

BILL

No. 24 of 2005

An Act to amend *The Cost of Credit Disclosure Act, 2002* and to make consequential amendments to another Act

(Assented to)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Cost of Credit Disclosure Amendment Act, 2005*.

S.S. 2002, c.C-41.01 amended

2 *The Cost of Credit Disclosure Act, 2002* is amended in the manner set forth in this Act.

Section 2 amended

3 **Clause 2(k) is amended by striking out “as defined in section 36” and substituting “as defined in section 35.1”.**

New sections 11 and 11.1

4 **Section 11 is repealed and the following substituted:**

“Delivery of documents

11(1) Subject to subsections (2) and (3), any disclosure statement, notice or other document that is required to be delivered pursuant to this Act or the regulations must be delivered:

- (a) by personal service;
- (b) by ordinary mail;
- (c) by registered mail; or
- (d) by any other means prescribed in the regulations.

(2) If a credit grantor is required to deliver a disclosure statement, notice or other document to a borrower pursuant to this Act or the regulations, the credit grantor may deliver the disclosure statement, notice or other document by electronic means if:

- (a) the borrower consents, in writing, to the delivery by electronic means; and
- (b) the disclosure statement, notice or other document is in an electronic form that the borrower can retrieve and retain.

(3) When a credit grantor delivers a disclosure statement, notice or other document to the borrower in accordance with this section, the disclosure statement, notice or other document is deemed to have been received by the borrower on the earliest of:

- (a) the day the borrower actually receives it;
- (b) five days after the date that it was sent; and
- (c) the time and date set out in the regulations.

“Delivery of documents if there is more than one borrower

11.1(1) Subject to subsections (2) and (3), and with the borrowers’ consent, if there is more than one borrower under a credit agreement, a disclosure statement, notice or other document that is required to be delivered to the borrowers may be delivered to any one of the borrowers.

(2) Subsection (1) does not apply with respect to a written notice respecting an acceleration clause required pursuant to section 20.

(3) Each borrower under a credit agreement may request a separate disclosure statement, notice or other document, and the credit grantor shall provide the information requested free of charge”.

Section 12 amended

5 Section 12 is amended by striking out “, 31”.

Section 13 amended

6 Subsection 13(3) is repealed and the following substituted:

“(3) If the borrower pays or is required to pay a brokerage fee, the initial disclosure statement for the credit agreement must:

- (a) disclose the amount of the brokerage fee;
- (b) account for the brokerage fee in the total cost of credit; and
- (c) in the case of fixed credit, account for the brokerage fee in the APR”.

Section 14 amended

7 Subsection 14(2) is repealed and the following substituted:

“(2) If the credit grantor deducts a brokerage fee from an advance, the credit grantor’s initial disclosure statement for the credit agreement must:

- (a) disclose the amount of the brokerage fee;
- (b) account for the brokerage fee in the total cost of credit; and
- (c) in the case of fixed credit, account for the brokerage fee in the APR”.

New section 18

8 Section 18 is repealed and the following substituted:

“Default charges

18(1) Subject to *The Limitation of Civil Rights Act* and *The Saskatchewan Farm Security Act*, a credit grantor may impose the default charges set out in subsection (2) in a credit agreement.

(2) A credit grantor shall not impose any default charges in a credit agreement other than:

- (a) reasonable charges respecting legal costs incurred in collecting or attempting to collect a payment;
- (b) reasonable charges respecting costs, including legal costs, incurred in realizing on a security interest or protecting the subject-matter of a security interest after default; and
- (c) reasonable charges respecting costs incurred by the credit grantor because a cheque or other payment instrument given by the borrower to the credit grantor was dishonoured”.

Section 24 amended

9 Clause 24(2)(b) is amended by adding “in the case of a transaction under an agreement for fixed credit,” before “the APR”.

New section 31

10 Section 31 is repealed and the following substituted:

“Advertising for open credit

31 A credit grantor shall ensure that every advertisement that gives any specific information about the cost of open credit discloses:

- (a) the current annual interest rate for the open credit; and
- (b) any initial or periodic non-interest finance charges for the open credit”.

Section 33 amended

11 Clause 33(1)(g) is repealed.

New section 35.1

12 The following section is added after section 35:

“No unsolicited credit cards

35.1(1) In this section and in sections 36 to 37.2, ‘**credit card issuer**’ means a person who is a credit grantor in relation to a credit card.

(2) A credit card issuer shall not issue a credit card to a person who has not applied for the credit card.

(3) Subsection (2) does not apply to a credit card that is issued to a person to replace or renew a card that was applied for and issued to that person”.

Section 36 amended

13 Section 36 is amended:

(a) **in the portion preceding clause (a) by striking out “and section 37” and substituting “and in sections 37 to 37.2”; and**

(b) **by repealing clause (b).**

New sections 37.1 and 37.2

14 The following sections are added after section 37:

“Surrender of credit card

37.1(1) A credit card holder may surrender a credit card to a credit card issuer by notifying the credit card issuer, or an agent of the credit card issuer, that the credit card holder:

- (a) is giving up possession and control of the credit card; and
 - (b) undertakes to no longer use the credit card.
- (2) Notice pursuant to subsection (1) may be given orally or in writing.
- (3) After giving notice pursuant to subsection (1), the credit card holder:
- (a) shall follow the credit card issuer’s instructions respecting disposal of the credit card; and
 - (b) is not liable for any future use of the credit card by any person other than the credit card holder.

“Limitation of liability for unauthorized use of credit card

37.2(1) This section applies notwithstanding any agreement to the contrary that was entered into before, on or after the coming into force of this section.

- (2) If a credit card is lost or stolen and the credit card issuer is notified of the loss or theft, the credit card holder is not liable for any debt incurred through the unauthorized use of the credit card after the credit card issuer is notified of the loss or theft.
- (3) If a debt is incurred in the name of a credit card holder through the unauthorized use of credit card information and the credit card issuer receives notice of the unauthorized use within 30 days after the date of issuance of the first credit card statement that includes the debt, the credit card holder is not liable for that debt.
- (4) Notice pursuant to subsection (2) or (3) may be given orally or in writing.
- (5) Subject to subsection (6) and the regulations, the maximum liability of a credit card holder arising from the unauthorized use of a lost or stolen credit card before the credit card issuer receives notice of the loss or theft pursuant to subsection (2) is the lesser of:
- (a) \$50 or any greater amount prescribed in the regulations; and
 - (b) the amount fixed or agreed to by the credit card issuer as the maximum amount for which the credit card holder is liable in the event of the unauthorized use of the credit card after its loss or theft.
- (6) Subsection (5) does not apply to any transaction or category of transactions exempted by the regulations”.

2005

COST OF CREDIT DISCLOSURE

Section 53 amended

15 Section 53 is amended:

(a) in clause (b) by adding “that extend fixed credit” after “credit agreements”;

(b) by adding the following clause after clause (k):

“(k.1) prescribing other means by which a disclosure statement, notice or other document may be delivered for the purposes of clause 11(1)(d);”

(c) in clause (l) by adding “disclosure statements,” before “notices”;

(d) in clause (m) by adding “disclosure statement,” before “notice”; and

(e) by adding the following clauses after clause (q):

“(q.1) prescribing an amount for the purposes of clause 37.2(5)(a);

“(q.2) exempting any transaction or category of transactions from the application of subsection 37.2(5)”.

S.S. 1996, c.C-30.1 amended

16(1) *The Consumer Protection Act* is amended in the manner set forth in this section.

(2) The heading preceding section 72 is struck out and the following substituted:

“PART IV
Unsolicited Goods”.

(3) Section 72 is repealed and the following substituted:

“Interpretation of Part

72 In this Part, ‘**unsolicited goods**’ means personal property, the receipt of which has not been requested by the recipient, but does not include personal property delivered to a person who knows or ought to know that the goods are intended for delivery to another person”.

(4) Section 73 is repealed and the following substituted:

“Legal obligation of recipients

73 Where unsolicited goods are received, the recipient has no legal obligation to the sender unless and until the recipient acknowledges to the sender in writing his or her intention to accept the unsolicited goods”.

(5) Section 74 is amended by striking out “unsolicited credit card or unsolicited goods or for the value of goods, services or cash obtained by use of the unsolicited credit card” and substituting “unsolicited goods”.

(6) Sections 75 to 75.3 are repealed.

(7) Clauses 75.4(b) and (c) are repealed.

(8) Section 75.5 is amended by adding the following clauses after clause (b):

“(b.1) **‘credit card’** means a card, document or similar instrument by which goods or services may be purchased on deferred payment or by means of which cash may be obtained;

“(b.2) **‘credit card holder’** means a person to whom a credit card has been issued;

“(b.3) **‘credit card issuer’** means a person who issues credit cards”.

Coming into force

17 This Act comes into force on proclamation.