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Business Practices and Consumer Protection Act

BUSINESS PRACTICES AND

CONSUMER PROTECTION REGULATION

Note: Check the Cumulative Regulation Bulletin 2014
for any non-consolidated amendments to this regulation that may be in effect.

[includes amendments up to B.C. Reg. 352/2012, March 18, 2013]

Point in Time

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Part 1 — Interpretation

Definition

- 1 In this regulation, "**Act**" means the *Business Practices and Consumer Protection Act*.

Spouses

- 2 Persons who live together in a marriage-like relationship are spouses for the purposes of the Act.

[en. B.C. Reg. 352/2012.]

Part 2 — Administrative Penalties

Prescribed provisions of the Act — contraventions relating to disclosure

- 3 (1) For the purposes of section 164 (1) (a) and (5) (a) *[administrative penalties]* of the Act, the following provisions of the Act are prescribed:
 - (a) section 19 *[required contents of direct sales contract, future performance contract and time share contract]*;
 - (b) section 20 (2) *[supplier to give copy of direct sales contract]*;
 - (c) section 23 (2) *[required contents of future performance contract]*;
 - (d) section 23 (3) *[supplier to give copy of future performance contract]*;
 - (e) section 24 (1) *[required contents of continuing services contract]*;
 - (f) section 26 (1) *[supplier to give copy of time share contract]*;
 - (g) section 34 (1) *[required contents of funeral contract]*;
 - (h) section 34 (2) *[supplier to give copy of funeral contract]*;
 - (i) section 34 (3) *[supplier to inform consumer of substitution regarding funeral contract]*;
 - (j) section 36 (1) *[required contents of preneed cemetery or funeral services contract]*;
 - (k) section 36 (2) *[supplier to give copy of preneed cemetery or funeral services contract]*;
 - (l) section 37 *[special provisions for right of interment]*;

- (m) section 43 (1) [*required contents of interment right contract*];
- (n) section 43 (2) [*supplier to give copy of interment right contract*];
- (o) section 46 (2) [*disclosure of information*];
- (p) section 47 (2) [*disclosure of information for distance sales contract in electronic form*];
- (q) section 48 (1) [*supplier to give copy of distance sales contract*];
- (r) section 48 (2) [*required contents of distance sales contract*];
- (s) section 62 (2) [*disclosure of interest-free or grace period in advertisements*];
- (t) section 62 (3) [*disclosure respecting grace period in advertisements*];
- (u) section 76 (1) [*invitation to defer payment*];
- (v) section 89 (1) [*disclosure regarding mortgage loan renewals*];
- (w) section 89 (2) (a) [*disclosure statement — mortgage loan renewals*];
- (x) section 89 (4) [*revised disclosure statement — mortgage loan renewals*].

(2) A supplier is prescribed as subject to the imposition of an administrative penalty for a contravention of a provision referred to in subsection (1) (a), (c), (e), (g), (i), (j), (l), (m) and (r).

(3) A credit grantor is prescribed as subject to the imposition of an administrative penalty for a contravention of the provision referred to in subsection (1) (s).

Prescribed provisions of the Act — miscellaneous

4 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Act are prescribed:

- (a) section 36 (7) [*assigning preneed cemetery or funeral services contract*];
- (b) section 43 (5) [*error in interment right contract*];
- (c) section 43 (6) [*charging fee in respect of correcting error in interment right contract*];

- (d) section 52 (4) [*cancel or reverse credit card charge*];
- (e) section 110 (2) [*notice of denial of benefit or increase of cost of benefit*];
- (f) section 146 (4) [*give cancelled licence to director*].

Prescribed provisions of the Act — refunds

5 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Act are prescribed:

- (a) section 14 (3) [*failure to provide refund*];
- (b) section 21 (4) [*direct sales contract — return of trade-in*];
- (c) section 25 (6) [*continuing services contract — refunds and returns on cancellation*];
- (d) section 27 [*failure to provide refund*];
- (e) section 38 (2) [*preneed cemetery or funeral services contracts — refunds on cancellation*];
- (f) section 38 (4) [*preneed cemetery or funeral services contracts — refunds on cancellation*];
- (g) section 39 (3) [*preneed cemetery or funeral services contracts — failure to provide services*];
- (h) section 45 [*failure to provide refund*];
- (i) section 50 [*failure to provide refund*];
- (j) section 89 (2) (c) [*refund of non-interest finance charge — mortgage loan renewals*].

Prescribed provisions of the Act — payday loans

5.1 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Act are prescribed:

- (a) section 112.05 (6) [*cancellation rights*];
- (b) section 112.06 (1) [*required terms and disclosure statements*];
- (c) section 112.06 (3) [*required terms and disclosure statements*];
- (d) section 112.06 (4) [*required terms and disclosure statements*];
- (e) section 112.09 (2) [*payout of balances on cash cards*];
- (f) section 112.09 (3) [*payout of balances on cash cards*];

(g) section 112.10 (7) [*remedies*].

[en. B.C. Reg. 57/2009, Sch. 1.]

Prescribed provisions of the Act — offences

6 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Act are prescribed:

(a) provisions referred to in section 189 (2), (3) and (4) [*offences*];

(b) section 189 (5) except paragraph (c) (v).

Prescribed provisions of the Debt Collection Industry Regulation

7 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Debt Collection Industry Regulation are prescribed:

(a) section 8 (1) [*licence for each location*];

(b) section 9 (1) [*trust accounts*];

(c) section 9 (2) [*trust accounts — disbursements*];

(d) section 10 (1) [*annual financial statement*];

(e) section 11 (2) [*report to director*];

(f) section 11 (4) [*other conditions on licence*];

(g) section 11 (5) [*moving property without authority*];

(h) section 12 (1) (b) [*providing security*].

Prescribed provisions of the Telemarketer Licensing Regulation

7.1 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Telemarketer Licensing Regulation are prescribed:

(a) section 4 (1) [*licence for each location*];

(b) section 4 (2) [*notification of change of address*];

(c) section 5 [*display of licence*];

(d) section 6 (2) [*reporting to director*];

(e) section 7 (1) [*records — distance sales contract*];

(f) section 7 (2) [*records — contribution of money or other property*];

(g) section 7 (3) [*records — retention*];

- (h) section 8 (2) [*when communication prohibited*];
- (i) section 8 (3) [*communication within 30 day period*];
- (j) section 8 (4) [*display of number*];
- (k) section 8 (5) [*disclosure to consumer*].

[en. B.C. Reg. 83/2005, Sch. 2.]

Prescribed provisions for the Home Inspector Licensing Regulation

7.2 For the purposes of section 164 (1) (a) and (5) (a) of the Act, the following provisions of the Home Inspector Licensing Regulation are prescribed:

- (a) section 6 [*display or production of licence*];
- (b) section 7 [*reporting changes to director*];
- (c) section 8 [*records*];
- (d) section 9 [*prohibitions*].

[en. B.C. Reg. 12/2009, Sch. 1.]

Prescribed provisions of the Payday Loans Regulation

7.3 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Payday Loans Regulation are prescribed:

- (a) section 5 [*licence for each location*];
- (b) section 7 [*display of licence*];
- (c) section 8 [*business name on licence*];
- (d) section 10 [*reporting changes to the director*];
- (e) section 11 [*retention of documents*];
- (f) section 13 [*signs and notices*];
- (g) section 16 [*cash cards*].

[en. B.C. Reg. 57/2009, Sch. 1.]

Prescribed provisions of the Travel Industry Regulation

8 For the purposes of section 164 (1) (a) and (5) (a) [*administrative penalties*] of the Act, the following provisions of the Travel Industry Regulation are prescribed:

- (a) section 5 [*licence for each location*];
- (b) section 8 [*display of licence*];

- (c) section 9 (1) [*prohibited and regulated acts or practices*];
- (d) section 9 (2) [*prohibited and regulated acts or practices — use of personal credit card*];
- (d.1) section 9 (3) [*prohibited and regulated acts or practices — visual advertisements*];
- (e) section 10 (1) [*reporting to director*];
- (f) section 10 (2) [*reporting to director — ceasing to engage in business*];
- (g) Repealed. [B.C. Reg. 369/2008, Sch. 1 (b).]
- (h) section 11 (1) [*records in British Columbia*];
- (i) section 11 (2) [*records available to director*];
- (j) section 12 (1) [*annual financial statement*];
- (k) section 12 (2) [*information required in financial statement*];
- (k.1) section 12.1 [*receipts — licensees*];
- (l) section 13 (1) [*establish trust account*];
- (m) section 13 (2) [*designation of trust account*];
- (n) section 13 (3) [*deposit into trust account*];
- (o) Repealed. [B.C. Reg. 369/2008, Sch. 1 (b).]
- (p) section 13 (5) [*authorized disbursements*];
- (q) section 13 (6) [*records respecting trust account*];
- (r) section 17 (3) [*payments to fund*].

[am. B.C. Reg. 369/2008, Sch. 1.]

Continuing contraventions

- 9** The director may impose administrative penalties on a daily basis for continuing contraventions.

Due diligence

- 10** A notice imposing an administrative penalty for the following contraventions must be cancelled in respect of those contraventions if the person on whom the notice was served demonstrates to the satisfaction of the director that the person exercised due diligence to prevent the contravention:

- (a) a contravention of provisions referred to in section 189 (2), (3) and (4) of the Act;
- (b) a contravention of section 189 (5) of the Act;

(c) a contravention of section 164 (1) (b) to (f) of the Act.

Failure to pay an administrative penalty

- 11** If a person fails to pay an administrative penalty as required under section 167 [*due date of penalty*] of the Act, the director, before filing the notice of penalty with a court in accordance with section 168 (2) [*enforcement of administrative penalty*] of the Act, must impose an additional administrative penalty equal to 10% of the unpaid administrative penalty.

Part 3 — Exemptions

Exemption — credit reporting

- 12** (1) In this section, "**collection agent**" has the same meaning as in section 125 of the Act.
- (2) A collection agent who, while collecting or attempting to collect a debt for a creditor, reports credit information of the debtor to the creditor is exempt in respect of that report from the application of Part 6 [*Credit Reporting*] of the Act and any regulations relating to that Part.

[en. B.C. Reg. 519/2004.]

Credit reporting exemptions when debt due to government

- 13** (1) Section 107 (1) [*consent for report*] of the Act does not apply in respect of a debt due to the government.
- (2) On requesting a report to be provided under section 108 (1) (a) (i) of the Act, the government must promptly notify the individual who is the subject of the report that a request for credit information has been made.

[en. B.C. Reg. 248/2005.]

[Provisions of the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, relevant to the enactment of this regulation: sections 142.1, 164, 194 and 200]