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CHAPTER 83

(Bill No. 69)

Payday Loans Act

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Attorney General

GOVERNMENT BILL

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Charlottetown, Prince Edward Island

CHAPTER 83

Payday Loans Act

(Assented to May 15, 2009)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

PART I INTERPRETATION, APPLICATION AND ADMINISTRATION

1. (1) In this Act

Interpretation

(a) “advance” means the money transferred to or to the order of the borrower under a payday loan agreement and any other value, as prescribed, that the borrower receives under the agreement;

advance

(b) “borrower” means a corporation, partnership, sole proprietor, association or other entity or individual that receives a payday loan or indicates an interest in receiving a payday loan;

borrower

(c) “cost of borrowing” means the total of all amounts that a borrower is required to pay under, or as a condition of entering into, a payday loan agreement and all amounts that are prescribed as included in the cost of borrowing, but does not include default charges and the repayment of the advance;

cost of borrowing

(d) “default charge” means a charge imposed against a borrower who does not make a payment as it comes due under a payday loan agreement or who does not comply with any other obligation under a payday loan agreement, but does not include interest on an overdue payment;

default charge

(e) “Director” means the Director of Corporations appointed under section 2 of the *Companies Act* R.S.P.E.I. 1988, Cap. C-14;

Director

(f) “investigator” means an investigator appointed under subsection 45(1);

investigator

(g) “lender” means a corporation, partnership, sole proprietor, association or other entity or individual that makes a payday loan to a borrower or that holds himself, herself or itself out as available to make such a loan;

lender

(h) “licence” means a licence issued under this Act;

licence

(i) “licensee” means a person who holds a licence issued under this Act;

licensee

loan broker	(j) “loan broker” means a corporation, partnership, sole proprietor, association or other entity or individual that assists a borrower in obtaining a payday loan or that holds himself, herself or itself out as available to provide such assistance;
Minister	(k) “Minister” means the Attorney General;
officer	(l) “officer” includes <ul style="list-style-type: none"> (i) with respect to a corporation, the chair and any vice-chair of the board of directors, the president and any vice-president, the secretary and assistant secretary, the treasurer and assistant treasurer and the general manager and assistant general manager of the corporation, (ii) with respect to a partnership, a partner or general manager and assistant general manager of the partnership, and (iii) with respect to a corporation or partnership, any other individual designated as an officer by by-law or resolution or any other individual who performs functions normally performed by an individual occupying an office referred to in subclause (i) or (ii);
payday loan	(m) “payday loan” means an advancement of money in exchange for a post-dated cheque, a pre-authorized debit or a future payment of a similar nature but not for any guarantee, suretyship, overdraft protection or security on property and not through a margin loan, pawnbroking, a line of credit or a credit card;
payday loan agreement	(n) “payday loan agreement” means an agreement under which a lender makes a payday loan to a borrower;
Registrar	(o) “Registrar” means the Registrar appointed under section 5 of this Act.
Associated persons and entities	(2) For purposes of this Act, one person or entity is associated with another person or entity in any of the following circumstances: <ul style="list-style-type: none"> (a) one person or entity is a corporation of which the other person or entity is an officer or director; (b) one person or entity is a partnership of which the other person or entity is a partner; (c) both persons or entities are partners of the same partnership; (d) one person or entity is a corporation that is controlled directly or indirectly by the other person or entity; (e) both persons or entities are corporations and one corporation is controlled directly or indirectly by the same person or entity who controls directly or indirectly the other corporation; (f) both persons or entities are members of the same voting trust relating to shares of a corporation;

(g) both persons or entities are associated within the meaning of clauses (a) to (f) with the same person or entity.

2. (1) Subject to the regulations, this Act applies in respect of a payday loan if the borrower, lender or loan broker is located in Prince Edward Island when the loan is made or is to be made. Application of Act

(2) Except for section 30, this Act applies, with necessary modifications, to those loans, other than payday loans, that are prescribed and in that case the references to payday loans in this Act shall be read as references to those other loans. Other loans

3. This Act does not apply to the persons, entities or payday loans or classes of persons, entities or payday loans that are prescribed. Exemptions

4. In determining whether this Act applies to a person, entity, agreement or transaction, a court or other tribunal shall consider the real substance of the person, entity, agreement or transaction and in so doing may disregard the outward form. Anti-avoidance

5. (1) The Minister is responsible for the administration of this Act. Administration of Act

(2) The Minister shall appoint a person as Registrar for the purposes of this Act. Registrar

(3) The Registrar may exercise the powers and shall perform the duties conferred on the Registrar under this Act under the supervision of the Director. Powers and duties

PART II LICENCES

6. (1) No person or entity shall act as a lender unless the person or entity Requirement for licence

(a) is licensed as a lender and, subject to section 17, has received notice in writing from the Registrar of the licence; or

(b) is deemed to be licensed under section 18.

(2) No person or entity shall act as a loan broker unless the person or entity Same, loan broker

(a) is licensed as a loan broker and, subject to section 17, has received notice in writing from the Registrar of the licence; or

(b) is deemed to be licensed under section 18.

(3) If a lender who is not licensed enters into a payday loan agreement with a borrower, the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing to the lender or the loan broker. Consequence

Dealings between lenders and loan brokers	7. No lender shall deal with or through an unlicensed loan broker in order to provide payday loans to, or enter into payday loan agreements with, a borrower.
Same	8. No loan broker shall deal with or through an unlicensed lender in order to assist a borrower in obtaining payday loans or entering into payday loan agreements.
Result	9. (1) If an applicant for a licence or renewal of a licence does not meet the prescribed requirements, the Registrar shall refuse to issue or renew the licence, as the case may be.
Non-application	(2) Section 13 does not apply to a refusal under subsection (1) to issue or renew a licence.
Notice of refusal	(3) The Registrar shall give the applicant written notice of a refusal under subsection (1), setting out the reasons for the refusal.
Service of notice	(4) Subsection 58(3) does not apply to the notice.
Right to licence	10. (1) If an applicant for a licence or renewal of a licence meets the prescribed requirements, the applicant is entitled to have the Registrar issue or renew the licence, as the case may be, unless <ul style="list-style-type: none"> (a) the applicant is not a corporation and <ul style="list-style-type: none"> (i) the applicant cannot reasonably be expected to be financially responsible in the conduct of business, having regard to the applicant's financial position or the financial position of an interested person or entity in respect of the applicant, (ii) the applicant cannot reasonably be expected to carry on business in accordance with the law and with integrity and honesty, having regard to the applicant's past conduct or that of an interested person or entity in respect of the applicant, or (iii) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in the application; (b) the applicant is a corporation and <ul style="list-style-type: none"> (i) the applicant cannot reasonably be expected to be financially responsible in the conduct of its business, having regard to the applicant's financial position or the financial position of an interested person or entity in respect of the corporation, (ii) the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant's business, having regard to the financial position of the applicant's officers or directors or an interested person or entity in respect of the applicant's officers or directors, (iii) the applicant cannot reasonably be expected to carry on business in accordance with the law and with integrity and honesty, having regard to the past conduct of the applicant's

officers or directors or of an interested person or entity in respect of its officers or directors or of an interested person or entity in respect of the corporation, or

(iv) an officer, director, employee or agent of the applicant makes a false statement or provides a false statement in the application;

(c) the applicant or an interested person or entity in respect of the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations;

(d) the applicant is in breach of a condition of the licence;

(e) the applicant fails to comply with a request made by the Registrar under subsection (3); or

(f) the applicant is deemed to be licensed under section 18 and does not consent to having the Registrar apply conditions to the licence for which the applicant is applying.

(2) For the purposes of this section, a person or entity is deemed to be an interested person or entity in respect of another person or entity if the person or entity is associated with the other person or entity or if, in the opinion of the Registrar,

Interested person or entity

(a) the person or entity has or may have a beneficial interest in the business of the other person or entity;

(b) the person or entity exercises or may exercise control either directly or indirectly over the other person or entity; or

(c) the person or entity has provided or may have provided financing either directly or indirectly to the business of the other person or entity.

(3) The Registrar may request an applicant for a licence or renewal of a licence to provide to the Registrar, in the form and within the time period specified by the Registrar,

Request for information

(a) information specified by the Registrar that is relevant to the decision to be made by the Registrar as to whether or not to issue the licence or renewal; and

(b) verification, by affidavit or otherwise, of any information described in clause (a) that the applicant is providing or has provided to the Registrar.

11. (1) A licence is subject to the conditions that

Conditions of licence

(a) the Registrar applies under subsection (2);

(b) the Director orders under subsection 13(8); or

(c) are prescribed.

(2) Subject to section 13, upon issuing or renewing a licence or at any other time, the Registrar may apply to the licence such conditions as the Registrar considers appropriate.

Conditions of Registrar

Licence not transferable No licence	(3) A licence is not transferable.
	12. Subject to section 13, the Registrar may refuse to issue a licence or renew a licence or may, at any time, suspend or revoke a licence if, in the opinion of the Registrar, the applicant or the licensee, as the case may be, is not entitled to a licence under section 10.
Notice of proposal	13. (1) The Registrar shall notify the applicant or licensee, as the case may be, in writing, if the Registrar proposes to (a) refuse to issue a licence or renew a licence under section 12; (b) suspend or revoke a licence under section 12; or (c) apply conditions to a licence under subsection 11(2).
Content of notice	(2) The notice of proposal shall set out the reasons for the proposed action and shall state that the applicant or licensee (a) may consent to the proposal; or (b) may, in accordance with subsection (3), request a hearing by the Director.
Request for hearing	(3) The applicant or licensee is entitled to a hearing by the Director if the applicant or licensee serves a written request for a hearing on the Director within 15 days after service of the notice of proposal.
Service	(4) The notice of proposal shall be served on the applicant or licensee in accordance with section 58.
If no request for hearing	(5) If the applicant or licensee consents to the proposal or does not request a hearing in accordance with subsection (3), the Registrar may carry out the proposal.
Hearing	(6) If the applicant or licensee requests a hearing in accordance with subsection (3), the Director shall hold the hearing.
Parties	(7) The Registrar, the applicant or licensee and the other persons that the Director specifies are parties to the proceedings before the Director.
Powers of Director	(8) After holding the hearing, the Director may, by order, (a) direct the Registrar to carry out the Registrar's proposal or substitute the Director's opinion for that of the Registrar; and (b) attach conditions to the order or to a licence.
Immediate effect	(9) Even if a person appeals an order of the Director made under subsection (8) pursuant to section 52, the order takes effect immediately but the Director may grant a stay until the disposition of the appeal.
Service of hearing request	14. (1) A request for a hearing under section 13 is sufficiently served if delivered personally or sent by registered mail to the Director.

(2) If service is made by registered mail, it is deemed to be made on the third day after the day of mailing.

Registered mail

(3) Notwithstanding subsection (1), the Director may order any other method of service he or she considers appropriate in the circumstances.

Other methods

15. (1) If the Registrar proposes to suspend or revoke a licence under section 12, and if the Registrar considers it in the public interest to do so, the Registrar may, by order, immediately suspend the licence before complying with the requirements of section 13.

Immediate suspension

(2) An order made under subsection (1) takes effect immediately.

Immediate effect

(3) If the licensee makes a written request, in accordance with subsection 13(3) for a hearing by the Director under section 13

Expiry of order

(a) the order expires 15 days after the Director receives the written request for a hearing; or

(b) the Director may extend the time of expiration until the hearing is concluded, if a hearing is commenced within the 15-day period mentioned in clause (a).

(4) Notwithstanding subsection (3), if the Director is satisfied that the conduct of the licensee has delayed the commencement of the hearing, the Director may extend the time of the expiration for the order

Extension of order

(a) until the hearing commences; and

(b) once the hearing commences, until the hearing is concluded.

16. The Registrar may cancel a licence upon the request, in writing, of the licensee and section 13 does not apply to the cancellation.

Voluntary cancellation

17. If, within the time prescribed or, if no time is prescribed, before the expiry of a licence, the licensee has applied for renewal of the licence and paid the required fee, the licence is deemed to continue

Continuation pending renewal

(a) until the renewal is issued;

(b) until the Registrar gives the licensee written notice of the Registrar's refusal under section 9 to issue the renewal;

(c) until the time for requesting a hearing has expired if the licensee is served notice under subsection 13(1) that the Registrar proposes to refuse to issue the renewal and the licensee does not request a hearing; or

(d) until the Director has made his or her order if the licensee is served notice under subsection 13(1) that the Registrar proposes to refuse to issue the renewal and the licensee requests a hearing.

18. (1) A corporation, partnership, sole proprietor, association or other entity or individual acting as a lender or a loan broker on the day this section comes into force is deemed to be licensed as a lender or loan broker, as the case may be, until the expiry of the prescribed time.

Transition, licences

- Application for licence (2) If a corporation, partnership, sole proprietor, association or other entity or individual that is deemed to be licensed under subsection (1) applies for a licence and pays the required fee within the prescribed time mentioned in that subsection, the applicant continues to be deemed to be licensed until
 - (a) the Registrar issues the licence to the applicant;
 - (b) the Registrar gives the applicant written notice of the Registrar’s refusal under section 9 to issue the licence;
 - (c) the time for requesting a hearing has expired if the licensee is served notice under subsection 13(1) that the Registrar proposes to refuse to issue the licence and the licensee does not request a hearing; or
 - (d) the Director makes his or her order if the licensee is served notice under subsection 13(1) that the Registrar proposes to refuse to issue the licence and the licensee requests a hearing.

- Further application **19.** If the refusal to issue a licence or renewal of a licence has become final or if the revocation of a licence has become final, the applicant or licensee, as the case may be, may reapply for a licence only if
 - (a) the prescribed time has passed since the refusal or revocation; and
 - (b) new or other evidence is available or it is clear that material circumstances have changed.

PART III REGULATION OF LICENSEES

Disclosure to Registrar

- Notice of changes to Registrar **20.** (1) Every licensee shall, within five days after the event, notify the Registrar, in writing, of any change in the licensee’s address for service.

- Timing (2) The Registrar is deemed to have received the notice mentioned in subsection (1)
 - (a) on the day on which the Registrar actually received it, if it was not sent by mail; or
 - (b) on the day of mailing, if it was sent by mail.

- Business materials **21.** (1) The Registrar may, at any time, require a licensee to provide the Registrar with copies of any letters, forms, form letters, notices, pamphlets, brochures, payday loan agreements or other materials, including prescribed materials, that the licensee uses or proposes to use in the course of conducting business.

- Compliance (2) If the Registrar requires a licensee to provide material to the Registrar under subsection (1), the licensee shall comply with the requirement as soon as practicable.

(3) If the Registrar believes, on reasonable grounds, that any of the material mentioned in subsection (1) is false, misleading or deceptive or contravenes this Act or the regulations, the Registrar may, by order, amend, restrict or prohibit the use of the material. Registrar's order

(4) Section 13 applies, with necessary modifications, to an order under subsection (3) in the same manner as to a proposal by the Registrar to refuse to issue a licence. Right to hearing

(5) The order of the Registrar shall take effect immediately, but the Director may grant a stay until the Registrar's order becomes final. Immediate effect

Protection of Borrowers

22. (1) Unless the regulations specify otherwise, in acting as a licensee, a licensee shall not operate any office unless the licence authorizes the licensee to operate that office. Offices of a licensee

(2) If a licence authorizes the licensee to operate more than one office, the licence shall designate one office as the main office and the remainder as branch offices. Main office

23. (1) Subject to the regulations and subsections (2) and (3), a licensee shall not carry on business, including at any of its branch offices, under a name other than the name authorized by the licence. Business names

(2) A licensee carrying on business as a sole proprietor shall not use, as his or her business style, any name or designation other than his or her own name, or use in such business his or her own name with the addition of "and Company" or any other word or phrase indicating a plurality of members in the concern. Sole proprietor

(3) Notwithstanding subsection (2), a surviving or remaining partner may carry on business in the name of the original partnership if the surviving or remaining partner publishes on all letterhead, circulars and advertisements used in connection with the business the fact that the surviving or remaining partner is the sole proprietor. Exception

24. (1) No licensee shall make or shall facilitate the making of false, misleading or deceptive statements relating to a payday loan or a payday loan agreement in any advertisement, circular, pamphlet or material published by any means. Representations

(2) No licensee shall make or shall facilitate the making of representations or cause representations to be made relating to a payday loan or a payday loan agreement, whether orally, in writing or in any other form, unless the representations comply with the prescribed requirements, if any. Requirements

False information	25. (1) No licensee shall falsify, assist in falsifying or induce or counsel another person to falsify or assist in falsifying any information or document relating to a payday loan or a payday loan agreement.
Furnishing false information	(2) No licensee shall furnish, assist in furnishing or induce or counsel another person to furnish or assist in furnishing any false, misleading or deceptive information or documents relating to a payday loan or a payday loan agreement.
No payments to loan broker	26. (1) No loan broker shall receive or demand any payment from a borrower for assisting the borrower in obtaining a payday loan.
Same, under payday loan agreement	(2) All payments that a borrower is required to make under a payday loan agreement shall be made to the lender, and not to any other person or entity, including a loan broker.
Duty of lender	(3) No lender shall facilitate a contravention of subsection (1) or (2).
Consequence	(4) If parties enter into a payday loan agreement that results in a contravention of subsection (2), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing or any payment in contravention of that subsection.
Requirements for agreements	27. (1) A lender under a payday loan agreement shall ensure that the agreement is in writing and meets the prescribed requirements, if any, and shall deliver a copy of the agreement to the borrower no later than upon entering into the agreement.
Advance	(2) A lender under a payday loan agreement shall ensure that the advance is delivered to the borrower no later than upon entering into the agreement.
Duties of loan broker	(3) No loan broker shall facilitate a contravention of subsection (1) or (2).
Consequence	(4) If parties enter into a payday loan agreement that results in a contravention of subsection (1) or (2), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.
Cancellation	28. (1) A borrower under a payday loan agreement may, without any reason, cancel the agreement at any time up to the end of <ul style="list-style-type: none"> (a) the second day after the day that the lender complies with subsections 27(1) and (2), if the lender is open for business on that day; or (b) the next day that the lender is open for business following the second day described in clause (a), if the lender is not open for business on that second day.

- (2) To cancel a payday loan agreement under subsection (1), the borrower shall give notice, within the time required by that subsection, to the prescribed person or entity. Notice
- 29.** (1) Subject to section 32, a lender under a payday loan agreement shall not receive or demand payment of any portion of the cost of borrowing from the borrower until the end of the term of the agreement. No deductions from advance
- (2) No loan broker shall facilitate a contravention of subsection (1). Duty of loan broker
- (3) If parties enter into a payday loan agreement that results in a contravention of subsection (1), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing. Consequence
- 30.** (1) This section applies to a payday loan agreement if Cost of borrowing
- (a) the advance under the agreement is \$1,500 or less; and
- (b) the term of the agreement is 62 days or less.
- (2) The lender under a payday loan agreement shall ensure that the cost of borrowing under the agreement does not exceed the prescribed limits. Duty of lender
- (3) No loan broker shall facilitate a contravention of subsection (2). Duty of loan broker
- (4) If the cost of borrowing under a payday loan agreement exceeds the prescribed limits, the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing. Consequence
- 31.** (1) A lender shall not impose against a borrower under a payday loan agreement, and the borrower is not liable to pay, default charges other than Restriction on default charges
- (a) reasonable charges in respect of legal costs that the lender incurs in collecting or attempting to collect a required payment by the borrower under the agreement; or
- (b) reasonable charges reflecting the costs that the lender incurs because a cheque or other instrument of payment given by the borrower under the agreement has been dishonoured.
- (2) No loan broker shall facilitate a contravention of subsection (1). Duty of loan broker
- 32.** A borrower is entitled to pay the full outstanding balance under a payday loan agreement at any time without any prepayment charge or penalty. Prepayment
- 33.** (1) The lender under a payday loan agreement shall not enter into a new payday loan agreement with the borrower before No concurrent or replacement payday loan agreements
- (a) at least seven days have passed since the borrower has paid the full outstanding balance under the first agreement; or

(b) the borrower has provided to the lender proof that the borrower has paid the full outstanding balance under the first agreement.

Duty of loan broker	(2) No loan broker shall facilitate a contravention of subsection (1).
Same loan broker, different lenders	(3) No loan broker shall facilitate the making of more than one payday loan agreement between the same borrower and different lenders unless <ul style="list-style-type: none"> (a) at least seven days have passed since the borrower has paid the full outstanding balance under the first agreement; or (b) the borrower has provided to the loan broker proof that the borrower has paid the full outstanding balance under the first agreement.
Duty of lender	(4) No lender shall facilitate a contravention of subsection (3).
Consequence	(5) If parties enter into a payday loan agreement that results in a contravention of subsection (1) or (3), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.
Extensions of payday loan agreements	34. (1) The lender under a payday loan agreement shall not extend the agreement unless the regulations permit extensions of payday loan agreements and the extension complies with the prescribed requirements.
Duty of loan broker	(2) No loan broker shall facilitate a contravention of subsection (1).

General

Form of disclosure of information	35. (1) A licensee who is required to disclose information under this Act shall ensure that the disclosure is clear, comprehensible and prominent.
Information to borrower	(2) A licensee who is required to deliver information to a borrower under this Act shall ensure that the information, in addition to complying with subsection (1), is in a form that allows the borrower to retain it.

PART IV BORROWERS' RIGHTS AND REMEDIES

General

Rights reserved	36. Nothing in this Act shall be interpreted to limit any right or remedy that a borrower may have in law.
No waiver of rights	37. (1) The substantive and procedural rights given under this Act apply despite any agreement or waiver to the contrary.
Term requiring arbitration	(2) Without limiting the generality of subsection (1), any term or acknowledgment in a payday loan agreement that requires or has the effect of requiring that disputes arising out of the payday loan agreement

be submitted to arbitration is invalid in so far as it prevents a borrower from exercising a right to commence an action in the Supreme Court under this Act.

(3) Despite subsections (1) and (2), after a dispute over which a borrower may commence an action in the Supreme Court arises, the borrower, the licensee and any other person involved in the dispute may agree to resolve the dispute using any procedure that is available in law.

Procedure to resolve dispute

(4) A settlement or decision that results from the procedure agreed to under subsection (3) is as binding on the parties as the settlement or decision would be if it were reached in respect of a dispute concerning an agreement to which this Act does not apply.

Settlements or decisions

(5) Section 6 of the *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16 does not apply in respect of any action to which subsection (2) applies unless, after the dispute arises, the borrower agrees to submit the dispute to arbitration.

Non-application of Arbitration Act

38. Any ambiguity that allows for more than one reasonable interpretation of a payday loan agreement that a licensee provides to a borrower, or of any information that this Act or the regulations require to be disclosed to a borrower, shall be interpreted to the benefit of the borrower.

Ambiguities to benefit borrower

Procedures

39. (1) A notice that a borrower is required to give to a person or entity under this Act may be expressed in any way, as long as it indicates the purpose of the notice and complies with the requirements, if any, that are prescribed.

Form of notice from borrower

(2) Unless the regulations prescribe otherwise, the notice shall be in writing and may be given by any means.

Means of giving notice

(3) If notice in writing is given other than by personal service, the notice is deemed to be given when sent.

Timing

(4) The borrower may send the notice to

Address

(a) the address of the person or entity who is to receive the notice as the address is set out in the payday loan agreement, if the address is set out in the agreement; or

(b) any address of the person or entity on record with the Government of Prince Edward Island or the Government of Canada or an address of the person or entity known by the borrower, if the address is not set out in the payday loan agreement or if the borrower did not receive the copy of the agreement under subsection 27(1).

Cancellation	40. (1) If a borrower cancels a payday loan agreement under subsection 28(1), the cancellation takes effect when the borrower gives the notice required by subsection 28(2).
Effect of cancellation	(2) The cancellation operates to cancel the payday loan agreement as if it had never existed.
Obligations of parties	(3) If a borrower cancels a payday loan agreement under subsection 28(1), <ul style="list-style-type: none"> (a) the lender shall, in accordance with the prescribed requirements, if any, <ul style="list-style-type: none"> (i) refund to the borrower all payments, if any, made under the agreement or made as a condition of entering into the agreement, except repayments of any part of the advance, (ii) return to the borrower all post-dated cheques, pre-authorized debits and authorizations for future payments provided under the agreement, if those cheques, debits and authorizations are in tangible form, and (iii) destroy all pre-authorized debits and authorizations for future payments provided under the agreement, if those debits and authorizations are created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means; and (b) the borrower shall, in accordance with the prescribed requirements, if any, <ul style="list-style-type: none"> (i) repay the advance to the lender, and (ii) return to the lender all goods, if any, received under the agreement.
Illegal payments	41. (1) If a licensee has received a payment from a borrower to which the licensee is not entitled under this Act or that the borrower is not liable to make under this Act, the borrower may demand a refund of the payment by giving notice to the prescribed person or entity in accordance with section 39 within one year after making the payment.
Refund	(2) A person or entity that receives a notice demanding a refund under subsection (1) shall take the prescribed action.
Right of action	(3) The borrower may commence an action in accordance with section 42 to recover the refund mentioned in subsection (1).
Non-licensed lender	(4) Subsections (1), (2) and (3) apply, with necessary modifications, to the case where a lender who is not licensed enters into a payday loan agreement with a borrower and receives a payment from the borrower to which the lender is not entitled under subsection 6(3) and that the

borrower is not liable to make under that subsection, as if the lender were a licensee mentioned in subsection (1).

42. (1) A borrower who has a right to commence an action under this Act may commence the action in the Supreme Court. Action in Supreme Court

(2) If a borrower is required to give notice under this Act in order to obtain a remedy, the court may disregard the requirement to give the notice or any requirement relating to the notice if it is in the interest of justice to do so. Waiver of notice

(3) If the borrower is successful in the action, the court Judgment

(a) shall order that the borrower recover the full payment to which the borrower is entitled under this Act, unless in the circumstances it would be inequitable to do so; and

(b) may order exemplary or punitive damages or other relief that the court considers proper.

PART V COMPLAINTS, INSPECTIONS AND ENFORCEMENT

Complaints

43. (1) If the Registrar receives a complaint about a licensee, the Registrar may request information in relation to the complaint from any licensee. Complaints

(2) A request for information under subsection (1) shall indicate the nature of the complaint. Request for information

(3) A licensee who receives a written request for information shall provide the information as soon as practicable. Duty to comply

(4) In handling complaints, the Registrar may do any one or more of the following: Procedures

- (a) attempt to mediate or resolve the complaint;
- (b) give the licensee a written warning that, if the licensee continues with the activity that led to the complaint, the Registrar may take action against the licensee;
- (c) take an action under section 12, subject to section 13;
- (d) take other action as is appropriate in accordance with this Act.

Inspections and Investigations

44. (1) The Registrar or a person designated in writing by the Registrar may conduct an inspection and may, as part of the inspection, enter and inspect at any reasonable time the business premises of a licensee, other than any part of the premises used as a dwelling, for the purpose of Inspection

- (a) ensuring compliance with this Act and the regulations;

- (b) dealing with a complaint under section 43; or
- (c) ensuring the licensee remains entitled to a licence.

Powers on
inspection

- (2) While carrying out an inspection, an inspector
- (a) is entitled to free access to all money, valuables, pre-authorized debits and authorizations for future payments, documents and records of the licensee that are relevant to the inspection;
 - (b) may use any data storage, processing or retrieval device or system used in carrying on business in order to produce information that is relevant to the inspection and that is in any form; and
 - (c) may, upon giving a receipt for them, remove for examination and may copy anything relevant to the inspection, including any data storage disk or other retrieval device in order to produce information, but shall promptly return the thing to the licensee.

Identification

- (3) An inspector shall produce, on request, evidence of the authority to carry out an inspection.

No obstruction

- (4) No person shall obstruct an inspector conducting an inspection or withhold from the inspector or conceal, alter or destroy any money, valuables, pre-authorized debits or authorizations for future payments, documents or records that are relevant to the inspection.

No use of force

- (5) An inspector shall not use force to enter and inspect premises under this section.

Assistance

- (6) An inspector may, in the course of an inspection, require a person to produce a pre-authorized debit or authorization for future payments, document or record and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce information that is relevant to the inspection and that is in any form, and the person shall produce the pre-authorized debit or authorization for future payments, document or record or provide the assistance.

Admissibility of
copies

- (7) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

Appointment of
investigators

- 45.** (1) The Director may appoint persons to be investigators for the purposes of conducting investigations.

Certificate of
appointment

- (2) The Director shall issue to every investigator a certificate of appointment bearing the Director's signature or a facsimile of the signature.

(3) Every investigator who is conducting an investigation, including an investigation under section 46, shall, upon request, produce his or her certificate of appointment as an investigator. Production of certificate of appointment

46. (1) Upon application made without notice by an investigator, the Supreme Court may issue a warrant, if the court is satisfied on information under oath that there is reasonable ground for believing that Search warrant

(a) a person or entity has contravened or is contravening this Act or the regulations or has committed an offence under the law of any jurisdiction that is relevant to the fitness, under this Act, of the person or entity for a licence; and

(b) there is

(i) anything in any building, dwelling, receptacle or place relating to a contravention of this Act or the regulations or to the fitness, under this Act, of a person or entity for a licence, or

(ii) information or evidence that relates to a contravention of this Act or the regulations or the fitness, under this Act, of a person or entity for a licence and that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant.

(2) Subject to any conditions contained in it, a warrant obtained under subsection (1) authorizes an investigator Powers under warrant

(a) to enter or access the building, dwelling, receptacle or place specified in the warrant and examine and seize anything described in the warrant;

(b) to use any data storage, processing or retrieval device or system used in carrying on business in order to produce information or evidence described in the warrant, in any form;

(c) to exercise any of the powers specified in subsection (10); and

(d) to use any investigative technique or procedure or do anything described in the warrant.

(3) Notwithstanding subsection (2), an investigator shall not exercise the power under a warrant to enter a place, or part of a place, used as a dwelling, unless Entry of dwelling

(a) the court is informed that the warrant is being sought to authorize entry into a dwelling; and

(b) the court authorizes the entry into the dwelling.

(4) A warrant obtained under subsection (1) shall contain the conditions that the court considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. Conditions on warrant

(5) The warrant may authorize persons who have special, expert or professional knowledge and other persons, as necessary, to accompany and assist the investigator in respect of the execution of the warrant. Expert help

Time of execution	(6) An entry or access under a warrant issued under this section shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise.
Expiry of warrant	(7) A warrant issued under this section shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but the court may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by an investigator.
Use of force	(8) An investigator may call upon police officers for assistance in executing the warrant and the police officers may use whatever force is reasonably necessary to execute the warrant.
No obstruction	(9) No person shall obstruct an investigator executing a warrant under this section or withhold from the investigator or conceal, alter or destroy anything relevant to the investigation being conducted pursuant to the warrant.
Assistance	(10) An investigator may, in the course of executing a warrant, require a person to produce the evidence or information described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the evidence or information described in the warrant and the person shall produce the evidence or information or provide the assistance.
Return of seized items	(11) An investigator who seizes anything under this section or section 47 may make a copy of it and shall return it within a reasonable time.
Admissibility	(12) A copy of a document or record certified by an investigator as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.
Seizure of things not specified	47. An investigator who is lawfully present in a place pursuant to a warrant or otherwise in the execution of the investigator's duties may, without a warrant, seize anything in plain view that the investigator believes, on reasonable grounds, will afford evidence relating to a contravention of this Act or the regulations.
Searches in exigent circumstances	48. (1) An investigator may exercise any of the powers described in subsection 46(2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant.
Dwellings	(2) Subsection (1) does not apply to a building or part of a building that is being used as a dwelling.

(3) The investigator may, in executing any authority given by this section, call upon police officers for assistance and the police officers may use whatever force is reasonably necessary. Use of force

(4) Subsections 46(5), (9), (10), (11) and (12) apply with necessary modifications to a search under this section. Applicability of section 46

Orders and Offences

49. (1) The Director may make an order described in subsection (2) in respect of the money or assets of a person or entity that is not licensed and that is alleged to have conducted business for which a licence is required at a time when the person or entity was not licensed if Freeze orders

(a) the Director receives an affidavit in which it is alleged, and in which facts are set out supporting the allegation, that the person or entity that is not licensed

(i) is subject to criminal proceedings or proceedings in relation to a contravention under this Act or any other Act that are about to be or have been instituted against the person or entity in connection with or arising out of conducting business for which a licence is required, or

(ii) owns a building, dwelling, receptacle or place, or carries on activities in a building, dwelling, receptacle or place, in respect of which a search warrant has been issued under section 46; and

(b) the Director, based on the affidavit mentioned in clause (a), finds reasonable grounds to believe that

(i) the person or entity that is the subject of the allegation mentioned in that clause has received money or assets from borrowers or customers in the course of conducting business for which a licence is required, and

(ii) the interests of those borrowers or customers require protection.

(2) In the circumstances described in subsection (1), the Director may, in writing, Order respecting non-licensee

(a) order any person having on deposit or controlling any money or asset of the person or entity that is the subject of the allegation mentioned in clause (1)(a) to hold the money or asset; or

(b) order the person or entity that is the subject of the allegation mentioned in clause (1)(a)

(i) to refrain from withdrawing any money or asset from a person having the money or asset on deposit or controlling the money or asset, or

(ii) to hold any money or asset of a borrower, customer or other person in trust for the person who is entitled to the money or asset.

Order respecting licensee	<p>(3) If the conditions in subsection (4) are met, the Director may, in writing,</p> <ul style="list-style-type: none"> (a) order any person having on deposit or controlling any money or asset of a licensee or former licensee to hold the money or asset; (b) order a licensee or former licensee to refrain from withdrawing any money or asset from a person having any money or asset on deposit or controlling the money or asset; or (c) order a licensee or former licensee to hold any money or asset of a borrower, customer or other person in trust for the person entitled to the money or asset.
Conditions	<p>(4) The Director may make an order under subsection (3) if, in the opinion of the Director, it is advisable for the protection of the borrowers or customers of a licensee or former licensee and</p> <ul style="list-style-type: none"> (a) a search warrant has been issued under section 46; or (b) criminal proceedings or proceedings in relation to a contravention under this Act or under any other Act are about to be or have been instituted against the licensee or former licensee in connection with or arising out of the business in respect of which the licensee or former licensee is or was licensed.
Limitation	<p>(5) In the case of a financial institution described in subsection (6), an order made under subsection (2) or (3) applies only to the offices and branches named in the order.</p>
Financial institutions	<p>(6) A financial institution mentioned in subsection (5) is</p> <ul style="list-style-type: none"> (a) a bank or authorized foreign bank within the meaning of section 2 of the <i>Bank Act</i> (Canada); (b) a corporation authorized by the Director under section 4 of the <i>Extra-Provincial Corporations Registration Act</i> R.S.P.E.I. 1988, Cap. E-14, to carry on the business of a trust company or a loan corporation in the province; or (c) a credit union within the meaning of the <i>Credit Unions Act</i> R.S.P.E.I. 1988, Cap. C-29.1.
Release of assets	<p>(7) The Director may consent to the release of any particular money or asset from the order or may wholly revoke the order.</p>
Exception	<p>(8) The Director shall not make an order under subsection (2) or (3) if the person or entity that is the subject of the allegation mentioned in clause (1)(a), the licensee or former licensee, as the case may be, files with the Director, in the manner and amount that the Director determines,</p> <ul style="list-style-type: none"> (a) a personal bond accompanied by collateral security; (b) a bond of an insurer licensed under the <i>Insurance Act</i> R.S.P.E.I. 1988, Cap. I-4, to write surety and fidelity insurance; (c) a bond of a guarantor accompanied by collateral security; or

(d) another prescribed form of security.

(9) An application may be made to the Supreme Court for a determination in respect of the disposition of money or an asset

Application to
Supreme Court

(a) by a person in receipt of an order made under subsection (2) or (3), if the person is in doubt as to whether the order applies to the money or asset; or

(b) by a person who claims an interest in the money or asset that is subject to the order.

(10) If an order is made under this section, the Director may register in the Registry of Deeds a notice that the Director has made the order and that the order may affect land belonging to the person mentioned in the notice, and the notice has the same effect as the registration of a certificate of pending litigation, except that the Director may, in writing, revoke or modify the notice.

Notice

(11) The person or entity that is the subject of the allegation mentioned in clause (1)(a) and in respect of which an order is made under subsection (2) or the licensee or former licensee in respect of which an order is made under subsection (3) or any person having an interest in land in respect of which a notice is registered under subsection (10) may apply to the Supreme Court for cancellation in whole or in part of the order or for discharge in whole or in part of the registration.

Cancellation or
discharge
application

(12) The court may dispose of the application after a hearing and may cancel the order or discharge the registration in whole or in part if the court finds

Disposition by the
Supreme Court

(a) that the order or registration is not required in whole or in part for the protection of borrowers or customers of the applicant or of other persons having an interest in the land; or

(b) that the interests of other persons are unduly prejudiced by the order or registration.

(13) The applicant, the Director and the other persons that the court specifies are parties to the proceedings before the court.

Parties

(14) If the Director has made an order under subsection (2) or (3) or registered a notice under subsection (10), the Director may apply to the Supreme Court for directions or an order relating to the disposition of money, assets or land affected by the order or notice.

Application to
Supreme Court

(15) The Director may make an application under subsection (14) without notice to any person or entity.

Notice not required

50. (1) If the Registrar believes, on reasonable grounds, that a licensee is making a false, misleading or deceptive statement relating to a payday

Order of Registrar
re: false advertising

loan or a payday loan agreement in any material published by any means, including an advertisement, circular or pamphlet, the Registrar may

- (a) order the cessation of the use of the material;
- (b) order the licensee to retract the statement or publish a correction of equal prominence to the original publication; or
- (c) order both a cessation described in clause (a) and a retraction or correction described in clause (b).

Procedures (2) Section 13 applies with necessary modifications to an order under this section in the same manner as to a proposal by the Registrar to refuse to issue a licence.

Effect (3) The order of the Registrar shall take effect immediately, but the Director may grant a stay until the Registrar's order becomes final.

Pre-approval (4) If the licensee does not appeal an order under this section or if the Director upholds the order or a variation of it, the licensee shall, upon the request of the Registrar, submit all statements in any advertisement, circular, pamphlet or material to be published by any means to the Registrar for approval before publication for the time period that the Registrar specifies.

Specified period (5) The Registrar shall not specify under subsection (4) a period

- (a) that exceeds a period that is prescribed; or
- (b) any part of which falls outside the period that is prescribed.

Restraining orders **51.** (1) If it appears to the Director that a person or entity is not complying with this Act or the regulations or an order made under this Act, the Director may apply to the Supreme Court for an order directing the person or entity to comply, and, upon the application, the court may make the order that the court thinks fit.

Same (2) Subsection (1) applies in addition to any other procedures that may be available to the Director, whether or not the Director has exercised his or her rights under such procedures.

Appeal (3) An appeal lies to the Court of Appeal from an order made under subsection (1).

Appeal to Supreme Court **52.** (1) Any person who is directly affected by an order of the Director pursuant to this Act may appeal the order to the Supreme Court.

Time for appeal (2) An appeal must be made within 30 days after the date an order of the Director is made.

Service of notice of appeal (3) An appellant shall serve a notice of appeal on the Director and any other person that the court may order.

- (4) On receipt of a notice of an appeal served pursuant to subsection (3), the Director shall file with the court true copies of
- (a) all documents and materials that were before the Director when the Director made his or her order;
 - (b) the Director's order; and
 - (c) the Director's written reasons for the order.
- Documents to be filed with the court for purposes of appeal
- (5) On hearing an appeal pursuant to subsection (1), the court may
- (a) dismiss the appeal;
 - (b) allow the appeal;
 - (c) allow the appeal subject to terms and conditions;
 - (d) vary the decision or order of the Director;
 - (e) refer the matter back to the Director for further consideration and an order; or
 - (f) make any other order that the court considers appropriate.
- Decision by court
- (6) The court may make any order as to costs on an appeal that the court considers appropriate.
- Costs
- (7) The commencement of an appeal pursuant to subsection (1) does not stay the effect of the order appealed from, unless the court orders otherwise.
- Application for stay
- 53.** (1) A person or entity is guilty of an offence who
- (a) furnishes false information in any application under this Act or in any statement or return required under this Act;
 - (b) fails to comply with any order under this Act;
 - (c) contravenes or fails to comply with any section of this Act or the regulations; or
 - (d) attempts to commit any offence mentioned in clause (a), (b) or (c).
- Offence
- (2) An officer or director of a corporation who fails to take reasonable care to prevent the corporation from committing an offence mentioned in subsection (1) is guilty of the offence.
- Corporations
- (3) A person or entity that is convicted of an offence under this Act is liable to
- (a) a fine of not more than \$50,000 or to imprisonment for a term of not more than two years less a day, or both, if the person or entity is an individual; or
 - (b) a fine of not more than \$250,000, if the person or entity is not an individual.
- Penalties
- (4) No proceeding under this section shall be commenced more than two years after the date the facts upon which the proceeding is based first came to the knowledge of the Director.
- Limitation

Orders for compensation, restitution	54. If a person or entity is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person or entity convicted to pay compensation or make restitution.
Default in payment of fines or penalties	55. (1) If a fine payable as a result of a conviction for an offence under this Act is in default for at least 60 days, the Director may disclose to a consumer reporting agency the name of the defaulter, the amount of the fine and the date the fine went into default.
If payment made	(2) Within 10 days after the date the Director has notice that the fine has been paid in full, the Director shall inform the consumer reporting agency of the payment.
Liens and charges	56. (1) If a fine payable as a result of a conviction for an offence under this Act is in default for at least 60 days, the Director may, by order, create a lien against the property of the person who is liable to pay the fine.
Liens on personal property	(2) If the lien created by the Director under subsection (1) relates to personal property <ul style="list-style-type: none"> (a) the <i>Personal Property Security Act</i> R.S.P.E.I. 1988, Cap. P-3.1, except Part V, applies with necessary modifications to the lien, notwithstanding clause 4(1)(a) of that Act; (b) the lien is deemed to be a security interest that has attached for the purposes of the <i>Personal Property Security Act</i>; and (c) the Director may perfect the security interest mentioned in clause (b) for the purposes of the <i>Personal Property Security Act</i> by the registration of a financing statement under that Act.
Charges on real property	(3) If the lien created by the Director under subsection (1) relates to real property, the Director may register the lien in the Registry of Deeds against the property of the person liable to pay the fine covered by the lien and, on registration, the obligation under the lien becomes a charge on the property.
Initiation of sale proceedings prohibited	(4) The Director shall not initiate sale proceedings in respect of any real property against which the Director has registered a lien under subsection (3).
Proceeds of sale	(5) If a lien is perfected by registration under subsection (2) or is registered against real property under subsection (3) and the related real or personal property is sold, the Director shall ensure that the funds that the Director receives as a result of the sale are used to pay the fine covered by the lien.
Discharge of lien	(6) Within 10 days after the date the Director has knowledge of the payment in full of the fine covered by the lien, the Director shall

- (a) discharge the registration of any financing statement registered under clause (2)(c); and
- (b) register a discharge of a charge created on registration of a lien under subsection (3).

PART VI GENERAL

57. (1) A person who obtains information in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations shall preserve secrecy with respect to the information and shall not communicate the information to any person except Confidentiality

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act or the regulations;
- (b) to a department or agency of a government engaged in the administration of legislation similar to this Act or legislation that protects consumers or to any other entity to which the administration of legislation similar to this Act or legislation that protects consumers has been assigned;
- (c) to a prescribed entity or organization, if the purpose of the communication is consumer protection;
- (d) to a law enforcement agency;
- (e) to the person's counsel; or
- (f) with the consent of the person to whom the information relates.

(2) Except in a proceeding under this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations. Testimony

(3) As required by regulation, the Registrar shall make available to the public, in the prescribed form and manner, the names of licensees and other information about licensees that is prescribed. Information about licensees

58. (1) Any notice, order or request of the Director or the Registrar is sufficiently given or served if it is delivered personally or sent by registered mail or by another manner if the sender can prove receipt of the notice, order or request. Service

(2) If service is made by registered mail, the service is deemed to be made on the third day after the date of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice, order or request until a later date. Deemed service

- Exception (3) Notwithstanding subsections (1) and (2), the Director may order any other method of service he or she considers appropriate in the circumstances.
- Certificate as evidence **59.** (1) For all purposes in any proceeding, a statement purporting to be certified by the Director is, without proof of the office or signature of the Director, admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in it in relation to
- (a) the licensing or non-licensing of any person or entity;
 - (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
 - (c) the time when the facts upon which the proceedings are based first came to the knowledge of the Director; or
 - (d) any other matter pertaining to the licensing or non-licensing of persons or entities or to the filing or non-filing of information.
- Proof of document (2) Any document made under this Act that purports to be signed by the Director or a certified copy of the document is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, that the document is signed by the Director without proof of the office or signature of the Director.

PART VII REGULATIONS AND AGREEMENTS

- Regulations **60.** The Lieutenant Governor in Council may make regulations
- (a) to establish and require the payment of fees that an applicant for a licence or the renewal of a licence or a licensee is required to pay in respect of the licence or other administrative matters;
 - (b) specifying that an applicant for a licence or a licensee required to pay fees under clause (a) pay a separate fee for the main office and for each branch office that the licence authorizes the applicant or the licensee to operate;
 - (c) governing any matter or thing that this Act describes as being prescribed, done in accordance with the regulations or provided for in the regulations;
 - (d) specifying payday loan agreements and classes of payday loan agreements to which this Act applies or does not apply;
 - (e) exempting any person, entity or payday loan or class of persons, entities or payday loans from any provision of this Act or the regulations and attaching conditions to an exemption;
 - (f) governing the form and content of any notice or document required under this Act;
 - (g) specifying rules relating to addresses for service under this Act;
 - (h) authorizing the Director to conduct quality assurance programs in relation to the administration of this Act or the regulations and to

- use information collected under this Act for the purposes of those programs;
- (i) providing for any transitional matter necessary for the effective implementation of this Act or the regulations;
 - (j) defining, for the purposes of this Act and the regulations, any word or expression that is used in this Act but not defined in this Act;
 - (k) governing applications for a licence or renewal of a licence and setting the term of a licence;
 - (l) requiring licensees to provide information to the Registrar concerning persons or entities, other than the licensees, in order to assist in determining whether the persons or entities are or may be interested persons or entities for the purposes of section 10;
 - (m) requiring that any information that licensees are required to provide under this Act be in a form approved by the Director, the Registrar or the Minister, as specified in the regulations;
 - (n) requiring licensees to provide, on request and in the prescribed circumstances, proof of their licence and prescribing the nature of the proof and the manner in which it is to be provided;
 - (o) requiring licensees to notify the Registrar, in writing, of any change in the information that they were required to include in the application for their licence or the renewal of their licence, as applicable, and specifying the time and other conditions for providing the notice;
 - (p) requiring licensees to provide information to the Registrar that is relevant to the administration of this Act and requiring that the information be verified by affidavit;
 - (q) authorizing the Registrar to require licensees to provide information to the Registrar about their business, including financial information, within the time and in the manner that the Registrar specifies;
 - (r) specifying the responsibilities of licensees and governing their activities;
 - (s) governing the requirements that parties are required to satisfy in order to make a payday loan agreement;
 - (t) specifying what constitutes and what does not constitute delivery of the advance to the borrower at the time that the parties enter into a payday loan agreement;
 - (u) prohibiting lenders from entering into a payday loan agreement with a borrower if the amount of the payday loan exceeds the prescribed amounts or the amounts calculated according to the prescribed manner;
 - (v) governing the rights and obligations of parties to a payday loan agreement that contravenes the regulations made under clause (u),

including remedies available to them and procedures for exercising those remedies;

(w) governing information, text or terms that a lender is required to include in a payday loan agreement, including requiring that a payday loan agreement contain a form that constitutes the notice of cancellation required by subsection 28(2) when the borrower fills it out;

(x) governing the form that a lender is required to use for the information, text or terms mentioned in clause (w);

(y) specifying limits for the purposes of section 30 or specifying a method of setting limits for the purposes of that section;

(z) specifying what constitutes sufficient proof for the purposes of clauses 33(1)(b) and 33(3)(b) or authorizing the Registrar to specify what constitutes sufficient proof for the purposes of those clauses in the circumstances that the Registrar specifies with respect to the particular borrower involved;

(aa) defining what constitutes an extension of a payday loan agreement for the purposes of section 34;

(bb) governing the rights and obligations of parties to a payday loan agreement that is extended in contravention of subsection 34(1), including remedies available to them and procedures for exercising those remedies;

(cc) governing information and statements that a licensee is required to provide to a borrower with respect to a payday loan or a payday loan agreement and governing the form that the licensee is required to use for the information and statements;

(dd) requiring that a prescribed person or entity who receives a notice from a borrower under this Act forward the notice to another prescribed person or entity within the prescribed time period and in the prescribed manner;

(ee) requiring that licensees maintain business premises that comply with the prescribed requirements;

(ff) governing the offices, including the main office and branch offices, that a licence authorizes a licensee to operate;

(gg) governing names under which a licensee is authorized to carry on business;

(hh) requiring that a licensee display prescribed things at its place of business and governing those things, including specifying the content and manner for displaying the things;

(ii) prohibiting licensees or their agents from engaging in practices specified in the regulations, in addition to practices in which this Act prohibits them from engaging, and specifying the consequences from engaging in those additional practices;

(jj) respecting financial security requirements for licensees, including requiring them to be insured or to have collateral security;

(kk) governing the documents, records and bank accounts that licensees are required to keep, including the manner and location in which they are to be kept and the time periods for retaining them and authorizing the Registrar to specify the location at which they are to be kept;

(ll) governing procedures and other matters related to complaints under section 43;

(mm) governing inspections and investigations under this Act; and

(nn) varying the manner in which a notice under subsection 49(10) or a lien under subsection 56(3) is registered as a result of technological or electronic changes in the filing of documents in the Registry of Deeds.

61. (1) A regulation made under this Act may be of general application or specific to any person, entity, place or thing or any class of persons, entities, places or things in its application. General or specific application of regulations

(2) A class described in the regulations made under this Act may be described according to any characteristic or combination of characteristics and may be described to include or exclude any specified member, whether or not with the same characteristics. Classes

(3) Subject to the approval of the Lieutenant Governor in Council, the Director may enter into an agreement with any other government, regulatory authority, law enforcement agency, investigative body or person inside or outside Canada Agreements with other jurisdictions

(a) for the purpose of administering or enforcing this Act or any Act or law of the other jurisdiction that is similar to this Act, including an agreement authorizing the Director or the Registrar to perform responsibilities and exercise powers on behalf of the other government, regulatory authority, law enforcement agency, investigative body or person and authorizing the other government, regulatory authority, law enforcement agency, investigative body or person to perform responsibilities and exercise powers on behalf of the Registrar; or

(b) for any other purpose that the Director believes is in the public interest.

PART VIII COMMENCEMENT

62. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council. Commencement

CHAPTER 83

(Bill No. 69)

Payday Loans Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	April 21, 2009
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<i>To Committee:</i>	May 1, 2009
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Honourable L. Gerard Greenan
Attorney General

GOVERNMENT BILL