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# Bill 234

**An Act to amend the Payday Loans Act, 2008 to increase accountability of lenders  
and protections for borrowers**

**Ms S. Shaw**

**Private Member's Bill**

1st Reading      November 25, 2020

2nd Reading

3rd Reading

Royal Assent



## EXPLANATORY NOTE

The Bill amends the *Payday Loans Act, 2008* as follows:

1. A limit is established on the annual interest that may be prescribed in the regulations with respect to the cost of borrowing under a payday loan agreement.
2. The Borrowers' Bill of Rights is established. It sets out principles which shall be taken into consideration in interpreting the Act.
3. Lenders are required to provide a copy of the Borrowers' Bill of Rights to borrowers before entering into a payday loan agreement. If the lender fails to do so, the borrower can rescind the payday loan agreement.
4. The Payday Loans Task Force is established. The Bill sets out the Task Force's mandate and composition. The Task Force is required to make recommendations to the Minister periodically.

**An Act to amend the Payday Loans Act, 2008 to increase accountability of lenders  
and protections for borrowers**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1 Subsection 1 (1) of the *Payday Loans Act, 2008* is amended by adding the following definition:**

“instalment loan” has the meaning set out in the regulations; (“prêt remboursable par versements”)

**2 Section 32 of the Act is amended by adding the following subsection:**

**Limit on regulations, maximum interest rate**

(2.1) A regulation made under subsection (2) prescribing a limit on the cost of borrowing shall not provide for a maximum interest rate per month that would result in the cost of borrowing exceeding 40 per cent on an annual basis.

**3 The Act is amended by adding the following sections after the heading “General”:**

**Borrowers’ Bill of Rights**

**37.1** The following principles shall be taken into consideration in interpreting this Act:

1. Borrowers have the right to a fair and just maximum percentage on the annual interest rate charged on payday loans and instalment loans.
2. Borrowers have the right to access an industry that is fairly regulated.
3. Borrowers have the right to deal online with lenders who,
  - i. are licensed under this Act,
  - ii. maintain at least one brick and mortar office in Ontario at which the public is invited to deal, and
  - iii. operate in compliance with this Act and the regulations.
4. Borrowers have the right to transparent dealings with lenders, including online lenders.

**Lender to provide text of Borrowers’ Bill of Rights**

**37.2** (1) Before entering into a payday loan agreement, the lender shall provide the borrower with a copy of the Borrowers’ Bill of Rights set out in section 37.1.

**Rescission for not providing text**

(2) A borrower may, in accordance with the regulations and within the prescribed time after entering into a payday loan agreement, rescind the agreement, without penalty or obligation, if the lender failed to comply with subsection (1).

**Notice of rescission**

(3) Notice of rescission shall be in writing and shall be delivered to the lender, personally, by registered mail, by fax or by any other prescribed method, at the lender’s address for service or to any other person designated for that purpose in the agreement.

**Effective date of rescission**

- (4) The notice of rescission is effective,
- (a) on the day it is delivered personally;
  - (b) on the fifth day after it was mailed;
  - (c) on the day it is sent by fax, if sent before 5 p.m.;
  - (d) on the day after it was sent by fax, if sent at or after 5 p.m.; or
  - (e) on the day determined in accordance with the regulations, if sent by a prescribed method of delivery.

**Same**

(5) If the day described in clause (4) (b), (c) or (d) is a holiday, the notice of rescission is effective on the next day that is not a holiday.

**Obligations on rescission**

- (6) Within the prescribed period of time after the effective date of the rescission,
  - (a) the borrower shall return the advance to the lender; and
  - (b) the lender shall return any payment received from the borrower, with interest calculated in accordance with the regulations.

**4 The Act is amended by adding the following Part:**

**PART VI.1  
PAYDAY LOANS TASK FORCE**

**Payday Loans Task Force**

**65.1** (1) The Payday Loans Task Force is established.

**Mandate**

- (2) The mandate of the Task Force is the following:
  - 1. To examine how payday loans are regulated in other jurisdictions.
  - 2. To investigate the root causes of persons needing to use payday loans and to explore possible alternative products.
  - 3. To review aggregate data revealing the cost of loans, borrower use of loans and loan defaults.
  - 4. To make recommendations respecting what constitutes a fair maximum percentage on the annual interest rate charged on payday loans, instalment loans and line of credit products.
  - 5. To make recommendations respecting methods of increasing transparency across the industry.

**Composition**

**65.2** (1) The Task Force shall be composed of such persons as the Minister determines will make useful contributions to the work of the Task Force, including, without limitation, members of consumer groups representing the interests of borrowers, persons with expertise in the role of credit and representatives of the payday loan industry.

**Appointments**

(2) The Minister shall, within 60 days after the *Payday Loans Accountability Act, 2020* receives Royal Assent, appoint at least 12 members to the Task Force.

**Remuneration**

(3) The Lieutenant Governor in Council may by regulation prescribe remuneration and payment of expenses for the Task Force members.

**Recommendations**

**65.3** The Task Force shall, within one year after the day the *Payday Loans Accountability Act, 2020* receives Royal Assent, and every five years after that, make recommendations to the Minister concerning the matters it is mandated to consider.

**5 Section 77 of the Act is amended by adding the following paragraphs:**

2.1 governing instalment loans;

. . . . .

27.4 governing the rescission of payday loan agreements for the purposes of section 37.2;

**Commencement**

**6 This Act comes into force on the day it receives Royal Assent.**

**Short title**

**7 The short title of this Act is the *Payday Loans Accountability Act, 2020*.**