

# *The Cost of Credit Disclosure Act, 2002*

*being*

Chapter C-41.01 of *The Statutes of Saskatchewan, 2002*  
(effective October 1, 2006) as amended by *The Statutes of  
Saskatchewan, 2006, c.5*.

## **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 C-41.01

### An Act respecting the Disclosure of the Cost of Credit

#### PART I

#### Interpretation and Application

##### Short title

- 1 This Act may be cited as *The Cost of Credit Disclosure Act, 2002*.

##### Interpretation

- 2 In this Act:

- (a) **“advance”** means value received or to be received by a borrower within the meaning of subsection 3(2);
- (b) **“APR”** means the annual percentage rate determined in accordance with the regulations;
- (c) **“associate”**, when used to indicate a relationship with a person, means:
  - (i) a spouse, child, sibling or business partner of the person; or
  - (ii) a corporation of which a sufficient number of shares to elect a majority of its directors is owned by:
    - (A) the person;
    - (B) one or more associates of the person; or
    - (C) the person and one or more associates of the person;
- (d) **“borrower”** means the party to a credit agreement or prospective credit agreement who receives or will receive credit from the other party, but does not include a guarantor;
- (e) **“brokerage fee”** means an amount that a borrower pays or agrees to pay to a loan broker in consideration of the loan broker’s services in arranging or attempting to arrange a credit agreement, and includes an amount that is deducted from an advance made to the borrower and paid to the loan broker by the credit grantor;
- (f) **“cash customer”** means a person who buys a product and pays for it in full before or at the time of receiving the product;
- (g) **“cash price”**, in relation to a product, means:
  - (i) for a sale by a credit grantor or an associate of the credit grantor who sells the product to cash customers in the ordinary course of business, an amount that fairly represents the price at which the credit grantor or associate sells the product to cash customers, unless the parties agree to a lower price;

(ii) for a sale to which subclause (i) does not apply, the price agreed to by the parties; and

(iii) for an advertisement, the price at which the advertiser currently offers to sell the product to cash customers or, if the advertiser does not currently offer the product to cash customers, the price stated in the advertisement;

and, for the purpose of determining the amount advanced under a credit agreement, includes taxes and any other charges payable by a cash customer;

(h) **“cash value”**, in relation to leased goods, means:

(i) if the lessor offers like goods to cash customers in the ordinary course of business, an amount that fairly represents the price at which the credit grantor sells those goods to cash customers, unless the parties agree to a lower cash value; and

(ii) if the lessor does not in the ordinary course of business offer like goods to cash customers, the lessor’s reasonable estimate of the amount that cash customers would pay to buy those goods, unless the parties agree to a lower cash value;

(i) **“credit agreement”** means an agreement under which credit is extended and includes:

(i) an agreement with respect to:

(A) a loan of money;

(B) a credit sale;

(C) a line of credit; or

(D) a credit card; and

(ii) a renewal of an agreement mentioned in this clause;

(j) **“credit card”** means a card or other device that can be used to obtain advances under a credit agreement for open credit;

(k) **“credit grantor”** means:

(i) the party to a credit agreement or prospective credit agreement who extends or will extend credit to the other party; or

(ii) an assignee of the rights of the original credit grantor, if the borrower has been given notice of the assignment;

and includes a credit card issuer as defined in section 35.1;

(l) **“credit sale”** means a transaction in which the purchase of a product is financed by the seller or manufacturer of the product or by an associate of the seller or manufacturer;

(m) **“default charge”** means a charge imposed on a borrower who fails to make a payment as it comes due under a credit agreement or who fails to comply with any other obligation under a credit agreement, but does not include interest on an overdue payment;

- (n) **“fixed credit”** means credit under a credit agreement that is not for open credit;
- (o) **“floating rate”** means an interest rate that bears a specified mathematical relationship to an index rate, and includes an interest rate that:
  - (i) is subject to a minimum or maximum rate; or
  - (ii) is determined at the beginning of a period for the whole period, regardless of changes in the index rate during the period;
- (p) **“grace period”** means a period in which interest accrues but will be forgiven if the borrower satisfies conditions specified in the credit agreement;
- (q) **“index rate”** means a rate that meets the criteria prescribed in the regulations;
- (r) **“interest”** means charges that accrue over time and that are determined by applying a rate to an amount that is owing from time to time under a credit agreement;
- (s) **“interest-free period”** means a period following the making of an advance during which interest does not accrue on the advance;
- (t) **“lease”** means an agreement for the hire of goods, other than the hire of goods in connection with a residential tenancy agreement;
- (u) **“lessee”** means an individual who entered into, or who is negotiating to enter into, a lease agreement if that individual, pursuant to that lease agreement, hires or is to hire goods from another party to the lease agreement;
- (v) **“lessor”** means a person who has entered into, or who is negotiating to enter into, a lease agreement if that person, pursuant to that lease agreement, leases or is to lease goods to another party to the agreement;
- (w) **“loan broker”** means a person who, for compensation, arranges or attempts to arrange a credit agreement;
- (x) **“mortgage loan”** means, subject to the regulations, a loan of money secured by an interest in real property;
- (y) **“non-interest finance charge”** means any charge that a borrower is required to pay in connection with a credit agreement other than:
  - (i) interest;
  - (ii) a prepayment charge;
  - (iii) a default charge;
  - (iv) a charge for an optional service;
  - (v) a charge mentioned in clause 3(2)(f), (g) or (h); or
  - (vi) in the case of a credit sale, a charge that would also be payable by a cash customer;

- (z) **“open credit”** means credit under a credit agreement that:
  - (i) anticipates multiple advances to be made when requested by the borrower in accordance with the credit agreement; and
  - (ii) does not establish the total amount to be advanced to the borrower under the agreement but may impose a credit limit;
- (aa) **“optional service”** means a service that is offered to a borrower in connection with a credit agreement and that the borrower is not required to accept in order to enter into the credit agreement;
- (bb) **“outstanding balance”** means the total amount owing at any particular time under a credit agreement;
- (cc) **“payment”** means value given or to be given by a borrower within the meaning of subsection 3(4);
- (dd) **“payment period”** means one of the equal intervals into which the term of a credit agreement or lease is divided for the purposes of determining the amount and timing of payments;
- (ee) **“periodic payment”** means the payment to be made respecting each payment period;
- (ff) **“product”** means goods, services, or goods and services, but does not include the extension of credit;
- (gg) **“publish”** means to make public in any manner, including by or through any medium;
- (hh) **“scheduled-payments credit agreement”** means a credit agreement for fixed credit under which the amount advanced is to be repaid in accordance with a specified schedule of payments that may be subject to adjustment to accommodate contingencies, including changes in the interest rate;
- (ii) **“security interest”** means any interest in property that secures the borrower’s obligations under a credit agreement;
- (jj) **“term”**, in relation to the duration of a credit agreement, means, other than in Part V, the period between the first advance and the last payment anticipated by the agreement;
- (kk) **“total cost of credit”** means, in connection with a credit agreement, the difference between:
  - (i) the value given or to be given by the borrower, within the meaning of subsection 3(4), pursuant to that credit agreement; and
  - (ii) the value received or to be received by the borrower, within the meaning of subsection 3(2), pursuant to that credit agreement;

disregarding the possibility of prepayment or default.

**Value received and value given**

3(1) In subsection (2), except clauses (2)(b), (e) and (g), in subsections (3) and (4), and in sections 4 and 5:

- (a) **“borrower”** includes a lessee;
  - (b) **“credit agreement”** includes a lease; and
  - (c) **“credit grantor”** includes a lessor.
- (2) Subject to subsection (3), the following constitute value received or to be received by a borrower in connection with a credit agreement:
- (a) money transferred or to be transferred by the credit grantor to the borrower or to the order of the borrower for any purpose in connection with the credit agreement;
  - (b) in the case of a credit agreement other than a lease, the cash price of a product purchased or to be purchased by the borrower under the credit agreement;
  - (c) in the case of a lease, the cash value of leased goods under a lease;
  - (d) the amount of a pre-existing monetary obligation of the borrower that is paid, discharged or consolidated or is to be paid, discharged or consolidated by the credit grantor pursuant to the credit agreement;
  - (e) the amount of money obtained or to be obtained or the cash price of a product obtained or to be obtained through the use of a credit card obtained pursuant to the credit agreement;
  - (f) a charge for any of the following expenses, if the credit grantor incurs the expense for the purposes of arranging, documenting, insuring or securing a credit agreement and then charges the expense to the borrower:
    - (i) fees paid to a third party to record or register a document or information in, or to obtain a document or information from, a public registry of interests in real or personal property;
    - (ii) fees for professional services required for the purposes of confirming the value, condition, location or conformity to law of property that serves as security for a credit agreement, if the borrower is given a report signed by the person providing the professional services;
    - (iii) premiums for all or any of the following:
      - (A) for insurance that protects the credit grantor against default on a high-ratio mortgage;
      - (B) for casualty insurance on the subject-matter of a security interest or lease, if the borrower is a beneficiary of the insurance;
      - (C) for insurance provided or paid for by the credit grantor in connection with a credit agreement, if the insurance is optional;
  - (g) fees charged by the credit grantor to maintain a tax account on a high-ratio mortgage;
  - (h) anything prescribed in the regulations as value received by the borrower for the purposes of this subsection.

(3) The following do not constitute value received or to be received by the borrower unless they relate to an optional service, to an expense or fee mentioned in clause (2)(f) or (g) or to a matter prescribed in the regulations pursuant to clause (2)(h):

- (a) any insurance provided or paid for by the credit grantor in connection with a credit agreement;
- (b) money paid, an expense incurred or anything done by the credit grantor for the purposes of arranging, documenting, securing, administering or renewing a credit agreement;
- (c) any other items prescribed in the regulations as not constituting value received by the borrower for the purposes of this subsection.

(4) The following constitute value given or to be given by a borrower in connection with a credit agreement:

- (a) money or property transferred or to be transferred from the borrower to the credit grantor for any purpose in connection with the credit agreement;
- (b) money or property transferred or to be transferred from the borrower to a person other than the credit grantor respecting a charge for services that the credit grantor requires the borrower to obtain or pay for in connection with the credit agreement, unless the charge:
  - (i) is for an expense to which clause (2)(f) or (h) would have applied if it had been incurred initially by the credit grantor and then charged by the credit grantor to the borrower;
  - (ii) is for services provided by a lawyer chosen by the borrower; or
  - (iii) is for title insurance provided by an insurer chosen by the borrower;
- (c) anything prescribed in the regulations as value given by the borrower for the purposes of this subsection.

(5) Notwithstanding subsections (2) and (4), amounts paid into or out of a tax account for a mortgage loan are not to be included when calculating the APR and the total cost of credit.

2002, c.C-41.01, s.3.

**What this Act applies to**

4(1) Subject to section 5, this Act applies:

- (a) to a credit agreement if:
  - (i) the borrower is an individual who enters into the credit agreement for primarily personal, family or household purposes; and
  - (ii) either:
    - (A) the credit grantor enters into the agreement in the ordinary course of business; or
    - (B) the credit agreement is arranged by a loan broker; and

- (b) to any borrower, credit agreement, credit grantor or loan broker, or class of borrowers, credit agreements, credit grantors or loan brokers, prescribed in the regulations.
- (2) For the purposes of subclause (1)(a)(i), a credit grantor is entitled to rely on a statement in a credit agreement or other document regarding the purpose for which a borrower enters into a credit agreement, if the statement is signed by the borrower and the credit grantor believes in good faith that the statement is true.

2002, c.C-41.01, s.4.

**What this Act does not apply to**

**5** This Act does not apply to:

- (a) a credit sale if all of the following occur:
  - (i) the credit sale anticipates a single payment in the full amount for the product within a certain period after a written invoice or statement of account is delivered to the buyer;
  - (ii) the credit sale is unconditionally interest-free during the payment period mentioned in subclause (i);
  - (iii) the credit sale is unsecured, apart from any lien on the product that may arise by operation of law;
  - (iv) the credit sale is not assigned in the ordinary course of the credit grantor's business otherwise than as security;
  - (v) the credit sale does not provide for any non-interest finance charges;
 or
- (b) any borrower, credit agreement, credit grantor or loan broker, or class of borrowers, credit agreements, credit grantors or loan brokers, exempted by regulation.

2002, c.C-41.01, s.5.

## PART II

### General Rules respecting Disclosure and Rights and Duties of Borrowers and Credit Grantors

**Interpretation of Part**

**6** In this Part:

- (a) **“borrower”** includes a lessee;
- (b) **“credit agreement”** includes a lease;
- (c) **“credit grantor”** includes a lessor.

2002, c.C-41.01, s.6.

DIVISION 1  
**Disclosure Requirements**

**Requirement to disclose**

7(1) Every credit grantor shall disclose to a borrower the information required to be disclosed by this Act or the regulations in the form and manner required by this Act and the regulations.

(2) Every credit grantor shall, with respect to any advertisement published or made by or on behalf of the credit grantor, disclose in the advertisement, in the form and manner provided by this Part and the regulations, the information that this Part and the regulations require to be disclosed.

2002, c.C-41.01, s.7.

**Form of disclosure statements**

8(1) A credit grantor who is required to provide a disclosure statement pursuant to this Act or the regulations shall ensure that the disclosure statement:

- (a) is in writing or, with the borrower's consent, in any form that will allow the borrower to retain the disclosure statement for future reference; and
  - (b) expresses the required information clearly, concisely, in a logical order and in a manner that is designed to bring the information to the borrower's attention.
- (2) A disclosure statement may be a separate document or part of another document.

2002, c.C-41.01, s.8.

**Estimates and assumptions**

9 A credit grantor may base a disclosure required pursuant to this Act or the regulations on an estimate or assumption if:

- (a) the disclosure depends on information that is not ascertainable by the credit grantor at the time of disclosure; and
- (b) the estimate or assumption is reasonable and is clearly identified as an estimate or assumption.

2002, c.C-41.01, s.9.

**Time at which disclosure statement to be delivered**

10(1) In this section, "**business day**", with respect to a credit grantor, means a business day as prescribed in the regulations.

(2) The credit grantor shall deliver the initial disclosure statement for a credit agreement, other than a mortgage loan, to the borrower before the earlier of the following occurs:

- (a) the borrower enters into the credit agreement; and
- (b) the borrower makes any payment in connection with the credit agreement.

(3) The credit grantor shall deliver the initial disclosure statement for a mortgage loan to the borrower at least two business days before the earlier of the following occurs:

(a) the borrower incurs any obligation to the credit grantor in connection with the mortgage loan, other than an obligation respecting a charge that is mentioned in clause 3(2)(f) or prescribed in the regulations for the purposes of this clause; and

(b) the borrower makes any payment to the credit grantor in connection with the mortgage loan, other than a payment respecting a charge that is mentioned in clause 3(2)(f) or prescribed in the regulations for the purposes of this clause.

(4) The borrower may waive the period mentioned in subsection (3) in the circumstances prescribed in the regulations.

2002, c.C-41.01, s.10.

#### **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.

2006, c.5, s.4.

**c. C-41.01****COST OF CREDIT DISCLOSURE, 2002****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.

2006, c.5, s.4.

**Disclosure in advertisements**

**12** If an advertisement contains information that pursuant to section 23, 24 or 40 requires disclosure of the APR or other information in the advertisement:

- (a) if the information to be disclosed is the APR, the APR must be at least as prominent as any of the information that required the APR to be disclosed; and
- (b) any other information required to be disclosed by this Act and the regulations must be conspicuous.

2002, c.C-41.01, s.12; 2006, c.5, s.5.

**DIVISION 2****Credit Arranged by Loan Brokers****Non-business credit grantors**

**13(1)** This section applies if a loan broker arranges a credit agreement involving a credit grantor who does not enter into the credit agreement in the ordinary course of business.

(2) If a duty is imposed on a credit grantor by this Act or the regulations, that duty, for the purposes of this section, applies to the loan broker and not the credit grantor.

(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.

2002, c.C-41.01, s.13; 2006, c.5, s.6.

**Business credit grantors**

**14(1)** This section applies if a loan broker arranges a credit agreement involving a credit grantor who enters into the credit agreement in the ordinary course of business.

(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.

(3) A loan broker who takes a loan application from a borrower and forwards it to a credit grantor shall deliver to the borrower a disclosure statement containing the information mentioned in subsection (2) and any other information required by this Act or the regulations to be disclosed in an initial disclosure statement.

(4) If a loan broker is required by subsection (3) to deliver to the borrower a disclosure statement, the credit grantor may adopt the disclosure statement delivered by the loan broker as its own disclosure statement or may elect to deliver a separate disclosure statement to the borrower that contains the information required to be disclosed.

2002, c.C-41.01, s.14; 2006, c.5, s.7.

**DIVISION 3****General Rights and Obligations of Borrowers and Credit Grantors****Borrower may choose insurance**

**15(1)** A borrower who is required by a credit grantor to purchase insurance may purchase it from any insurer authorized to transact that type of insurance, except that the credit grantor may reserve the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

(2) A credit grantor who offers to provide or to arrange insurance mentioned in subsection (1) shall, at the same time, clearly disclose to the borrower in writing that the borrower may purchase the required insurance through an insurance agent or from an insurer of the borrower's choice subject to the credit grantor's right pursuant to subsection (1) to disapprove, on reasonable grounds, an insurer selected by the borrower.

2002, c.C-41.01, s.15.

**Borrower may cancel optional services**

**16(1)** A borrower may cancel an optional service of a continuing nature that is provided by the credit grantor or an associate of the credit grantor on giving 30 days' notice or any shorter period of notice that is provided for by the agreement under which the service is provided.

**c. C-41.01****COST OF CREDIT DISCLOSURE, 2002**

- (2) A borrower who cancels an optional service pursuant to subsection (1):
  - (a) is not liable for charges relating to any portion of the service that has not been provided at the time of cancellation; and
  - (b) is entitled to a refund of any amount already paid for charges relating to any portion of the service that has not been provided at the time of cancellation.
- (3) A refund mentioned in subsection (2) may be determined in the manner prescribed in the regulations.

2002, c.C-41.01, s.16.

**Borrower entitled to prepay non-mortgage credit**

**17(1)** This section does not apply to mortgage loans.

- (2) A borrower is entitled to prepay the full outstanding balance of a credit agreement at any time without any prepayment charge or penalty.
- (3) If a borrower prepays the full outstanding balance of a credit agreement for fixed credit, the credit grantor shall refund or credit to the borrower a portion of any non-interest finance charge paid by the borrower or added to the outstanding balance.
- (4) The portion of each non-interest finance charge that must be refunded or credited to the borrower pursuant to subsection (3) is to be determined in accordance with the regulations.
- (5) A borrower is entitled to prepay a portion of the outstanding balance of a credit agreement for fixed credit on any scheduled payment date, or at least monthly, without any prepayment charge or penalty but, in that event, is not entitled to a refund or credit of any non-interest finance charges.

2002, c.C-41.01, s.17.

**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.

2006, c.5, s.8.

**Invitation to defer payment**

**19(1)** If a credit grantor invites a borrower to defer making a payment that would otherwise be due under a credit agreement, the credit grantor shall clearly disclose in the invitation whether or not interest will accrue on the unpaid amount during the period during which payment is deferred.

(2) If an invitation mentioned in subsection (1) does not disclose whether or not interest will accrue on the unpaid amount during the period during which payment is deferred, the credit grantor is deemed to waive the interest that would otherwise accrue during that period.

2002, c.C-41.01, s.19.

**Acceleration clause**

**20(1)** In this section, “**acceleration clause**” means a clause in a credit agreement that provides that on default by the borrower or on the occurrence of any other event, and whether or not at the option of the credit grantor, the whole or part of the outstanding balance becomes immediately payable or is otherwise accelerated.

(2) Notwithstanding anything in a credit agreement, the whole or part of the outstanding balance does not become payable or otherwise accelerated, and any interest rate made specially applicable to the outstanding balance does not become effective in accordance with the acceleration clause, until written notice of the default or other event:

- (a) is served personally on the borrower; or
- (b) is sent by registered mail to the borrower at the borrower’s latest address as shown on the records of the credit grantor.

(3) Notwithstanding subsection (2), if the credit grantor sends a notice pursuant to clause (2)(b), the whole or part of the outstanding balance does not become payable or otherwise accelerated, and any interest rate made specially applicable to the outstanding balance does not become effective, until 10 days from the date that the notice was sent to the borrower.

2002, c.C-41.01, s.20.

### PART III

#### Fixed Credit

**Application of Part**

**21** This Part applies only to credit agreements that extend fixed credit.

2002, c.C-41.01, s.21.

**Credit sales**

**22** A credit grantor shall not enter into a credit sale unless that credit sale is a scheduled-payments credit agreement.

2002, c.C-41.01, s.22.

**Advertising for fixed credit**

**23(1)** This section applies only to advertisements that:

- (a) offer credit to which this Part applies; and
  - (b) state the interest rate or amount of any payment.
- (2) Every advertisement to which this section applies must disclose:
- (a) the APR; and
  - (b) the term of the credit agreement.
- (3) In addition to the information mentioned in subsection (2):
- (a) an advertisement for a credit sale of a specifically identified product must disclose the cash price; and
  - (b) an advertisement for a credit sale in connection with which any non-interest finance charge would be payable must disclose:
    - (i) the cash price; and
    - (ii) the total cost of credit.
- (4) Notwithstanding clause (3)(b), an advertisement on radio, television, a billboard or another medium with similar time or space limitations is not required to disclose the total cost of credit.
- (5) If any of the information required to be disclosed pursuant to subsection (2) or (3) is not the same for all credit agreements to which the advertisement relates, the information must be for a representative transaction and must be disclosed as being for a representative transaction.

2002, c.C-41.01, s.23.

**Advertising interest-free periods**

**24(1)** An advertisement that states or implies that no interest is payable for a certain period respecting a transaction must disclose whether:

- (a) the transaction is unconditionally interest-free during the period; or
  - (b) interest accrues during the period but will be forgiven under certain conditions.
- (2) If interest accrues during the period but will be forgiven under certain conditions, the advertisement must also disclose:
- (a) the conditions; and
  - (b) in the case of a transaction under an agreement for fixed credit, the APR that will apply to the period, assuming the conditions for forgiveness of the interest are not met.
- (3) If an advertisement to which subsection (1) or (2) applies does not disclose the information required to be disclosed, that advertisement is deemed to represent that the transaction is unconditionally interest-free during the relevant period.

2002, c.C-41.01, s.24; 2006, c.5, s.9.

**Initial disclosure statement for fixed credit**

**25(1)** A credit grantor who has entered into or who is negotiating to enter into a scheduled-payments credit agreement shall ensure that the initial disclosure statement for that credit agreement discloses the following information if applicable:

- (a) the effective date of the statement;
- (b) for a credit sale, a description of the product;
- (c) the outstanding balance, as of the effective date of the disclosure statement, with every payment made by the borrower on or before the effective date accounted for;
- (d) the nature and amount of each advance, charge or payment accounted for in the outstanding balance disclosed pursuant to clause (c);
- (e) the term of the credit agreement;
- (f) the amortization period if it is longer than the term;
- (g) the date on which interest begins to accrue and the details of any grace period;
- (h) if the interest rate will not change during the term:
  - (i) the interest rate;
  - (ii) the circumstances under which interest will be added to principal; and
  - (iii) the application of payments as between interest and principal;
- (i) if the interest rate may change during the term:
  - (i) the initial interest rate;
  - (ii) the circumstances under which interest will be added to principal;
  - (iii) the application of payments as between interest and principal;
  - (iv) the method of determining the interest rate throughout the term; and
  - (v) unless the amount of the scheduled payments is adjusted automatically to account for changes in the interest rate, the lowest annual interest rate, based on the initial outstanding balance, at which the payments would not cover the interest that would accrue between payments;
- (j) the nature and amount of any charges, other than interest, that are not disclosed pursuant to clause (d) but that will become payable by the borrower in connection with the credit agreement;
- (k) the amount and timing of any advances to be made after the effective date of the disclosure statement;
- (l) the amount and timing of any payments to be made after the effective date of the disclosure statement;

- (m) the total of all advances made or to be made in connection with the credit agreement;
  - (n) the total of all payments to be made in connection with the credit agreement;
  - (o) the total cost of credit;
  - (p) the APR;
  - (q) the nature of any default charges provided for by the credit agreement;
  - (r) a description of the subject-matter of any security interest;
  - (s) for a mortgage loan, a statement of the conditions, if any, under which the borrower may make prepayments, and any charge for prepayment;
  - (t) for a credit agreement other than a mortgage loan, a statement that the borrower is entitled to prepay the full outstanding balance at any time without any prepayment charge or penalty and is entitled to make partial payments without penalty on any scheduled payment date or at least monthly;
  - (u) the nature, amount and timing of payments for any optional services purchased by the borrower for which payments are to be made to or through the credit grantor;
  - (v) the borrower's right to cancel optional services of a continuing nature pursuant to section 16.
- (2) A credit grantor who has entered into or who is negotiating to enter into a credit agreement that is not a scheduled-payments credit agreement shall ensure that the initial disclosure statement for that credit agreement:
- (a) discloses as much of the information mentioned in clauses (1)(a) to (d), (g) to (j), (m), and (p) to (v) as is applicable; and
  - (b) either:
    - (i) discloses the circumstances in which the outstanding balance, or any portion of it, must be paid; or
    - (ii) refers to the provisions of the credit agreement that describe those circumstances.

2002, c.C-41.01, s.25.

**Disclosure regarding changes in interest rate**

**26(1)** In addition to the disclosure statement required pursuant to section 25, if the interest rate under a credit agreement is a floating rate, the credit grantor shall, at least once every 12 months, deliver to the borrower a disclosure statement that contains the following information:

- (a) the period covered by the statement;
- (b) the annual interest rate at the beginning and end of the period;

- (c) the outstanding balance at the beginning and end of the period;
  - (d) for a scheduled-payments credit agreement, the amount and timing of all remaining payments based on the annual interest rate that applies at the end of the period.
- (2) For the purposes of clause (1)(a), the period covered by the statement must run from the date of the disclosure statement most recently delivered to the borrower pursuant to this section or section 25.
- (3) If the interest rate may be changed but is not a floating rate, the credit grantor shall, within 30 days after increasing the annual interest rate by 1% or more over the rate most recently disclosed to the borrower, deliver to the borrower a disclosure statement that contains the following information:
- (a) the date of the statement;
  - (b) the new annual interest rate;
  - (c) the date the new rate took effect;
  - (d) the new amount and timing of any payments to be made after the date mentioned in clause (c).

2002, c.C-41.01, s.26.

**Disclosure regarding amendments and negative amortization**

- 27(1) If information disclosed in an earlier disclosure statement changes because a credit agreement is amended, the credit grantor shall deliver a supplementary disclosure statement to the borrower within 30 days after the amendment is made.
- (2) The supplementary disclosure statement must provide all the information that is changed but need not repeat any information that is unchanged from the earlier disclosure statement.
- (3) If an amendment consists only of a revision to the schedule of payments, the supplementary disclosure statement need not disclose any change to the APR or any decrease in the total cost of credit or total payments.
- (4) If the outstanding principal under a scheduled-payments credit agreement increases as a result of a missed or late payment or the imposition of a default charge, and the scheduled payments will not cover the interest that will accrue between payments, the credit grantor shall deliver to the borrower a notice in writing to that effect within 30 days after the outstanding principal increases.
- (5) This section does not apply to changes effected by a renewal agreement to which section 28 or 29 applies.

2002, c.C-41.01, s.27.

**Disclosure regarding mortgage loan renewals**

- 28(1) If the amortization period for a mortgage loan under a scheduled-payments credit agreement is longer than the term of the loan, the credit grantor shall notify the borrower in writing, at least 21 days before the end of the term, and the notice must state whether or not the credit grantor is willing to renew the loan for a further term.

(2) A credit grantor who is willing to renew a mortgage loan shall include with the notice mentioned in subsection (1) a disclosure statement for the renewal agreement that includes all of the following information based on the assumption that the borrower will make any payments that are due under the original agreement up to the renewal date:

- (a) the effective date of the renewal;
- (b) the outstanding balance as of the renewal date;
- (c) the nature and amount of any charges, other than interest, that are payable in connection with the renewal agreement;
- (d) the term of the credit agreement;
- (e) the relevant interest rate information mentioned in clause 25(1)(h) or (i);
- (f) the APR;
- (g) the amount and timing of all payments to be made in connection with the renewal agreement;
- (h) the total of all payments to be made in connection with the renewal agreement;
- (i) the total cost of credit;
- (j) the amortization period;
- (k) a statement of the conditions, if any, under which the borrower may make prepayments, and any prepayment charge or penalty.

(3) The disclosure statement mentioned in subsection (2) may provide information respecting alternative renewal options.

(4) Subject to subsection (5), if a mortgage is to be renewed but the credit grantor does not, at least 21 days before the effective date of the renewal agreement, provide a disclosure statement to the borrower that reflects the actual terms of the renewal agreement:

- (a) the borrower may, at any time within 21 days after receiving a disclosure statement mentioned in subsection (2), prepay the outstanding balance of the renewed mortgage loan without penalty; and
- (b) on exercising that right, the credit grantor shall refund to the borrower any non-interest finance charges imposed in connection with the renewal.

(5) Subsection (4) does not apply if the disclosure statement mentioned in subsection (2) does not reflect the terms of the renewal agreement by reason only that:

- (a) the outstanding balance on the renewal date differs from what was stated in the disclosure statement due to one or more missed, late, early or extra payments;
- (b) the interest rate under the renewal agreement is lower than what was stated in the disclosure statement; or
- (c) the amortization period or frequency of payments under the renewal agreement differs from what was stated or assumed.

(6) If subsection (5) applies, the credit grantor shall deliver a revised disclosure statement to the borrower within 30 days after the effective date of the renewal agreement.

(7) The revised disclosure statement mentioned in subsection (6) must provide all the information that is changed but need not repeat any information that is unchanged from the earlier disclosure statement provided pursuant to subsection (2).

(8) If the terms of the renewal agreement differ from the terms in the disclosure statement mentioned in subsection (2) because the interest rate in the renewal agreement is higher than the interest rate stated in the disclosure statement, the credit grantor shall provide the borrower with a further notice respecting the interest rate and a new disclosure statement that meets the requirements of subsection (2).

(9) After receiving a new disclosure statement pursuant to subsection (8):

(a) the borrower may, at any time within 21 days after receiving the disclosure statement, prepay the outstanding balance of the renewed mortgage loan without penalty; and

(b) on exercising that right, the credit grantor shall refund to the borrower any non-interest finance charges imposed in connection with the renewal.

2002, c.C-41.01, s.28.

#### **Disclosure regarding non-mortgage loan renewals**

**29** When fixed credit other than a mortgage loan is renewed, the credit grantor shall deliver to the borrower on or before the renewal date a disclosure statement for the renewal agreement containing the information mentioned in clauses 28(2)(a) to (j).

2002, c.C-41.01, s.29.

## **PART IV Open Credit**

#### **Application of Part**

**30** This Part applies to credit agreements that extend open credit.

2002, c.C-41.01, s.30.

#### **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.

2006, c.5, s.10.

**Advertising interest-free periods**

**32(1)** An advertisement that states or implies that no interest is payable for a certain period respecting a transaction under a credit agreement for open credit must disclose whether:

- (a) the transaction is unconditionally interest-free during the period; or
  - (b) interest accrues during the period but will be forgiven under certain conditions.
- (2) If interest accrues during the period but will be forgiven under certain conditions, the advertisement must also disclose:
- (a) those conditions; and
  - (b) the annual interest rate for the period, assuming the conditions for forgiveness of the interest are not met.
- (3) If an advertisement to which subsection (1) applies does not disclose the information required pursuant to subsections (1) and (2), that advertisement is deemed to represent that the transaction is unconditionally interest-free during the relevant period.

2002, c.C-41.01, s.32.

**Initial disclosure statement for open credit**

**33(1)** Subject to subsection (2), a credit grantor who has entered into or who is negotiating to enter into an open credit agreement shall ensure that the initial disclosure statement for that open credit agreement discloses the following information, if applicable:

- (a) the credit limit;
- (b) the minimum periodic payment or the method of determining the minimum periodic payment;
- (c) the initial annual interest rate and the compounding period;
- (d) if the annual interest rate may change, the method of determining the annual interest rate at any time;
- (e) when interest begins to accrue on advances or different types of advances and the details of any grace period;
- (f) the nature and amount of any non-interest finance charges that may become payable by the borrower in connection with the credit agreement or the method of determining the amount;
- (g) **Repealed.** 2006, c.5, s.11.
- (h) the nature, amount and timing of payments for any optional services purchased by the borrower for which payments are to be made to or through the credit grantor;

- (i) the borrower's right to cancel optional services of a continuing nature pursuant to section 16;
  - (j) a description of the subject-matter of any security interest;
  - (k) the nature of any default charges provided for by the credit agreement;
  - (l) how often the borrower will receive statements of account;
  - (m) if the borrower is required to pay the full outstanding balance on each statement of account on receiving the statement:
    - (i) a statement to that effect;
    - (ii) the period within which the borrower must pay the outstanding balance to avoid being in default; and
    - (iii) the annual interest rate that will apply to any amount that is not paid when due;
  - (n) for a credit agreement other than a mortgage loan, a statement that the borrower is entitled to prepay the full outstanding balance at any time without any prepayment charge or penalty;
  - (o) a telephone number in accordance with subsection 34(4) at which the borrower may obtain information respecting the borrower's account.
- (2) Notwithstanding subsection (1):
- (a) the credit limit mentioned in clause (1)(a) may be disclosed:
    - (i) in the initial disclosure statement;
    - (ii) in the first statement of account delivered to the borrower; or
    - (iii) in a separate statement delivered to the borrower on or before the date on which the borrower receives the first statement of account; and
  - (b) information about the nature, amount and timing of payments for any optional services mentioned in clause (1)(h) or information that relates to a specific transaction under the credit agreement may be provided in the initial disclosure statement or in a separate statement delivered to the borrower before the services are provided or the transaction occurs.

2002, c.C-41.01, s.33; 2006, c.5, s.11.

#### **Statements of account**

**34(1)** Subject to subsection (3), the credit grantor shall deliver a statement of account to the borrower at least monthly that contains the following information, if applicable:

- (a) subject to subsection (2), the period covered by the statement;
- (b) the outstanding balance at the beginning of the period;
- (c) the amount, description and posting date of each transaction or charge added to the outstanding balance during the period;

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- (d) the amount and posting date of each payment or credit subtracted from the outstanding balance during the period;
  - (e) the annual interest rate or rates in effect during the period or any part of the period;
  - (f) the total of all amounts added to the outstanding balance during the period;
  - (g) the total of all amounts subtracted from the outstanding balance during the period;
  - (h) the outstanding balance at the end of the period;
  - (i) the credit limit;
  - (j) the minimum payment;
  - (k) the due date for payment;
  - (l) the amount that the borrower must pay on or before the due date in order to take advantage of a grace period;
  - (m) the borrower's rights and obligations regarding the correction of billing errors;
  - (n) a telephone number in accordance with subsection (4).
- (2) For the purposes of clause (1)(a), the period covered by the statement must run from the date of the first advance or, if a statement of account has previously been delivered pursuant to this section, from the date of the statement of account most recently delivered to the borrower.
- (3) A credit grantor is not required to deliver a statement of account to a borrower at the end of any period during which there has been no advance or payment and:
- (a) there is no outstanding balance at the end of the period; or
  - (b) the borrower is in default and has been given notice that his or her privileges to obtain advances under the agreement have been cancelled or suspended due to the default and the credit grantor has demanded payment of the outstanding balance.
- (4) The credit grantor shall provide a local or toll-free telephone number, or a telephone number with a prominent indication in a statement of account that collect calls are accepted, that the borrower may use to obtain information about the borrower's account during the credit grantor's ordinary business hours.

2002, c.C-41.01, s.34.

**Description of transactions**

**35** A transaction is sufficiently described for the purposes of clause 34(1)(c) if the description in the statement of account, along with any transaction record included with the statement of account or made available to the borrower at the time of the transaction, can reasonably be expected to enable the borrower to verify the transaction.

2002, c.C-41.01, s.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.

2006, c.5, s.12.

**Application for credit card**

**36(1)** In this section and in sections 37 to 37.2:

(a) **“credit card holder”** means a person to whom a credit card has been issued;

(b) **Repealed.** 2006, c.5, s.13.

(c) **“negotiating to enter into”** includes communicating directly with an individual in person, by mail, by telephone or by any electronic means for the purposes of inviting that individual to apply for a credit card.

(2) Subject to subsection (3), a credit grantor who has entered into or is negotiating to enter into a credit agreement for a credit card shall ensure that the application form for the credit card contains the following information:

(a) if the interest rate:

(i) is not a floating rate of interest, the annual interest rate; or

(ii) is a floating rate of interest, the index and the relationship between the index and the annual interest rate;

(b) the grace period, if any;

(c) the amount of any non-interest finance charges;

(d) the date the information mentioned in clauses (a), (b) and (c) takes effect.

(3) Instead of disclosing the information required by subsection (2), the application form or the communication may disclose a telephone number pursuant to subsection 34(4) through which the person may obtain that information.

(4) Notwithstanding subsection (3), if a person applies for a credit card in person, by mail, by telephone or by any electronic means, the credit card issuer shall disclose the information mentioned in subsection (2) when the person applies.

(5) A person who applies for a credit card without signing an application form is deemed to have entered into a credit agreement in relation to that card on using the card for the first time.

(6) Nothing in this section relieves the credit card issuer from the requirement to deliver an initial disclosure statement in accordance with sections 10 and 33.

2002, c.C-41.01, s.36; 2006, c.5, s.13.

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**37(1)** In addition to the disclosure required by section 33, a credit card issuer shall disclose, in the initial disclosure statement for open credit associated with a credit card, the credit card holder's maximum liability for:

- (a) unauthorized use of the credit card number; or
- (b) unauthorized use of information associated with the credit card if the credit card number or information is lost or stolen.

(2) Subject to subsection (3), the credit card issuer shall give the credit card holder at least 30 days' prior notice of any change in the information disclosed in a disclosure statement.

(3) Subsection (2) does not apply to the following changes, but those changes must be disclosed in the next statement of account following the change in information or in a document that is given to the borrower with the next statement of account:

- (a) a change in the credit limit;
- (b) a decrease in the interest rate or the amount of any other charge;
- (c) an increase in the length of an interest-free period or grace period;
- (d) a change in a floating rate.

2002, c.C-41.01, s.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.

2006, c.5, s.14.

**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.

2006, c.5, s.14.

## PART V Leases of Goods

### Interpretation

**38(1)** In this Part and the regulations made for the purposes of this Part:

- (a) **“assumed residual payment”** means:
  - (i) for an option lease in which the option price at the end of the term is less than the estimated residual value, the option price; and
  - (ii) in any other case, the estimated residual value and any amount that the lessee will be required to pay in the ordinary course of events at the end of the term;
- (b) **“capitalized amount”** means, subject to the regulations, the sum of the cash value of the leased goods and the amount of any other advances made to the lessee at or before the beginning of the term, less the total amount of any payments made or to be made by the lessee at or before the beginning of the term other than:
  - (i) any refundable security deposit; and
  - (ii) any periodic payment;
- (c) **“estimated residual cash payment”** means the amount that the lessee will be required to pay to the lessor at the end of the term of a residual obligation lease if the realizable value of the leased goods at the end of the term equals their estimated residual value;

- (d) **“estimated residual value”** means the lessor’s reasonable estimate of the wholesale value of the leased goods at the end of the lease term as estimated by the lessor at the time the lease agreement was entered into;
  - (e) **“implicit finance charge”** means the sum of:
    - (i) all non-refundable payments required to be made by the lessee at or before the beginning of or during the term; and
    - (ii) the assumed residual payment;
 less the total amount advanced to the lessee;
  - (f) **“option lease”** means a lease that gives the lessee the right to acquire title to or retain permanent possession of the leased goods at the end of the term of the lease by making a payment in addition to the payments required under the lease or by satisfying other specified conditions;
  - (g) **“option price”** means the amount of the additional payment that the lessee must make in order to exercise the option under an option lease;
  - (h) **“purchased”** includes leased;
  - (i) **“realizable value”** means the actual value of the leased goods at the end of the term of the lease as calculated in accordance with the regulations;
  - (j) **“residual obligation lease”** means a lease under which the lessee may be required at the end of the lease term to pay the lessor an amount based wholly or partly on the difference, if any, between the estimated residual value and the realizable value of the leased goods;
  - (k) **“term”** means, in relation to the duration of a lease, the period during which the lessee is entitled to retain possession of the leased goods;
  - (l) **“total lease cost”** means the total of any non-refundable payments that the lessee will be required to make in the ordinary course of events.
- (2) The definitions in Part I, other than clause 2(jj), apply to this Part and, for that purpose:
- (a) **“borrower”** includes a lessee;
  - (b) **“cash price”** includes cash value;
  - (c) **“credit agreement”** includes a lease;
  - (d) **“credit grantor”** includes a lessor.

2002, c.C-41.01, s.38.

#### Application of Part

**39** This Part applies to a lease if the lease:

- (a) is for a fixed term of four months or more;
- (b) is for an indefinite term or is renewed automatically until one of the parties takes positive steps to terminate it; or
- (c) is a residual obligation lease.

2002, c.C-41.01, s.39.

**Advertising requirements for leases**

**40(1)** Subject to subsection (2), a lessor shall ensure that every advertisement that gives any specific information about the cost of a lease discloses the following information, if applicable:

- (a) that the transaction is a lease;
  - (b) the term of the lease;
  - (c) the amount of any payments that are payable by the lessee at or before the beginning of the term;
  - (d) the amount, timing and number of the periodic payments;
  - (e) the amount of any other payments that are payable by a lessee in the ordinary course of events;
  - (f) the APR;
  - (g) any information respecting extra charges based on usage of the leased goods that may be prescribed in the regulations.
- (2) An advertisement on radio, television, a billboard or other medium with similar time or space limitations that gives any specific information about the cost of a lease must disclose:
- (a) the information mentioned in clauses (1)(a) to (d) and (f); or
  - (b) the information mentioned in clauses (1)(a), (c) and (d) and either:
    - (i) a telephone number at which the information mentioned in clauses (1)(b) and (f) can be obtained without incurring any charges for the call; or
    - (ii) a reference to a publication that has general circulation in the area where the advertisement was broadcast or published and that contains the information mentioned in clauses (1)(b) and (f).
- (3) If any of the information required to be disclosed by subsection (1) is not the same for all leases to which the advertisement relates, the information must be for a representative transaction and must be disclosed as being for a representative transaction.

2002, c.C-41.01, s.40.

**Initial disclosure statement for leases**

**41(1)** A lessor who has entered into or who is negotiating to enter into a lease shall ensure that the initial disclosure statement for the lease discloses the following information, if applicable:

- (a) the effective date of the statement;
- (b) that the transaction is a lease;
- (c) a description of the leased goods;
- (d) the term of the lease;
- (e) the cash value of the leased goods;

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- (f) the nature and amount of any other advance received or charge incurred by the lessee at or before the beginning of the term;
  - (g) the nature and amount of each payment made by the lessee at or before the beginning of the term;
  - (h) the capitalized amount;
  - (i) the amount, timing and number of the periodic payments;
  - (j) the estimated residual value of the leased goods;
  - (k) for an option lease:
    - (i) how and when the option may be exercised;
    - (ii) the option price if the option is exercised at the end of the term; and
    - (iii) the method of determining the option price if the option is exercised before the end of the term;
  - (l) for a residual obligation lease:
    - (i) the estimated residual cash payment; and
    - (ii) a statement that the lessee's maximum liability at the end of the lease term is the total of the estimated residual cash payment and the estimated residual value less the realizable value of the leased goods;
  - (m) subject to the regulations, the circumstances, if any, under which the lessee or the lessor may terminate the lease before the end of the term and the amount, or the method of determining the amount, of any payment that the lessee will be required to make on early termination of the lease;
  - (n) if there are circumstances in which the lessee will be required to make a payment in connection with the lease that is not disclosed pursuant to clauses (a) to (m), the circumstances and the amount of the payment or the method of determining the amount;
  - (o) the implicit finance charge;
  - (p) the APR;
  - (q) the total lease cost.
- (2) The circumstances mentioned in clause (1)(n) include unreasonable wear or excess use.

2002, c.C-41.01, s.41.

**Disclosure regarding lease renewals and amendments**

**42(1)** Subject to section 43, if a lease is renewed or amended, the lessor shall deliver a supplementary disclosure statement to the lessee within 30 days after the renewal or amendment is made.

(2) The supplementary disclosure statement mentioned in subsection (1) must provide all the information that is changed from the disclosure statement required pursuant to section 41, but need not repeat any information that is unchanged from that disclosure statement.

(3) If an amendment to a lease consists only of a revision to the schedule of payments, the supplementary disclosure statement required pursuant to this section need not disclose any change to the APR or any decrease in the implicit finance charge or total lease cost with respect to the lease.

2002, c.C-41.01, s.42.

**Disclosure regarding renewals and amendments to leases for indefinite terms**

**43(1)** Subject to subsection (2), a lessor is not required to provide a supplementary disclosure statement pursuant to section 42 with respect to a lease mentioned in clause 39(b).

(2) If the term of a fixed-term lease is extended, the lease is to be considered as an amended lease for the purposes of this Part and the lessor shall deliver a supplementary disclosure statement to the lessee pursuant to section 42.

2002, c.C-41.01, s.43.

**Maximum liability of lessee under residual obligation leases**

**44** The lessee's maximum liability at the end of the term of a residual obligation lease after returning the leased goods to the lessor is to be calculated in accordance with the regulations.

2002, c.C-41.01, s.44.

## PART VI Compliance

**Interpretation of Part**

**45(1)** In this Part:

- (a) **"borrower"** includes a lessee;
  - (b) **"credit agreement"** includes a lease;
  - (c) **"credit grantor"** includes a lessor and a loan broker.
- (2) For the purposes of this Part:
- (a) a credit grantor is considered to have a compliance procedure if the credit grantor:
    - (i) requires its employees and agents to follow procedures or has implemented automated procedures designed to ensure that borrowers receive the information to which they are entitled at the time and in the form required by this Act; and

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(ii) monitors the effectiveness of the measures mentioned in subclause (i) and promptly remedies any deficiencies discovered in their design or implementation; and

(b) a reference to a contravention of this Act includes a contravention of the regulations made pursuant to this Act.

2002, c.C-41.01, s.45.

**Recovery of overpayments and compensation**

**46(1)** Notwithstanding any agreement to the contrary, if a borrower makes a payment to a credit grantor that the credit grantor is not entitled to receive, the credit grantor shall refund the payment to the borrower or, if the parties agree, credit the payment against the outstanding balance of the credit agreement as of the time the payment was made.

(2) A credit grantor who contravenes this Act shall compensate a borrower for any loss the borrower suffers because of the contravention, and the compensation to which the borrower is entitled may be set off against the outstanding balance of the credit agreement or may be recovered from the credit grantor in an action in a court of competent jurisdiction.

2002, c.C-41.01, s.46.

**Inconsistency between disclosure statement and credit agreement**

**47** If information in a disclosure statement is inconsistent with any information or provision set out in the credit agreement, the credit agreement is presumed to incorporate the information or provision that is more favourable to the borrower unless the credit grantor establishes that the less favourable information or provision reflects the borrower's actual understanding of the provisions of the agreement.

2002, c.C-41.01, s.47.

**Remedies for contravening this Act**

**48(1)** A contravention of this Act by a credit grantor is an excusable error if:

- (a) the credit grantor had a compliance procedure to prevent or identify contraventions when the contravention occurred;
- (b) the contravention was accidental or the result of an employee's or agent's failure to follow the compliance procedure; and
- (c) on discovering the contravention, the credit grantor promptly took steps to minimize its effect on any affected borrower.

(2) If a credit grantor contravenes this Act in relation to a credit agreement and the contravention is not an excusable error, the borrower is entitled, in addition to any other remedy to which the borrower may be entitled pursuant to this Part, to recover the damages provided for by this section from the credit grantor in an action in a court of competent jurisdiction.

(3) Subject to subsection (4), the damages for a contravention of this Act are the lesser of \$500 and 5% of whichever of the following is applicable:

- (a) for a credit agreement for fixed credit, the maximum outstanding balance;
- (b) for a lease, the capitalized amount;
- (c) for a credit agreement for open credit:
  - (i) with a specified credit limit, the credit limit;
  - (ii) without a specified credit limit, \$500.

(4) If a contravention of this Act relates to a statement of account for open credit, the damages are equal to the interest and any non-interest finance charges for the period covered by the statement of account.

(5) A court may reduce the damages to which a borrower would otherwise be entitled pursuant to this section if the court is satisfied in view of all the circumstances, including any undertakings as to future compliance that are given by the credit grantor, that it would be appropriate to do so.

(6) The damages to which a borrower is entitled may be set off against any amount otherwise payable by the borrower to the credit grantor.

2002, c.C-41.01, s.48.

#### **Exemplary damages**

**49** A court may award exemplary damages to a borrower against a person who has deliberately contravened this Act or in any case if the court considers that the conduct of that person justifies an award of exemplary damages.

2002, c.C-41.01, s.49.

#### **Assignee**

**50(1)** Except as otherwise provided in this section, a borrower may assert against a person to whom the rights of a credit grantor have been assigned, any rights or remedies pursuant to section 46, 47 or 48 that the borrower could have asserted against the original credit grantor.

(2) The assignee's maximum liability pursuant to any of the provisions mentioned in subsection (1) is limited to the outstanding balance at the time of the assignment or the proportion of the outstanding balance that is assigned to the assignee.

(3) An assignee does not incur any liability pursuant to this section for a credit grantor's contravention of this Act unless:

- (a) the assignee knew of the contravention before the borrower received notice of the assignment;

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- (b) the contravention consists of the credit grantor's failure to deliver a disclosure statement to the borrower; or
  - (c) the contravention is apparent on the face of a disclosure statement or is apparent by comparing the disclosure statement with the written terms of the credit agreement.
- (4) An assignee is entitled to rely in good faith on a borrower's signed acknowledgment of receipt of a disclosure statement.

2002, c.C-41.01, s.50.

**Other remedies**

**51** Any remedy pursuant to this Act is in addition to and does not derogate from any other legal, equitable or statutory remedy.

2002, c.C-41.01, s.51.

**Agreement to waive benefits is void**

**52(1)** Subject to subsection (3), any of the following agreements is void:

- (a) an agreement that provides that:
    - (i) all or any provision of this Act does not apply; or
    - (ii) any benefit or remedy provided by this Act is not available;
  - (b) an agreement that in any way limits, modifies or abrogates or in effect limits, modifies or abrogates any benefit or remedy provided by this Act.
- (2) Subsection (1) applies to an agreement whether or not the agreement:
- (a) is oral or written; or
  - (b) is express or implied.
- (3) Subsection (1) does not apply to an agreement mentioned in subsection 10(4).

2002, c.C-41.01, s.52.

## PART VII

### Regulations

**Regulations**

**53** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) respecting the calculation of the APR for the purposes of credit agreements that extend fixed credit and leases;
- (c) respecting the criteria used in determining what constitutes an index rate;
- (d) respecting mortgage loans;

- (e) prescribing what is value received by a borrower for the purposes of clause 3(2)(h);
- (f) prescribing what is not value received by a borrower for the purposes of subsection 3(3);
- (g) prescribing what is value given by a borrower for the purposes of clause 3(4)(c);
- (h) respecting the form and manner in which information must be disclosed in a disclosure statement made pursuant to this Act or the regulations and respecting the contents that must be disclosed in a disclosure statement made pursuant to this Act or the regulations;
- (i) respecting the form and manner in which information must be disclosed in an advertisement made pursuant to this Act or the regulations and respecting the contents that must be disclosed in an advertisement made pursuant to this Act or the regulations;
- (j) respecting a charge in connection with a mortgage loan for the purposes of subsection 10(3);
- (k) respecting terms for the waiver of the period mentioned in subsection 10(4);
- (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);
- (l) respecting the sending or filing of disclosure statements, notices, reports or other documents;
- (m) respecting the time and date when a disclosure statement, notice, report or other document is deemed to be received;
- (n) respecting the additional duties of a credit grantor, loan broker or lessor;
- (o) respecting the manner in which a refund mentioned in subsection 16(2) may be determined;
- (p) determining the portion of each non-interest finance charge that must be refunded or credited to the borrower for the purposes of subsection 17(4);
- (q) determining what constitutes reasonable charges for the purposes of section 18;
- (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);
- (r) enlarging or restricting the meaning of “**capitalized amount**” for the purposes of clause 38(1)(b);
- (s) respecting the calculation of realizable value for the purposes of clause 38(1)(i);
- (t) respecting the extra charges based on usage of the leased goods for the purposes of clause 40(1)(g);
- (u) for the purposes of section 44, respecting the calculation of a lessee’s maximum liability at the end of the term of a residual obligation lease after returning the leased goods to the lessor;

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(v) respecting the early termination of leases, including the early exercise of purchase options, and limiting the compensation or penalties payable by a lessee on the early termination of a lease;

(w) including or exempting from this Act or the regulations, or any provision of this Act or the regulations, any advertisement, borrower, credit agreement, credit grantor, loan broker, lease or lessor or any class of advertisement, borrower, credit agreement, credit grantor, loan broker, lease or lessor;

(x) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(y) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2002, c.C-41.01, s.53; 2006, c.5, s.15.

## PART VIII

### Repeal and Transitional

**R.S.S. 1978, c.C-41 repealed**

**54** *The Cost of Credit Disclosure Act* is repealed.

2002, c.C-41.01, s.54.

**S.S. 1990-91, c.12 repealed**

**55** *The Cost of Credit Disclosure Amendment Act, 1990* is repealed.

2002, c.C-41.01, s.55.

**Transitional**

**56** This Act applies to:

(a) credit agreements for fixed credit and leases that are entered into, renewed or amended on or after the date that this Act comes into force; and

(b) credit agreements for open credit that are in existence on or that are entered into, renewed or amended on or after the date that this Act comes into force.

2002, c.C-41.01, s.56.

## PART IX

### Coming into Force

**Coming into force**

**57** This Act comes into force on proclamation.

2002, c.C-41.01, s.57.