

The Unconscionable Transactions Relief Act

being

Chapter U-1 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan*, [1979-80, c.92](#); [2004, c.L-16.1](#); and [2018, c.42](#).

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 U-1

An Act to provide for Relief from Unconscionable Transactions

Short title

- 1 This Act may be cited as *The Unconscionable Transactions Relief Act*.

Interpretation

- 2 In this Act:

- (a) **“cost of the loan”** means the whole cost to the debtor of money lent, and includes interest, discount, subscription, premium, dues, bonus, commission, brokerage fees and charges, but not actual lawful and necessary disbursements made to a treasurer of a municipality or to a person authorized under any Act to receive for filing or registration any document affecting title to property;
- (b) **“court”** means a court having jurisdiction in an action for the recovery of a debt or money demand to the amount claimed by a creditor in respect of money lent;
- (c) **“creditor”** includes the person advancing money lent and the assignee of any claim arising or security given in respect of money lent;
- (d) **“debtor”** means a person to whom or on whose account money lent is advanced, and includes every surety and endorser or other person liable for the repayment of money lent or upon any agreement or collateral or other security given in respect thereof;
- (e) **“money lent”** includes money advanced or credit granted to or on account of any person in any transaction that, whatever its form may be, is substantially one of money-lending or credit granting or securing the repayment of money so advanced or extended in the way of credit and includes a mortgage of real or personal property, or both;
- (f) **“principal”** includes the credit extended to or on account of any person in a credit transaction, less the cost of the loan.

R.S.S. 1978, c.U-1, s.2.

Powers of court

- 3 Notwithstanding the provisions of any other Act, where, in respect of money lent, the court finds that, having regard to the risk and to all the circumstances at the time the loan was made, the cost of the loan is excessive or that the transaction is harsh or unconscionable the court may:

- (a) re-open the transaction and take an account between the creditor and the debtor and relieve the debtor from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of the loan;

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- (b) notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, re-open any account already taken and relieve the debtor from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of the loan;
- (c) order the creditor to repay any such excess if it has been paid or allowed on account by the debtor;
- (d) set aside either wholly or in part or revise or alter any security given or agreement made in respect of the money lent, and, if the creditor has parted with the security, order him to indemnify the debtor.

R.S.S. 1978, c.U-1, s.3.

Exercise of powers of court

4 The powers conferred by section 3 may be exercised:

- (a) in an action or proceeding by a creditor for the recovery of money lent;
- (b) in an action or proceeding by the debtor notwithstanding any provision or agreement to the contrary, and notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived;
- (c) in an action or proceeding in which the amount due or to become due in respect of money lent is in question;
- (d) in an action or proceeding for the foreclosure of a mortgage, or for the cancellation of an agreement for sale.

R.S.S. 1978, c.U-1, s.4.

Application for relief

5(1) In addition to any right that a debtor may have under this or any other Act or otherwise in respect of money lent he may apply for relief under this Act to a judge of the Court of Queen's Bench sitting at the judicial centre nearest to which the debtor resides and the judge on the application may exercise any of the powers of the court under section 3.

(2) **Repealed.** 1979-80, c.92, s.100.

(3) **Repealed.** 1979-80, c.92, s.100.

(4) **Repealed.** 1979-80, c.92, s.100.

(5) An appeal lies to the Court of Appeal from an order made under subsection (1).

R.S.S. 1978, c.U-1, s.5; 1979-80, c.92, s.100;
2018, c.42, s.65.

Existing powers of court unaffected

6 Nothing in this Act derogates from the existing powers or jurisdiction of any court.

R.S.S. 1978, c.U-1, s.6.

Assignee deemed to have notice of particulars

7(1) Where any security for repayment of, or any right to recover, money lent under a loan or credit granted in respect of which the debtor would be entitled to relief under this Act against the original creditor, is assigned or transferred by that creditor either before, or within two years after, the money lent is disbursed or credit is granted, unless at the time of, or after the assignment or transfer the debtor gives to the assignee an acknowledgment in writing:

- (a) showing the amount of the loan and the amount of money the debtor actually received from such loan;
- (b) showing the amount of credit granted and how much of the amount of credit granted to the debtor is principal;
- (c) stating that the debtor is aware of the cost of the loan;
- (d) stating that the debtor is aware of the manner and amounts in which and the persons to whom the proceeds of the loan were disbursed; and
- (e) setting out the cost of the loan and the particulars mentioned in clause (d);

the assignee or transferee shall be conclusively deemed to have notice of every particular of, and all circumstances surrounding, the loan; and the matters set out in the acknowledgment shall as between the debtor and assignee or transferee be presumed to be true.

(2) An acknowledgment to which reference is made in subsection (1) has no effect under this Act unless it is made before a solicitor authorized to practise in Saskatchewan who certifies:

- (a) that he has explained to the debtor taking the acknowledgment the meaning, purpose and effect thereof;
- (b) that it is made at least forty-eight hours after the money lent has been wholly disbursed or the credit granted wholly extended;
- (c) that neither he or any partner of his or any solicitor employed by him is directly or indirectly interested in the loan or credit transaction; and
- (d) that neither he or any partner of his or solicitor employed by him is solicitor for the original creditor, the assignee or transferee.

(3) This section does not apply to an assignee or transferee under an assignment or transfer of any security for repayment of, or any right to recover money lent or credit granted, that was completed before this Act comes into force.

R.S.S. 1978, c.U-1, s.7.

Limitation on exercise of powers by court

8(1) Notwithstanding anything in this Act, the powers conferred by this Act on a court shall not be exercised by the court in an action or proceeding with respect to a claim that is barred by the application of *The Limitations Act*.

(2) For the purpose of applying *The Limitations Act* to a claim with respect to an obligation of a debtor to repay money pursuant to a loan transaction or to pay money pursuant to a credit transaction, the day on which the act or omission on which the claim is based takes place is the day on which the obligation of the debtor to repay money pursuant to the loan transaction or to pay money pursuant to a credit transaction terminated.

2004, c.L-16.1, s.84.

