

The Home Energy Loan Act

Repealed

by Chapter 19 of *The Statutes of Saskatchewan, 2018*
(effective May 9, 2018).

Formerly

Chapter H-4.1 of *The Revised Statutes of Saskatchewan, 1978*
(*Supplement*) (effective April 25, 1978) as amended by
the *Statutes of Saskatchewan, 1983, c.77*; and *2014, c.19*.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER H-4.1

An Act to provide Loans to Saskatchewan Homeowners for the purpose of Promoting Energy Conservation

SHORT TITLE

Short title

- 1 This Act may be cited as *The Home Energy Loan Act*.

INTERPRETATION

Interpretation

- 2 In this Act:

- (a) **“agent”** means Saskatchewan Power Corporation or any other person, government department, Crown corporation or body that is designated by the minister as his agent;
- (b) **“eligible insulation installer”** means an insulation installer who holds a licence granted under section 10;
- (c) **“eligible residence”** means a residence that is defined in the regulations as an eligible residence for the purposes of this Act;
- (d) **“energy conserving material”** means material that is defined in the regulations as energy conserving material for the purposes of this Act;
- (e) **“insulation”** means material that is defined in the regulations as insulation for the purposes of this Act;
- (f) **“insulation contract”** means a contract, whether verbal or written, between an owner and an insulation installer providing for the installation of insulation, or insulation and energy conserving material, in an eligible residence;
- (g) **“insulation installer”** means an individual, firm or corporation that installs insulation for others;
- (h) **“licence”** means a valid and subsisting licence granted under this Act;
- (i) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act, or any part of this Act, is assigned;
- (i.1) **“municipality”** means a city, town, village, rural municipality, municipal district or northern municipality;
- (j) **“owner”** means owner as defined in the regulations;

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(k) “**registrar**” means the member of the public service designated by the minister as the registrar for the purposes of this Act.

R.S.S. 1978 (Supp.), c.H-4.1, s.2; 1983, c.77, s.32;
2014, c.19, s.43.

INSULATION LOANS

Minister or agent may make loans

3(1) The minister or his agent may make one or more loans directly or indirectly to an owner to assist him in paying the cost of installing, improving, extending or replacing insulation or other energy conserving material in his eligible residence.

(2) The total amount of all loans made under subsection (1) to an owner in respect of an eligible residence shall not exceed \$1,000 in the aggregate.

R.S.S. 1978 (Supp.), c.H-4.1, s.3.

Powers of minister or agent

4 For the purpose of administering this Act, the minister or his agent may:

- (a) subject to the regulations, attach such terms and conditions respecting the advancement and repayment of loans as he considers advisable;
- (b) employ or engage any persons that he considers necessary to assist him in the administration of this Act;
- (c) enforce repayment of loans by action in any court of competent jurisdiction;
- (d) require the payment of interest on principal in arrears, at the rate and in the manner prescribed in the regulations;
- (e) do all things necessary for and incidental to the proper administration of this Act.

R.S.S. 1978 (Supp.), c.H-4.1, s.4.

Application for loan

5 Any owner may apply for a loan pursuant to this Act and the application shall be:

- (a) completed in the form that may be prescribed by the minister or his agent;
- (b) accompanied by any documents or other evidence of eligibility for the loan that may be prescribed by the regulations or required by the minister or his agent.

R.S.S. 1978 (Supp.), c.H-4.1, s.5.

Loan not payable in certain circumstances

6 No loan shall be payable under this Act if the insulation installer designated in the application is a person other than the owner and is not an eligible insulation installer or a restricted eligible insulation installer.

R.S.S. 1978 (Supp.), c.H-4.1, s.6.

Determination by minister or agent final

7 The determination by the minister or his agent that an applicant for a loan is not eligible for a loan is final.

R.S.S. 1978 (Supp.), c.H-4.1, s.7.

LICENSING OF INSULATION INSTALLERS**Licences required**

8 Unless otherwise permitted under this Act, no person shall carry on business, act or hold himself out as an eligible insulation installer or as a restricted eligible insulation installer unless he is the holder of a licence.

R.S.S. 1978 (Supp.), c.H-4.1, s.8.

Compliance with municipal licensing bylaws

9 Nothing in this Act shall relieve any person, nor shall the issuance of a licence under this Act relieve the licensee, from compliance with any licensing bylaw of a municipality passed under statutory authority.

R.S.S. 1978 (Supp.), c.H-4.1, s.9.

Registrar may grant licences

10(1) The registrar may grant a licence to carry on the business of an eligible insulation installer or a restricted eligible insulation installer.

(2) The holder of a licence to carry on business as an eligible insulation installer may carry on the business of insulation installing in every respect.

(3) The holder of a licence to carry on business as a restricted eligible insulation installer may carry on the business of insulation installing to a maximum of five insulation installations in any year, or the maximum number of insulation installations that is specified in the regulations.

R.S.S. 1978 (Supp.), c.H-4.1, s.10.

Application for licence

11(1) Every application for a licence shall be made to the registrar upon a form provided by him and shall be accompanied by the fee prescribed in the regulations.

(2) Every applicant or person acting on behalf of an applicant may be required by the registrar to verify by affidavit or otherwise the statements made by him in the application.

R.S.S. 1978 (Supp.), c.H-4.1, s.11.

Address for service

12(1) Every applicant for a licence shall state in his application an address for service in Saskatchewan, and any notice under this Act or the regulations shall, for all purposes, be sufficiently served on him if it is served personally or is personally delivered at, or sent by registered mail to, that address or the address for service stated or shown in a notice given pursuant to subsection (2).

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(2) Every licensee shall, within ten days of a change in his address for service, notify the registrar in writing of his new address for service.

(3) Where a notice is sent to a licensee by registered mail, the notice shall be deemed to have been served on the licensee on the second day after the date of the postmaster's receipt for the envelope containing the notice.

R.S.S. 1978 (Supp.), c.H-4.1, s.12.

Granting or refusing of licence

13 The registrar may grant a licence where, in his opinion, the applicant is suitable to be licensed and the proposed licensing is not for any reason objectionable, but the registrar may refuse to grant a licence if after investigation he is for any reason of the opinion that the applicant should not be granted a licence.

R.S.S. 1978 (Supp.), c.H-4.1, s.13.

Licence may be subject to terms and conditions

14(1) The registrar may grant a licence subject to any terms, conditions and restrictions that he considers necessary.

(2) Where a licence has been granted, the registrar may, by notice to the licensee:

- (a) make the licence subject to any terms, conditions and restrictions; or
- (b) vary, add to or revoke any terms, conditions and restrictions to which the licence is subject;

as the registrar considers necessary.

(3) Every licensee shall comply with the terms, conditions and restrictions to which his licence is subject.

R.S.S. 1978 (Supp.), c.H-4.1, s.14.

Registrar may require further information

15 The registrar may at any time require further information or material to be submitted by an applicant for a licence or by a licensee within a specified time and may require verification by affidavit or otherwise of any information or material so submitted or previously submitted.

R.S.S. 1978 (Supp.), c.H-4.1, s.15.

Suspension or cancellation of licence

16(1) The registrar may suspend or cancel a licence upon any grounds on which he might have refused to grant the licence or where he is satisfied that the licensee:

- (a) has violated any provision of this Act or has failed to comply with any of the terms, conditions or restrictions to which his licence is subject;
- (b) has made a material mis-statement in the application for his licence or in any of the information or material submitted by him at the request of the registrar pursuant to section 15;

- (c) is guilty of any misrepresentation, fraud or dishonesty; or
 - (d) has demonstrated his incompetency, unfitness or untrustworthiness to carry on the business in respect of which his licence was granted.
- (2) Where a licence is suspended or cancelled under subsection (1), the suspension or cancellation is effective on and from the day on which the notice of suspension or cancellation is served on the licensee.
- (3) Where a bond filed by a person under this Act is terminated, the licence of that person is automatically suspended and shall remain suspended until the person files with the registrar a new bond in the amount and form required.

R.S.S. 1978 (Supp.), c.H-4.1, s.16.

Request for hearing

- 17(1)** An applicant for a licence or a licensee who is dissatisfied with a decision of the registrar under this Act may, within thirty days from the date of the decision, apply in writing to the registrar for a hearing and thereupon the registrar shall fix a date for the hearing which, unless otherwise agreed, shall be held not later than seven days after the date of the receipt of the application for the hearing.
- (2) The registrar shall, within ten days of the conclusion of the hearing, render a decision in writing giving the reasons therefor and he shall immediately send a copy of his decision and reasons to the applicant or licensee.
- (3) The applicant or licensee may be represented by counsel in any hearing before the registrar.
- (4) For the purpose of holding a hearing, the registrar:
- (a) may require and may take and receive affidavits, statutory declarations and depositions;
 - (b) may examine witnesses under oath and may administer the oath;
 - (c) has the same power that any court has in civil cases to:
 - (i) summon persons to attend as witnesses and to give evidence;
 - (ii) enforce the attendance of witnesses; and
 - (iii) compel witnesses to produce books, documents and things.

R.S.S. 1978 (Supp.), c.H-4.1, s.17.

Appeal to Court of Queen's Bench

- 18(1)** A person who is dissatisfied with a decision of the registrar under section 17 or under subsection 20(3) may, within thirty days from the date of the decision, appeal to a judge of the Court of Queen's Bench and the judge may, upon hearing the appeal, by order:
- (a) dismiss the appeal;
 - (b) allow the appeal;

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- (c) allow the appeal subject to terms and conditions;
 - (d) vary the decision appealed against;
 - (e) refer the matter back to the registrar for further consideration and decision; or
 - (f) award costs of the appeal;
- and may make any other order that he considers necessary.
- (2) The appeal shall be by motion notice of which shall be served upon the registrar at least ten days before the day on which the motion is returnable.
 - (3) There shall be no further appeal.

R.S.S. 1978 (Supp.), c.H-4.1, s.18.

Expiry date of licence

19 Unless previously terminated or cancelled every licence expires five years after the day on which it was issued.

R.S.S. 1978 (Supp.), c.H-4.1, s.19.

BONDS

Registrar may require bond

20(1) Every applicant for a licence may be required to file with the registrar, as part of the application, a bond in the amount and form prescribed by the registrar, issued by an insurer licensed under *The Saskatchewan Insurance Act* to transact guarantee insurance.

(2) Notwithstanding that Her Majesty in right of Saskatchewan has not suffered any loss or damages, every bond filed with the registrar under subsection (1) shall be construed as being a penal bond and, where any such bond is forfeited pursuant to subsection (3), the amount due and owing as a debt to Her Majesty in right of Saskatchewan by the person bound thereby shall be determined as if Her Majesty suffered such loss or damages as would entitle Her Majesty to be indemnified to the maximum amount of liability prescribed by the bond.

(3) Every bond filed under subsection (1) shall be forfeited upon the demand of the registrar where:

- (a) the person in respect of whose conduct the bond is conditioned or any authorized representative of that person has been convicted of an offence:
 - (i) under this Act or the regulations;
 - (ii) involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the *Criminal Code*;
- (b) final judgment in respect of a claim arising from an insulation contract has been given against the person in respect of whose conduct the bond is conditioned or against any authorized representative of that person;

(c) the person in respect of whose conduct the bond is conditioned commits an act of bankruptcy, whether or not proceedings have been taken under the *Bankruptcy Act* (Canada); or

(d) a decision in writing has been rendered by the registrar stating in effect that, after consideration and investigation of a complaint, he is satisfied that the person in respect of whose conduct the bond is conditioned or any authorized representative of that person:

(i) has violated a provision of this Act or has failed to comply with any of the terms, conditions or restrictions to which his licence is subject or is in breach of an insulation contract; and

(ii) has departed from Saskatchewan, or being out of Saskatchewan remains out of Saskatchewan, or has departed from his dwelling house or has otherwise absented himself and reasonable efforts have failed to locate him in the province or, in the case of a corporation, the name thereof has been struck off the register of corporations;

and where there is no further appeal or the time for all appeals has elapsed.

(4) Where a bond secured by the deposit with the registrar of collateral security is forfeited under subsection (3), the registrar may sell the collateral security at the current market price.

(5) The Lieutenant Governor in Council may by order direct that any moneys recovered under a forfeited bond or realized from the sale of any collateral security be:

(a) paid over:

(i) to the local registrar of the Court of Queen's Bench in trust for such persons as may become judgment creditors of the person named in that bond in respect of any insulation contract to which he or his authorized representative is a party;

(ii) to any trustee, custodian, interim receiver, receiver or liquidator of the person named in the bond or his authorized representative;

in accordance with and upon the conditions set forth in the order; or

(b) paid over to such persons as may be deemed by the registrar to be entitled to them.

(6) Any moneys not expended under an order of the Lieutenant Governor in Council made under subsection (5) shall, after the payment of any expenditures incurred by the registrar in connection with the forfeiture of the bond and the determination and settlement of valid claims, be refunded to the surety or obligor under the bond.

GENERAL

Certificate of registrar *prima facie* proof

21 A certificate stating that, at a particular time:

- (a) a person named in the certificate was or was not licensed under this Act; or
- (b) the licence of a person was suspended, cancelled or reinstated;

purporting to be signed by the registrar is, without proof of the office or signature of the registrar, admissible in evidence as *prima facie* proof of the facts stated in the certificate.

R.S.S. 1978 (Supp.), c.H-4.1, s.21.

Investigation by registrar

22(1) The registrar, or any person authorized by him in writing, may investigate and inquire into any matter that he considers necessary for the due administration of this Act.

(2) Any person making an investigation pursuant to this section may at all reasonable times demand the production of and inspect all or any of the books, documents, papers, correspondence and records of the person in respect of whom the investigation is being made, and any person who has the custody, possession or control of any such books, documents, papers, correspondence or records shall produce them and permit their inspection.

R.S.S. 1978 (Supp.), c.H-4.1, s.22.

Rescission of insulation contract

23(1) An insulation contract under this Act may be rescinded by the owner where the insulation installer was not licensed under this Act at the time that the owner entered into the contract.

(2) Where it is shown to a court of competent jurisdiction that, in a particular case, it is inequitable that subsection (1) should apply, the court may make any order that it considers just and expedient.

R.S.S. 1978 (Supp.), c.H-4.1, s.23.

Unlicensed installer cannot bring action

24(1) No action shall be brought by an insulation installer against an owner for the enforcement of an insulation contract under this Act unless the installer was licensed under this Act at the time that the owner entered into the contract.

(2) Subsection (1) does not apply in a case where the installer is exempt from licensing under this Act.

R.S.S. 1978 (Supp.), c.H-4.1, s.24.

Certain agreements void

25 Every agreement or bargain, verbal or written, express or implied, that any of the provisions of this Act or the regulations shall not apply or that any right or remedy provided by this Act or the regulations shall not apply, or which in any way limits, modifies or abrogates or in effect limits, modifies or abrogates any such right or remedy, is void, and moneys paid under or by reason of any such agreement or bargain are recoverable in a court of competent jurisdiction.

R.S.S. 1978 (Supp.), c.H-4.1, s.25.

Offences and penalties

26 Any person who fails to comply with or violates any provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 or, in the case of a corporation, to a fine of not more than \$5,000.

R.S.S. 1978 (Supp.), c.H-4.1, s.26.

Evidence of carrying on business

27 Where, in a prosecution for an offence under this Act it is alleged that the accused carried on the business of an eligible insulation installer without being the holder of a licence granted for the purpose, evidence of one transaction is *prima facie* evidence that the accused carried on such business.

R.S.S. 1978 (Supp.), c.H-4.1, s.27.

Limitation of prosecution

28 No prosecution for an offence under this Act shall be commenced after the expiration of two years from the date of the commission of the alleged offence.

R.S.S. 1978 (Supp.), c.H-4.1, s.28.

Appropriation

29 Moneys necessary for the making of loans and for the administration of this Act shall, upon requisition made by the minister, be paid by the Minister of Finance out of moneys appropriated by the Legislature for the purpose.

R.S.S. 1978 (Supp.), c.H-4.1, s.29.

Regulations

30 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to and are not inconsistent with this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) prescribing any matter required or authorized by this Act to be prescribed by regulation;
- (c) prescribing requirements respecting applicants for loans or licences;
- (d) prescribing the fees payable for licences and services rendered in connection with the administration of this Act;
- (e) exempting any person or class of persons from any of the provisions of this Act;
- (f) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

R.S.S. 1978 (Supp.), c.H-4.1, s.30.