

Regulating the Payday Lending Sector

Discussion Paper

Prince Edward Island Office of the Attorney General
Consumer, Corporate, and Insurance Division

Nov 6, 2008

I. INTRODUCTION

The Prince Edward Island Office of the Attorney General, Consumer, Corporate and Insurance Division is seeking public comment on regulation of the payday loan industry in PEI. A payday loan is a short term loan for a relatively small amount to be repaid on the borrower's next payday. The borrower writes a post-dated cheque for the principal, plus interest and fees, dated the next payday. A typical payday loan would involve a cash payment to the borrower of \$200 with repayment to the lender of \$275 in two weeks. Currently, there are approximately 1350 storefront outlets operating in Canada that provide payday loans. Numerous storefront outlets are also operating in Prince Edward Island.

Under the Criminal Code (Canada), the total cost of borrowing chargeable by a lender, including all interest, fees and charges, is limited to 60% per year. In the loan described above, the effective annual interest rate is close to 1000%, and is therefore in violation of the Criminal Code. In addition, public concerns have persisted regarding unfair practices associated with the payday lending industry, including: the extremely high cost of borrowing, abusive collection practices, and inadequate disclosure of contractual obligations.

Payday lenders operating in Prince Edward Island are presently regulated under the *Consumer Protection Act*. Payday lenders must also register their business in the Corporate Registry. The *Consumer Protection Act* and regulations provide certain basic protections for borrowers, including: cost of borrowing disclosure requirements, terms of advertising disclosure requirements, and basic creditor conduct regulations. Penalties for non-compliance with the Act and regulations include: for persons, a penalty for liability on summary conviction of not more than \$2,000 or to imprisonment for a term of not more than one year, or both; and for corporations, liability to a penalty of not more than \$25,000. Lenders are not required to be licensed under the Act and regulations.

Recent amendments to the Criminal Code provide that where a province has implemented comprehensive legislative protections for consumers of payday loans, including clearly legislated limits on total borrowing costs attached to such loans, that province may seek a designation allowing payday lenders to charge rates in excess of 60%. Certain provinces have or are in the process of enacting consumer protection legislation specific to the payday loan industry. Nova Scotia and Manitoba have now also set maximum limits on total allowable borrowing costs attached to payday loans. Manitoba has obtained an order designating that province for the purposes of section 347.1 of the Criminal Code.

The Consumer, Corporate and Insurance Division has developed draft payday lender legislation modelled on Ontario's *Payday Loans Act* [2008, S.O. 2008, c.9], but streamlined for a smaller jurisdiction. The Ontario Act requires all payday lenders to be licensed. The Act also includes an enforcement regime of inspections, prosecutions and licence suspensions. Lenders must include all charges consumers are required to pay in the total cost of borrowing, and must allow borrowers to cancel payday loan agreements during a prescribed cooling-off period. The government of Ontario has designated an independent advisory board of experts, business representatives and consumer advocates to examine the costs for payday loans and to recommend a limit on the total cost of borrowing to be set by regulation.

We invite all comments regarding the proposed industry regulation. Nevertheless, readers may wish to focus their comments on the following four regulatory options:

1. Maintain the status quo;
2. Provide specific advertising and disclosure requirements for payday lenders, with sample forms and filing requirements;
3. Provide specific advertising and disclosure requirements as well as a comprehensive licensing regime; or
4. Provide specific advertising and disclosure requirements, a comprehensive licensing regime, and provincially mandated limits on total borrowing costs.

Included in this discussion paper is a brief summary of Prince Edward Island's proposed legislation as well as a list of anticipated drafting changes from Ontario's *Payday Loans Act*. A draft Bill is also attached as an appendix to this document.

Responses to this discussion paper will be made public. Responses will be used to evaluate the proposed legislation and to assess whether there are alternative or other regulatory measures that should be considered. Please feel free to share your viewpoints or perspectives. Comments should be provided in writing via fax or mail by December 31, 2008 to:

Payday Lending Consultation
Office of the Attorney General
Consumer, Corporate, and Insurance Division
Fourth Floor, Shaw Building, South
95 Rochford Street P.O. Box 2000
Charlottetown, PE C1A 7N8

Fax: (902) 368-5283

Tel: (902) 368-4580; Toll Free: 1-800-658-1799

Electronic copies of this paper may be found at www.gov.pe.ca/oag. This consultation draft has not been considered by Cabinet or by Legislative Review Committee and this consultation is not in substitution for the public review of Bills in Committee when a Bill has received second reading.

Additional information regarding regulation of the payday lending industry may be accessed via the following web-links:

- British Columbia Bill 27, Business Practices and Consumer Protection (Payday Loans) Amendment Act may be found at:
www.leg.bc.ca/38th3rd/3rd_read/gov27-3.htm
- The British Columbia *Business Practices and Consumer Protection Act* and regulations may be found at:
www.qp.gov.bc.ca/statreg/

- The Canadian Payday Loan Association Web-site may be found at:
www.cpla-acps.ca/
- The Criminal Code (Canada) may be found at:
www.laws.justice.gc.ca/en/C-46/
- The Manitoba Public Utilities Board decision “Maximum Charges for Payday Loans” (Order No. 39/08) may be found at:
www.pub.gov.mb.ca/pdf/misc/39-08.pdf; See also, www.pub.gov.mb.ca/pdf/misc/89-08.pdf
- The Manitoba *Consumer Protection Act* and regulations may be found at:
web2.gov.mb.ca/laws/statutes/ccsm/c200e.php
- New Brunswick’s *An Act Respecting Payday Loans* may be found at:
www.gnb.ca/0062/acts/BBA-2008/Chap-3.pdf
- Nova Scotia Bill 87 - An Act to Amend Chapter 92 of the Revised Statutes, 1989, the Consumer Protection Act may be found at:
www.gov.ns.ca/legislature/legc/
- Nova Scotia Utility and Review Board Decision - NSUARB-PD-07-001, 2008 NSUARB 87 [In the Matter of the Consumer Protection Act - relating to payday loans], may be found at:
www.canlii.org/en/ns/nsuarb/doc/2008/2008nsuarb87/2008nsuarb87.html
- The Ontario *Payday Loans Act* may be found at:
www.e-laws.gov.on.ca
- The Ontario *Consumer Protection Act* and regulations may be found at:
www.e-laws.gov.on.ca/navigation?file=home&lang=en
- The Prince Edward Island *Consumer Protection Act* and regulations may be found at:
www.gov.pe.ca/law/regulations/index.php3
- The Quebec *Consumer Protection Act* and *Civil Code* may be found at:
www2.publicationsduquebec.gouv.qc.ca/home.php
- The Saskatchewan *Act Respecting Payday Loan Agreements, Payday Lenders and Borrowers* may be found at:
www.qp.gov.sk.ca/documents/english/Chapters/2007/P4-3.pdf

II. SUMMARY OF PROPOSED LEGISLATION

Part I - Interpretation, Application, and Administration

The Act regulates payday loans. Payday loans are defined in section 347.1 of the Criminal Code to be 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.

The Act also regulates payday loan agreements. Payday loan agreements are defined to be agreements under which a lender makes a payday loan to a borrower with or without the assistance of a loan broker. Regulations made under the Act can provide that the Act applies to other loans or can exempt classes of persons, entities or payday loans from the application of the Act.

Part II - Licences

Whether or not parties enter into a payday loan agreement, a person or entity that acts as a payday lender or loan broker is required to hold a licence issued by the Registrar under the Act. The Registrar can refuse to issue, suspend, or revoke a licence in some cases. In some cases, but not all cases, the applicant for a licence or the renewal of a licence or a licensee affected by the decision of the Registrar is entitled to a hearing.

Part III - Regulation of Licensees

Licensees are required to disclose to the Registrar certain changes such as a change in address for service or changes relating to corporate control. The Registrar may at any time require a licensee to provide the Registrar with copies of materials that the licensee uses or proposes to use in the course of conducting business.

The Act contains many provisions for the protection of borrowers. For example, a licensee is prohibited from making false, misleading or deceptive statements relating to a payday loan or payday loan agreement. All payments that a borrower is required to make under a payday loan agreement must go to the lender, and not to any other person or entity, such as a loan broker. A lender under a payday loan agreement must deliver a copy of the agreement to the borrower no later than upon entering into the agreement. The borrower then has two days to cancel the agreement without any reason. A lender under a payday loan agreement is not entitled to demand payment of any portion of the cost of borrowing under the agreement until the end of the term of the agreement. The cost of borrowing must not exceed the limits prescribed by the regulations made under the Act. If a payday loan agreement does not comply with this Part, the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.

Part IV - Borrowers' Rights and Remedies

If a borrower cancels a payday loan agreement under the Act, the lender is required to refund to the borrower all payments made under the agreement, except for repayments of any part of the advance,

and is required to return to the borrower all post-dated cheques, pre-authorized debits, and pre-authorizations for future payments under the agreement that the borrower has provided. The borrower is required to repay the advance, but is not required to pay the cost of borrowing under the agreement. If the lender or a loan broker receives a payment from the borrower that the borrower is not liable to make, the borrower is entitled to a refund of the payment.

Part V - Complaints, Inspections, and Enforcement

The Act contains a number of enforcement measures, including the following:

- If the Registrar receives a complaint about a licensee, the Registrar may request information in relation to the complaint from any licensee.
- The Registrar or a person designated in writing by the Registrar may conduct an inspection. As part of the inspection, the Registrar may 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 ensuring compliance with the Act and the regulations made under it, dealing with a complaint, or ensuring the licensee remains entitled to a licence.
- The court can issue a search warrant to an investigator appointed by the Director of Corporations.
- The Director can make orders freezing money or assets of persons or entities involved in proceedings in relation to a contravention of the Act, or of persons or entities involved in other matters in relation to the Act.
- The Registrar can make orders with respect to false advertising by licensees.
- It is an offence to contravene any section of the Act or the regulations made under it.

Part VI - General

Part VI contains a number of general provisions relating to the confidentiality of information, service of notices, orders or requests and the use in evidence of statements certified by the Director.

Part VII - Regulations

Under Part VII, the Lieutenant Governor in Council has broad power to make regulations under the Act, including specifying the responsibilities of licensees, governing their activities, and governing the required contents for payday loan agreements.

Part VIII - Commencement

The Act will come into force on a day to be named by proclamation of the Lieutenant Governor.

III. LIST OF DRAFTING CHANGES FROM ONTARIO PAYDAY LOANS ACT

- Amending section 1 of Ontario *Payday Loans Act* as follows:
 - Striking out the definition of “administrative penalty.”
[*Ontario Payday Loans Act, s 1.(1)*]
 - Striking out the definition of “assessor.”
[*Ontario Payday Loans Act, s 1.(1)*]
 - Striking out the definition of “Corporation.”
[*Ontario Payday Loans Act, s 1.(1)*]
 - Amending the definition of “Director,” striking out “person designated as the Director under the *Ministry of Consumer and Business Services Act*” and substituting “Director of Corporations appointed under section 2 of the *Companies Act* R.S.P.E.I. 1988, Cap. C-14.”
[*Ontario Payday Loans Act, s 1.(1); PEI Bill, s 1.(1)(e)*]
 - Striking out the definition of “Fund”
[*Ontario Payday Loans Act, s 1.(1)*]
 - Amending the definition of “Minister,” striking out “Minister of Government and Consumer services or whatever other member of the Executive Council to whom administration for this Act is assigned under the *Executive Council Act*” and substituting “Attorney General.”
[*Ontario Payday Loans Act, s 1.(1); PEI Bill, s 1.(1)(l)*]
 - Striking out the definition of “Ministry.”
[*Ontario Payday Loans Act, s 1.(1)*]
 - Adding the following definition: “Registrar” means the Registrar appointed under section 5 of this Act.
[*PEI Bill, s 1.(1)(q)*]
 - Striking out the definition of “Tribunal.”
[*Ontario Payday Loans Act, s 1.(1)*]

- Amending section 2.(1) of Ontario *Payday Loans Act*, striking out “Ontario” and substituting “Prince Edward Island.”
[*Ontario Payday Loans Act, s 2.(1); PEI Bill, s 2.(1)*]

- Amending section 5.(1) of Ontario *Payday Loans Act*, striking out “Deputy.”
[*Ontario Payday Loans Act, s 5.(1); PEI Bill, s 5.(1)*]

- Amending section 9.(4) of Ontario *Payday Loans Act*, striking out “64(3)” and substituting “61(3)”
[*Ontario Payday Loans Act, s 9.(4); PEI Bill, s 9.(4)*]

- Amending sections 10.(1)(a)(i) and (ii) of Ontario *Payday Loans Act* by striking the sections and substituting the following:
 - (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 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
[*Ontario Payday Loans Act, ss 10.(1)(a)(i) and (ii); PEI Bill, ss 10.(1)(a)(i) and (ii)*]

- Amending sections 10.(1)(b)(i), (ii), and (iii), of Ontario *Payday Loans Act* by striking the sections and substituting the following:
 - (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 given 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
[*Ontario Payday Loans Act, ss 10.(1)(b)(i), (ii), and (iii); PEI Bill, ss 10.(1)(b)(i), (ii), and (iii)*]

- Amending section 11.(1) of Ontario *Payday Loans Act*, striking out the section and substituting the following:

A licence is subject to the conditions that

 - (a) the Registrar applies under subsection (2);
 - (b) the Director orders; or
 - (c) are prescribed.
[*Ontario Payday Loans Act, s 11.(1); PEI Bill, ss 11.(1)(a)(b), and (c)*]

- Amending section 11.(2) of Ontario *Payday Loans Act*, striking out the section and substituting the following:

(2) Subject to section 13, upon issuing or renewing a licence or at any other time, the Registrar

may apply to the licence the conditions that the Registrar considers appropriate.

[*Ontario Payday Loans Act, s 11.(2); PEI Bill, s 11.(2)*]

- Amending section 13.(1)(c) of *Ontario Payday Loans Act*, striking out “to which the applicant or licensee has not consented.”

[*Ontario Payday Loans Act, s 13.(1)(c); PEI Bill, s 13.(1)(c)*]

- Amending section 13.(2) of *Ontario Payday Loans Act*, striking out the section and substituting the following:

(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 request a hearing.

[*Ontario Payday Loans Act, s 13.(2); PEI Bill, s 13.(2)*]

- Adding a new section 13.(3) to the PEI Bill as follows:

(3) The applicant or licensee is entitled to a hearing by the Director if under subsection (2)(b) the applicant or licensee serves a written request for a hearing on the Director within 15 days after service of the notice of proposal.

[*PEI Bill, s 13.(3)*]

- Amending section 13.(3) of *Ontario Payday Loans Act*, striking out “64” and substituting “61.”

[*Ontario Payday Loans Act, s 13.(3); PEI Bill, s 13.(4)*]

- Amending section 13.(5) of *Ontario Payday Loans Act*, striking out “Tribunal” and substituting “Director.”

[*Ontario Payday Loans Act, s 13.(5); PEI Bill, s 13.(6)*]

- Amending section 13.(6) of *Ontario Payday Loans Act*, striking out “Tribunal” and substituting “Director.”

[*Ontario Payday Loans Act, s 13.(6); PEI Bill, s 13.(7)*]

- Amending section 13.(7) of *Ontario Payday Loans Act*, striking out “Tribunal” and substituting “Director.”

[*Ontario Payday Loans Act, s 13.(7); PEI Bill, s 13.(8)*]

- Amending section 13.(8) of Ontario *Payday Loans Act*, striking out “Tribunal under section 11 of the Licence Appeal Tribunal Act, 1999, the order takes effect immediately but the Tribunal” and substituting “Director, the order takes effect immediately but the Director.”
[*Ontario Payday Loans Act, s 13.(8); PEI Bill, s 13.(9)*]

- Amending sections 14.(3) of Ontario *Payday Loans Act*, striking out “Tribunal” and substituting “Director.”
[*Ontario Payday Loans Act, s 14.(3); PEI Bill, s 14.(3)*]

- Amending section 15.(3) of Ontario *Payday Loans Act*, striking out “Tribunal” and substituting “Director.”
[*Ontario Payday Loans Act, s 15.(3); PEI Bill, s 15.(3)*]

- Amending section 15.(4) of Ontario *Payday Loans Act*, striking out “Tribunal” and substituting “Director.”
[*Ontario Payday Loans Act, s 15.(4); PEI Bill, s 15.(4)*]

- Amending section 17.(c) of Ontario *Payday Loans Act*, striking out the section and substituting the following:

(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
 - (i) the licensee does not request a hearing, or
 - (ii) the licensee requests a hearing and the Director makes his or her order.
[*Ontario Payday Loans Act, s 17.(c); PEI Bill, s 17.*]

- Amending section 18.(2)(c) and (d) of Ontario *Payday Loans Act*, striking out the sections and substituting the following:

(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
 - (i) the licensee does not request a hearing, or
 - (ii) the licensee requests a hearing and the Director makes his or her order.
[*Ontario Payday Loans Act, s 18.(2)(c) and (d); PEI Bill, s 18.(2)(c)*]

- Amending section 20.(2) of Ontario *Payday Loans Act*, striking out “carried” and substituting “it carries.”
[*Ontario Payday Loans Act, s 20.(2); PEI Bill, s 20.(2)*]

- Amending section 25.(2) of Ontario *Payday Loans Act*, striking out “any description or device that would indicate that the licensee’s business is being carried on by more than one individual or by a corporation or other entity” and substituting “as his or her business style, some 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 some other word or phrase indicating a plurality of members in the concern.”

[*Ontario Payday Loans Act*, s 25.(2); *PEI Bill*, s 25.(2)]
- Amending section 32.(1)(a) of Ontario *Payday Loans Act*, striking out “or, if another amount is prescribed, that amount or less.”

[*Ontario Payday Loans Act*, s 32.(1)(a); *PEI Bill*, s 32.(1)(a)]
- Amending section 32.(1)(b) of Ontario *Payday Loans Act*, striking out “or, if another number of days is prescribed, that number of days or less.”

[*Ontario Payday Loans Act*, s 32.(1)(b); *PEI Bill*, s 32.(1)(b)]
- Adding a new section 38. to the PEI Bill as follows:

Prohibited Activities

38. (1) In this section, “prohibited activities” means a practice that a collection agency or collector is prohibited from undertaking pursuant to section 5 of the *Collection Agencies Act* Regulations.

No prohibited activities

(2) No lender or loan broker shall engage in any practice that would be a prohibited activity if the lender or loan broker were a collection agency or collector within the meaning of the *Collection Agencies Act* Regulations.

Application of *Collection Agencies Act* Regulations

(3) For the purposes of this section, section 5 of the *Collection Agencies Act* Regulations applies, with any necessary modification, to a lender or loan broker as if that lender or loan broker were a collection agency or collector within the meaning of the Act.

[*PEI Bill*, ss 38.(1),(2), and (3)]
- Amending section 39.(2) of Ontario *Payday Loans Act*, striking out “Superior Court of Justice” and substituting “Supreme Court.”

[*Ontario Payday Loans Act*, s 39.(2); *PEI Bill*, s 40.(2)]
- Amending section 39.(3) of Ontario *Payday Loans Act*, striking out “Superior Court of Justice” and substituting “Supreme Court.”

[*Ontario Payday Loans Act*, s 39.(3); *PEI Bill*, s 40.(3)]

- Amending section 39.(5) of Ontario *Payday Loans Act*, striking out “*Arbitration Act, 1991*” and substituting “*Arbitration Act R.S.P.E.I. 1988, Cap. A-16.*”
[*Ontario Payday Loans Act, s 39.(5); PEI Bill, s 40.(5)*]
- Striking out section 40. of Ontario *Payday Loans Act*.
[*Ontario Payday Loans Act, ss 40.(1), (2), (3), and (4)*]
- Amending section 42.(2) of Ontario *Payday Loans Act*, striking out “may be oral or” and substituting “shall be.”
[*Ontario Payday Loans Act, s 39.(5); PEI Bill, s 40.(5)*]
- Amending section 42.(4)(b) of Ontario *Payday Loans Act*, striking out the section and substituting the following:
 - (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 29 (1).
[*Ontario Payday Loans Act, s 42.(4)(b); PEI Bill, s 42.(4)(b)*]
- Amending section 45.(1) of Ontario *Payday Loans Act*, striking out the section and substituting the following:
 - Action in Supreme Court
 - 45. (1) A borrower who has a right to commence an action under this Act may commence the action in the Supreme Court.
[*Ontario Payday Loans Act, s 45.(1); PEI Bill, s 45.(1)*]
- Amending section 49.(1)(a)(ii) of Ontario *Payday Loans Act*, striking out the section and substituting the following:
 - (ii) information or evidence that relates to the contravention of this Act or the regulations or the fitness, under this Act, of the 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.
[*Ontario Payday Loans Act, s 49.(1)(a)(ii); PEI Bill, s 49.(1)(a)(ii)*]
- Amending section 49.(3)(a) and (b) of Ontario *Payday Loans Act*, striking out “justice of the peace” and substituting “Supreme Court.”
[*Ontario Payday Loans Act, s 49.(3)(a) and (b); PEI Bill, s 49.(3)(a) and (b)*]

- Amending section 49.(4) of Ontario *Payday Loans Act*, striking out “justice of the peace” and substituting “court.”
[*Ontario Payday Loans Act, s 49.(4); PEI Bill, s 49.(4)*]
- Amending section 49.(7) of Ontario *Payday Loans Act*, striking out “a justice of the peace” and substituting “the court.”
[*Ontario Payday Loans Act, s 49.(4); PEI Bill, s 49.(4)*]
- Amending section 49.(8) of Ontario *Payday Loans Act*, striking out “investigator” and substituting “police officers.”
[*Ontario Payday Loans Act, s 49.(4); PEI Bill, s 49.(4)*]
- Amending section 51.(3) of Ontario *Payday Loans Act*, adding “the police officers may” directly between the words “and” and “use.”
[*Ontario Payday Loans Act, s 51.(3); PEI Bill, s 51.(3)*]
- Amending section 52.(1)(b)(i) of Ontario *Payday Loans Act*, striking out that section and substituting the following:
(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
[*Ontario Payday Loans Act, s 52.(1)(b)(i); PEI Bill, s 52.(1)(b)(i)*]
- Amending section 52.(2)(b)(i) and (ii) of Ontario *Payday Loans Act*, striking out “it” and substituting “the money or asset.”
[*Ontario Payday Loans Act, s 52.(2)(b)(i) and (ii); PEI Bill, s 52.(b)(i) and (ii)*]
- Amending section 52.(3)(b) and (c) of Ontario *Payday Loans Act*, striking out “it” and substituting “the money or asset.”
[*Ontario Payday Loans Act, s 52.(3)(b) and (c); PEI Bill, s 52.(3)(b) and (c)*]
- Amending section 52.(6)(b) of Ontario *Payday Loans Act*, striking out “the *Loan and Trust Corporations Act*” and substituting “section 4 of the *Extra-Provincial Corporations Registration Act* 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.”
[*Ontario Payday Loans Act, s 52.(6)(b); PEI Bill, s 52.(6)(b)*]

- Amending section 52.(6)(c) of Ontario *Payday Loans Act*, striking out “the *Caisse Populaires Act, 1994* and substituting “*Act R.S.P.E.I. 1988, Cap. C-29.1.*”
[*Ontario Payday Loans Act, s 52.(6)(c); PEI Bill, s 52.(6)(c)*]
- Amending section 52.(8)(b) of Ontario *Payday Loans Act*, adding “R.S.P.E.I. 1988, Cap. I-4” between “*Act*” and “to.”
[*Ontario Payday Loans Act, s 52.(8)(b); PEI Bill, s 52.(8)(b)*]
- Amending section 52.(9) of Ontario *Payday Loans Act*, striking out “Superior Court of Justice” and substituting “Supreme Court.”
[*Ontario Payday Loans Act, s 52.(9); PEI Bill, s 52.(9)*]
- Amending section 52.(11) of Ontario *Payday Loans Act*, striking out “Tribunal” and substituting “Supreme Court.”
[*Ontario Payday Loans Act, s 52.(11); PEI Bill, s 52.(11)*]
- Amending section 52.(12) of Ontario *Payday Loans Act*, striking out that section and substituting the following:
Disposition by the Supreme Court
(12) The Director may make application to the Supreme Court and 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
(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.
[*Ontario Payday Loans Act, s 52.(12); PEI Bill, s 52.(12)*]
- Amending section 52.(13) of Ontario *Payday Loans Act*, striking out “Tribunal” and substituting “court.”
[*Ontario Payday Loans Act, s 52.(13); PEI Bill, s 52.(13)*]
- Amending section 52.(14) of Ontario *Payday Loans Act*, striking out “Superior Court of Justice” and substituting “Supreme Court.”
[*Ontario Payday Loans Act, s 52.(14); PEI Bill, s 52.(14)*]
- Amending section 53.(3) of Ontario *Payday Loans Act*, striking out “Tribunal” and substituting “Director.”
[*Ontario Payday Loans Act, s 53.(3); PEI Bill, s 53.(3)*]

- Amending section 53.(4) of Ontario *Payday Loans Act*, striking out “Tribunal” and substituting “Director.”
[*Ontario Payday Loans Act, s 53.(4); PEI Bill, s 53.(4)*]
- Amending section 54.(1) of Ontario *Payday Loans Act*, striking out “Superior Court of Justice” and substituting “Supreme Court.”
[*Ontario Payday Loans Act, s 54.(1); PEI Bill, s 54.(1)*]
- Amending section 54.(1) of Ontario *Payday Loans Act*, striking out “Divisional Court” and substituting “Court of Appeal.”
[*Ontario Payday Loans Act, s 54.(1); PEI Bill, s 54.(1)*]

- Adding a new section 55. to the PEI Bill as follows:

Appeal to Supreme Court

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

___ Time for appeal

(2) An appeal must be made within 30 days after a decision or order of the director.

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.

Documents to be filed with the court for purposes of appeal

(4) On receipt of a notice of an appeal pursuant to subsection 1, 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 decision or order;
- (b) the Director’s decision or order; and
- (c) the Director’s written reasons for the decision or order.

Decision by court

(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

- (i) further consideration, and
- (ii) a decision or order; or

— (f) make any other order that the court considers appropriate.

(6) The court may make any order as to costs on an appeal that the court considers appropriate.

Application for stay

(8) The commencement of an appeal pursuant to subsection 1 does not stay the effect of the decision or order appealed from, unless a judge of the court orders otherwise.

[*PEI Bill, s 55.*]

- Amending section 57.(2) of Ontario *Payday Loans Act*, striking out that section and substituting the following:

(2) Subsection (1) applies to a fine payable as a result of a conviction for an offence under this Act.

[*Ontario Payday Loans Act, s 57.(2); PEI Bill, s 58.(2)*]

- Amending section 58.(1) of Ontario *Payday Loans Act*, striking out “57 (2)” substituting “58 (2).”

[*Ontario Payday Loans Act, s 58.(1); PEI Bill, s 59.(1)*]

- Amending section 58.(2)(a) of Ontario *Payday Loans Act*, adding “R.S.P.E.I. 1988, Cap. P-3.1” between “*Act*” and “,except.”

[*Ontario Payday Loans Act, s 58.(2)(a); PEI Bill, s 59.(2)(a)*]

- Striking out sections 59, 60, 61, and 62 of Ontario *Payday Loans Act*.

[*Ontario Payday Loans Act, ss 59., 60., 61., and 62.*]

- Amending section 63.(1)(b) of Ontario *Payday Loans Act*, striking “ministry,.”

[*Ontario Payday Loans Act, s 63.(1)(b); PEI Bill, s 60.(2)(b)*]

- Amending section 63.(1)(c) of Ontario *Payday Loans Act*, striking the subsection.

[*Ontario Payday Loans Act, s 63.(1)(c)*]

- Striking out sections 66, 67, 68, 69, 70, 71, 72, 73, 74, 75 and 76 of Ontario *Payday Loans Act*.

[*Ontario Payday Loans Act, ss 66. 67., 68., 69., 70., 71., 72., 73., 74., 75., and 76.*]

- Adding sections 63(a) and (b) to the PEI Bill as follows:
 - (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 subsection (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;

[PEI Bill s 63.(a) and (b)]

- Adding a new subsection 64.(3) to the PEI Bill as follows:

Agreements with Other Jurisdictions

(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

(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.

[PEI Bill, s 64.(3)]