by adding immediately after subsection (3) the following subsection:

(4) Where the effective period of the permit is less than one year, the permit fee referred to in subsection (3) must be pro-rated in relation to the effective period of the permit.

4 Subsection 18E(2) of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by striking out “one year from the end of the month in which the permit was issued” in the second and third lines and substituting “on July 31st in each year”.

5 Section 18G of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding immediately after subsection (1) the following subsection:

(1A) The Registrar shall refuse to issue a permit to an applicant if the application fails to specify a location from which the applicant will offer, arrange or provide payday loans.

6 Section 18H of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding immediately after subsection (1) the following subsection:

(1A) Subject to subsection (2), the Registrar shall refuse to renew or shall cancel or suspend a payday lender's permit if the payday lender

(a) fails or ceases to offer, arrange or provide payday loans, other than Internet payday loans, from the location specified in the permit; and

(b) offers, arranges or provides an Internet payday loan to a borrower in the Province.

7 Chapter 92 is further amended by adding immediately after Section 18H the following Sections:

18HA (1) No payday lender shall offer, arrange or provide an Internet payday loan to a prospective borrower in the Province unless the payday lender's website is designed and maintained in a manner that

(a) allows the prospective borrower to readily understand what action or actions will result in the prospective borrower's acceptance of the loan agreement;

(b) makes the agreement accessible to the prospective borrower in a manner that allows the prospective borrower to acknowledge and accept the terms and conditions of the loan agreement; and

(c) allows the prospective borrower to print the loan agreement.

(2) A payday lender shall ensure that the payday lender's website is designed and maintained in a manner that allows a borrower to, for the term of the borrower's Internet payday loan, print a copy of the loan agreement.

18HB (1) Before providing the money being advanced under an Internet payday loan, a payday lender shall

(a) ensure that the borrower has consented to entering into the loan agreement; and

(b) create a record evidencing the borrower's consent.

(2) A record created pursuant to clause (b) of subsection (1) is deemed to be part of the loan agreement for the purpose of this Act and must be retained for the period of time prescribed by the regulations.

18HC A payday lender shall provide the money being advanced under an Internet payday loan within one hour of entering into the loan agreement.

18HD (1) A payday lender shall

(a) offer to provide the money being advanced to the borrower under a payday loan in cash; and

(b) provide the money being advanced in cash if the borrower so elects.

(2) Subsection (1) does not apply in respect of money being advanced by a payday lender under an Internet payday loan.

8 Section 18J of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding immediately after clause (c) the following clause:

(ca) any fee or charge for providing in cash the money being advanced under a payday loan;

9 Section 18O of Chapter 92 is repealed and the following Section substituted:

18O (1) A payday lender shall display, in the manner prescribed by the regulations,

(a) rates and fees for payday loans; and

(b) any other information prescribed by the regulations,

at the location from which the payday lender offers, arranges or provides payday loans.

(2) A payday lender shall display, in the manner prescribed by the regulations,

(a) rates and fees for Internet payday loans; and

(b) any other information prescribed by the regulations,

on the website from which the payday lender offers, arranges or provides Internet payday loans.

10 (1) Subsection 18P(1) of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding “payday” immediately after “the” the second time it appears in the first line and in the second line.

(2) Subsection 18P(4) of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding “payday” immediately after “the” the first time it appears in the second line.

(3) Section 18P of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding immediately after subsection (4) the following subsection:

(5) Where a payday lender provides a payday loan to a borrower without a permit to do so, the borrower is not liable to pay any amount to the payday lender in excess of the principal amount of the loan.

11 (1) Section 18Q of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding immediately after subsection (1) the following subsection:

(1A) Notwithstanding subsection (1), a borrower may cancel an Internet payday loan within forty-eight hours following the receipt of the advance.

(2) Clause 18Q(2)(a) of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding “or (1A), as the case may be” immediately after “(1)” in the second line.

12 Section 18S of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by adding “and in the manner and location” immediately after “time” in the second line.

13 Section 18U of Chapter 92, as enacted by Chapter 25 of the Acts of 2006, is amended by

(a) adding immediately after clause (f) the following clauses:

(fa) requiring applicants and payday lenders to provide the information prescribed by the regulations to the Registrar, within the time and in the manner prescribed by the regulations;

(fb) prescribing information that applicants and payday lenders are required to provide to the Registrar;

(fc) prescribing the time and manner for providing to the Registrar the information prescribed pursuant to clause (fb);

(fd) respecting Internet payday loans, including regulations respecting standards and requirements for a website from which a payday lender offers, arranges or provides Internet payday loans;

(b) striking out “and” in the second line of clause (k) and substituting a comma;

(c) adding “and any other information prescribed by the regulations” immediately after “offered” in the second line of clause (k);

(d) adding immediately after clause (k) the following clause:

(ka) prescribing information that a payday lender must display

(i) at a location, or

(ii) on a website,

from which the payday lender offers, arranges or provides payday loans or Internet payday loans, as the case may be;

(e) adding immediately after clause (p) the following clause:

(pa) respecting the manner in which and the location where records are to be maintained;

(f) adding immediately after clause (q) the following clause:

(qa) respecting advertising in relation to payday loans;

14 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
