



Canadian Payday  
Loan Association

Association canadienne  
des prêteurs sur salaire

**Bill No. 114 an Act to amend Chapter 92  
of the Consumer Protection Act re: Payday Loans.**

The Canadian Payday Loan Association ("CPLA") has the following comments on Bill 114.

The CPLA supports the initiative of the government in amending the legislation to provide for licensing of lenders who provide loans through the internet. A growing number of loans are currently provided to Nova Scotians by lenders through the internet and these lenders are not licensed and do not comply with the protections in the Act and regulations. To provide these protections legislation has to be carefully drafted. The Utility and Review Board ("UARB") took input then issued thoughtful recommendations on legislation. Unfortunately, the province did not adopt two of these regulations. This will result in internet lenders not applying to be licensed to provide internet loans which will result in Nova Scotians continuing to borrow from only unlicensed internet lenders.

**Clause 5 and 6**

Clause 5 prohibits the Registrar from issuing a permit if an application does not specify a location from which the applicant will make payday loans.

Clause 6 requires that the Registrar cancel, suspend or refuse to renew a permit if the permit holder fails or ceases to make the payday loan from the location specified in the permit but does make internet payday loans.

This is directly contrary to the recommendation of the UARB and only hurts Nova Scotians and leaves them unprotected. In their decision, the Board states:

(4) The Board recommends that online payday lenders be required to have a registered office in Nova Scotia but not be required to have a bricks and mortar outlet.

The reason the UARB made this recommendation is the fact that internet lenders are not in the business of and do not wish to open retail bricks and mortar outlets. Because the government makes this a requirement to obtain a license in Nova Scotia, credible internet lenders will simply choose not to apply for a license and offer loans in the province of Nova Scotia. The result will be that the internet provisions of this Act will have no effect. There will be few if any licensed lenders and therefore Nova Scotians will not be protected.

In the words of the EUB:

"To insist on a 'bricks and mortar' outlet for an online lender increases the probability that certain online lenders would, as CPLA suggests, choose not to lend to Nova Scotia residents at all. Further the Board sees little practical utility in requiring that an online lender be required to maintain a bank account in the "province".

The fact is Nova Scotia has a small population and consequently it is a small internet market in relation to other provinces.

Internet lenders have no experience or expertise in operating bricks and mortar outlets. It is a very different business model. Leasing retail premise, training and managing staff, advertising, equipment and inventory, cash management, etc. All these things are very different. There are credible internet lenders who are licensed and operating in B.C., Ontario, Alberta and Manitoba but do not lend in Nova Scotia because to date they could not obtain a license. With this legislation they will simply choose not to offer this product in Nova Scotia because the size of the market does not justify changing their business model.

The result will be the Province introduces legislation that has the effect of keeping the credible internet lenders out of the Province but does nothing to prohibit unlicensed lenders.

**Clause 7(d):**

(d) "requires that a payday lender provide the money being advanced under an internet payday loan within one (1) hour of entering into the loan agreement".

Technologically this is not possible. A commercial business cannot deposit funds into an individual's account within one (1) hour of instructing their financial institution to transfer such funds.

A government should not enact a law that the entity that is governed by the legislation has no ability to comply with.

This provision is directly contrary to the specific recommendation of the UARB decision which states:

(3) the Board recommends that no special regulations are needed for the timely delivery of funds on online payday loan borrowers.

From a historical perspective, the only other province in Canada to introduce this wording is the province of Ontario. The province did this without consultation with the industry and has now discovered that financial institutions do not offer a business to business or business to person platform to immediately wire money (although a person to person platform is available). Currently with all financial institutions we are aware of, when they receive instructions from a business to transfer funds the instruction will not be processed any earlier than 10:00 a.m. the following day. Therefore the Province of Ontario is now looking at going through the process of amending their act to correct this error.

Sincerely,



Hon. Stan Keyes, P.C.  
President  
Canadian Payday Loan Association  
Association canadienne des prêteurs sur salaire