

Payday Loans Unit

Prêts sur salaires

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Registrar, Payday Loans Act, 2008

12 November 2009

Notice to Lenders and Brokers Licensed
Under the Payday Loans Act, 2008

On December 15, 2009 the provisions respecting the maximum cost of borrowing under the *Payday Loans Act, 2008* will come into force. This will complete the phased implementation of the consumer protection aspects of the *Act*. Consequently I thought it would be an opportune time to write to you on a number of points.

To date 616 lender's licenses have been issued and 163 broker's licenses. Processing your applications went pretty smoothly, your cooperation was appreciated. I know many of you had not dealt with a business licensing process before and ran into some problems especially around business names. I trust you found my staff helpful as the issues were worked through. Renewal notices will be sent to you approximately 2 months prior to the expiry of your license.

A reminder that you are required to file, with me, financial statements respecting your activity as a licensee within 3 months of the end of your fiscal year. Failure to do so is a contravention of the *Act* and also reason to suspend or revoke your license.

On July 1st many of the consumer protection aspects of the *Act* came into effect. With the coming into force of the maximum cost of borrowing provisions the balance of the consumer protection aspects will be in force. As a licensee it is your obligation to know and comply with all of the requirements. However I have listed a number of the requirements that affect your business on a day to day basis below:

- You must post your certificate of license relating to the location so that it is clearly visible to persons immediately upon entering the office.
- You must post the poster containing information about the cost of borrowing so that it is visible to persons immediately upon entering the office.
- The poster that is required to be posted may not contain any information other than what is required by the regulation.
- The first page of the loan agreement must contain a completed table about the loan as required by the *Act* which may not contain any information that is not required by the *Act*.
- Each loan agreement must accurately set out the required mandatory statements.

- Each loan agreement must be dated.
- A copy of the loan agreement must be given to the borrower at the time the loan is made.
- No loan may be provided to a borrower until any outstanding loan has been paid in full.
- Where a borrower receives a loan within 7 days of having paid the full amount of a previous loan, the lender must receive proof of full payment from the borrower prior to giving the new loan.
- The date that a loan payment is due must be a day upon which the borrower regularly receives income.
- You may not accept an assignment of wages from a borrower.
- A loan broker may not receive payment for services directly from the borrower.

For the legal text respecting each of these requirements and others you should refer to the *Act* and regulation 98/09 made under the *Act*.

With all of the consumer protection aspects of the *Act* in force the Consumer Protection Branch will be initiating inspections of licensees as permitted by the *Act*. The Inspectors are provincial offences officers, and have a badge and photo identification card. In addition each has my appointment as an inspector under the *Act*. The Inspectors will often make appointments prior to attending at your locations but may also arrive unannounced. Section 47 of the *Act* sets out the authority of an Inspector and your obligations as a licensee. You should acquaint yourself with section 47 and also ensure that your staff in charge of any of your offices are familiar with the Inspector's rights and your obligations.

The *Act* also provides for the imposition of Administrative Monetary Penalties (AMPs) by Assessors appointed under the *Act*. Each of the Inspectors is designated as an Assessor. The contraventions for which AMPs can be imposed can be found in regulation 209/09 made under the *Act*. For your reference I'm attaching a table indicating the contraventions for which an AMP can be imposed and the corresponding penalty.

As I indicated at the beginning of this notice the maximum cost of borrowing provisions of the *Act* will come into force on December 15, 2009. That is to say, section 32 of the *Act* and sections 14 and 23 of regulation 98. The effect of this is to establish \$21 per hundred dollars borrowed as the maximum cost that can be charged for a loan that is \$1500 or less and for a period of 62 days or less, and to require you to display the poster required by section 14 of the regulation.

Shannon Jack is the Registration and Compliance Officer in my office responsible for the *Payday Loans Act*. Shannon will be happy to assist you with any of your questions around licensing and your obligations. She will also be addressing complaints and will discuss those matters with the person identified in your application as the contact for your business. Should you wish to reach Shannon you can do so at 416-326-1854 or by e-mail at Shannon.jack@ontario.ca.

The Consumer Protection Branch administers a number of regulatory statutes and enjoys a positive working relationship with most licensees and registrants. We are willing to work with licensees to assist them to understand their obligations and from that perspective follow a graduated enforcement model. Shannon, the Inspectors that attend your premises and myself will be pleased to discuss the requirements of the legislation with you. It remains your responsibility however as a licensee to know and comply with the requirements of the *Payday Loans Act, 2008* and the regulations under it.



Brian Pitkin, CD
Registrar

ADMINISTRATIVE PENALTIES UNDER THE PAYDAY LOANS ACT, 2008

CONTRAVENTION	AMOUNT OF PENALTY
Loan broker receives a payment from the borrower for assisting the borrower to obtain a payday loan. Act: 28(1).	\$100
Licensee fails to post certificate of license at their office so that it is visible to persons immediately upon entering the office. Regulation: 4(4).	\$500
For internet and telephone transactions, licensee fails to communicate to borrower the information on the certificate of licence as soon as contact is made with licensee. Regulation: 4(5).	\$500
Licensee fails to ensure that poster (which contains information about cost of borrowing) is visible to borrowers immediately upon entering the office. Regulation: 14(1).	\$500 - \$1,000 - \$3,000 for successive contraventions on a rolling one year basis.
Licensee includes in the poster information that should not be there. Regulation: 14(1)(3).	\$500
For telephone and internet transactions, licensee fails to communicate to the borrower the information in the poster before discussing payday loans with the borrower. Regulation: 14(3)(5).	\$500 - \$1,000 - \$3,000 for successive contraventions on a rolling one year basis.

Lender fails/loan broker facilitates failure to place on the first page of a payday loan agreement a completed table (with details about the loan) which table does not include information not required by the Act. Act: 29(1)(3). Regulation: Paragraph 1 of 18(1).	\$200
Lender fails/loan broker facilitates failure to date the payday loan agreement. Act: 29(1)(3). Regulation: Paragraph 2 of 18(1).	\$100
Lender fails/loan broker facilitates failure to accurately set out mandatory statements in the payday loan agreement. Act: 29(1)(3). Regulation: Paragraph 9 of 18(1).	\$500
For telephone and internet transactions, the lender has failed to ensure that before the payday loan agreement is entered into, it is available and accessible to the borrower in a manner that ensures that the borrower has accessed it and is able to retain and print it. Regulation: 18(4).	\$500 - \$1,000 - \$3,000 for successive contraventions on a rolling one year basis.
For telephone and internet transactions, the loan broker fails to facilitate the lender's compliance with the requirement set out immediately above. Regulation: 18(4)(6).	\$200
Lender accepts an assignment of wages or any part of them from the borrower. Regulation: 28(1).	\$1,000