



This publication is intended to provide general information only and is not a substitute for legal advice.

## Payday Lending

September 2009

Effective September 1, 2009, the government of Alberta introduced a new regulation as part of the *Fair Trading Act*. This regulation sets rules for payday lending. A payday loan is a loan of \$1,500 or less. The term of the loan cannot exceed 62 days.

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### ABOUT THE REGULATION

The *Payday Loans Regulation* applies to every payday lender who offers, arranges, or provides a payday loan to a borrower in Alberta. The regulation applies whether the payday lender operates from a business location or on the Internet. All payday lenders must have a Payday Loan licence.

You can check to see if a payday lender is licensed. Go to the Service Alberta website at [www.servicealberta.ca](http://www.servicealberta.ca) and look under the Quick Links heading for "Search for a Licensed Business." You can also call the Consumer Contact Centre at 780-427-4088 (Edmonton) or toll free in Alberta 1-877-427-4088.

Loan agreements signed before September 1, 2009 are not covered by this regulation.

### "COOLING OFF PERIOD"

The *Payday Loans Regulation* gives borrowers a two-day "cooling off period" after signing a loan agreement. During this time you may cancel the loan and return the money without paying any additional fees. If the payday lender is not open for business on the second day, you may cancel the loan on the next business day.

### REPAYING THE LOAN

You may repay the full amount of the loan at any time. The payday lender may not charge you any penalty fees for repaying your loan before it is due.

### HOW TO CANCEL A LOAN

When you enter into the agreement, the lender must also give you a cancellation notice form. If you wish to cancel your loan, you must complete the form and return it to the lender, along with the money. You must cancel the loan within the “cooling off period”—two business days from the time you receive a copy of the agreement. You may also cancel the loan by writing a letter to the lender stating that you wish to cancel the agreement. You must sign the letter and return it to the lender, along with the money, within two business days of receiving a copy of the agreement.

Once the lender receives the cancellation notice from you, the lender must give you a receipt. The receipt means that the lender accepts your cancellation of the loan.

The lender may not charge a fee for cancelling a loan during this time.

### Extended cancellation rights

The *Payday Loans Regulation* provides borrowers with extended cancellation protection when a lender breaks specific rules. You may not have to pay the fees related to your loan if:

- the lender tried to collect a debt in a way that does not follow the rules set out by the *Payday Loans Regulation*;
- the lender did not follow one or more of the rules of conduct set out by the regulation.

### RULES OF CONDUCT

Payday lenders must follow certain rules of conduct that are set out in the regulation.

Payday lenders must not:

- discount the principal amount of a loan;
- grant rollover loans;
- charge any other fee for the loan other than those referred to in the loan agreement;
- make unauthorized withdrawals from your account;
- accept a cheque from you that is not made out to the payday lender;
- take information from you that would give the payday lender direct access to your bank account, unless it is to be used for pre-authorized repayment of your loan.

### The loan agreement

A payday loan agreement must be written in clear, plain language. The lender must give you a copy of the agreement when you sign it. The lender must then give you a copy of the cancellation notice.

### Collection practices

As a borrower, if you do not repay your loan, payday lenders are allowed to call you to collect what is owed. The regulation has rules that payday lenders must follow when collecting these loans.

A payday lender may:

- contact you between 7 a.m. and 10 p.m. Alberta time;
- contact your spouse or adult interdependent partner, relative, neighbour, friend or acquaintance to confirm your residential address, telephone number or employment telephone number;
- contact your employer to confirm your employment status, business title and the address of the business or the date of the next payday;

- contact you at work to discuss your debt unless you ask them not to. If you do not want to be contacted at work, you must arrange for the lender to contact you elsewhere and you must keep the arrangement.

Payday lenders may not:

- make unauthorized withdrawals from your account;
- use threatening, profane, intimidating or forceful language;
- discuss your debt or the existence of your debt with any person except you, a guarantor of the debt, or someone you have identified in writing as your representative. The payday lender may contact another person in regards to your debt if you choose, but you must give your express consent and provide that person's current address and telephone number;
- call you or members of your household, relatives, friends, neighbours or your employer so often that the number of calls received could be considered harassment;
- threaten or state an intention to proceed with any legal action where the lender does not have the legal authority and consent to do so;
- give any misleading or false information;
- enter into or arrange wage assignments with you or your employer;
- publish or threaten to publish your failure to pay.

*Please see the Payday Loans Regulation or contact Service Alberta for a full list of prohibited practices.*

### **Record keeping**

All payday lenders must keep any records relating to payday lending for a minimum of three years after the loan has been fully repaid.

### **CASH CARDS**

A payday lender may offer you the option of a cash card so that you may access your loan immediately. If you wish to cancel your loan within the two day cooling off period, you must return the cash card along with any money that you withdrew from it.

If there is money left on the card at the end of your loan period, you are entitled to receive the balance left on the card. If the balance on the card is less than \$25, the payday lender must pay you the balance in cash. If you have repaid the loan in full and have returned the cash card, the payday lender must pay you whatever balance is left on the card in cash. You need to ask the payday lender to do this.

### **IF YOU CAN'T PAY BACK YOUR PAYDAY LOAN**

If you are having problems paying back your payday loan, contact the lender as soon as possible. Payday lenders have the right to sue you for the amount owed, plus interest and any related court fees. They may also turn your account over to a collection agency. You may be able to make other repayment arrangements with the lender before this happens.

### **WHERE CAN I GET A COPY OF THE REGULATION?**

The *Payday Loans Regulation* and the *Fair Trading Act* are posted on Service Alberta's website [www.servicealberta.ca](http://www.servicealberta.ca). A print copy of the legislation can be ordered by calling the Queen's Printer Bookstore at 780-427-4952 or toll-free at 310-0000 and following the instructions. The bookstore also accepts online orders at [www.qp.gov.ab.ca](http://www.qp.gov.ab.ca).

### FOR MORE INFORMATION

For more information about payday lenders and payday loans or for information on filing a complaint contact:

#### **Consumer Contact Centre**

Edmonton: 780-427-4088

Toll-free in Alberta: 1-877-427-4088

[www.servicealberta.ca](http://www.servicealberta.ca)

For more information on debt repayment options contact:

#### **Money Mentors**

Toll-free in Alberta: 1-888-294-0076

[www.moneymentors.ca](http://www.moneymentors.ca)

The tipsheet *What Creditors Can Do if You Can't Pay* has information about the legal steps creditors must take to collect a debt.

The tipsheet *Bill Collection and Debt Repayment* has information about collection and debt repayment agencies.

The brochure *Investigating Your Consumer Complaints* has information about filing a complaint with Service Alberta.

A current version of this and other consumer tipsheets are available at the Service Alberta website [www.servicealberta.ca](http://www.servicealberta.ca). Most public libraries have Internet access if you don't have access at home.

If you need more copies of this tipsheet, you have permission to photocopy.