

## ONTARIO BILL 59: NEW CONSUMER LENDER REGULATIONS MAY BE COMING SOON

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The government of Ontario passed [Bill 59, Putting Consumers First Act \(Consumer Protection Statute Law Amendment\), 2017](#) (the Bill) on April 10, 2017 which amended several acts including the *Consumer Protection Act* (Ontario), the *Collection and Debt Settlement Services Act* and the *Payday Loans Act*. Bill 59 also enacts the *Home Inspection Act, 2017*, which requires home inspectors to be licensed, among other matters.

The amendments to the *Consumer Protection Act* may be of particular interest to business in the consumer leasing and lending industry. The Bill does not directly implement new regulations or prohibitions. Instead, it sets the stage for new regulations to be developed and enacted.

For consumer loans or credit agreements, new provisions related to Part VII of the *Consumer Protection Act* give the government the right to create new regulations. The regulations in respect of consumer loans could include the following:

- (i) governing the factors that a lender is required to take into account before entering into a credit agreement with the borrower;
- (ii) prohibiting lenders from entering into a credit agreement with a borrower if the amount of the credit to be extended or money to be lent under the agreement exceeds the prescribed amounts;
- (iii) requiring a lender under a credit agreement to provide to the borrower copy of the lender's assessment of the factors prescribed under clause (i) above;
- (iv) specifying that if a lender under a credit agreement does not comply with a regulation made under clause (iii) above, the borrower is not liable to pay the lender the cost of borrowing under the agreement;
- (v) prohibiting a lender from initiating contact with a borrower for the purpose of offering to refinance a credit agreement; and
- (vi) prescribing maximum amounts for charges that are not included in the cost of borrowing under a credit agreement, or a method of setting maximum amounts.

For consumer leases, new provisions related to Part VIII of the *Consumer Protection Act* give the government the right to create new regulations. The regulations in respect of leases could include the following:

- (vii) to bring in new types of leases within the regulatory framework of the *Consumer Protection Act*;
- (viii) governing and requiring the use of tags or other markers attached to or displayed around a good that is to be leased;
- (ix) governing penalties to which a lessee is subject for making late payments under a lease, including, (i) prescribing a grace period, (ii) restricting the rights of a lessor if a lessee makes a late payment, and (iii) prescribing the maximum amounts of penalties that a lessor can require a lessee to pay to the lessor for making a late payment;
- (x) governing the termination of a lease; and

- (xi) governing obligations of lessors and lessees arising as the result of the termination of a lease including permitting the re-instatement of terminated leases by the lessee.

Clearly, such regulations could have a significant impact on consumer finance lenders as well as different lease agreements. Stay tuned.

The amendments also open the door for regulations that prohibit door to door sales of prescribed products. Currently, that restriction only applies to water heaters. However, a press release from the Ontario Ministry of Government and Consumer Services indicates that the government is considering expanding the scope of this prohibition. As evidenced through the regulatory framework of Bill 59, prohibiting unsolicited door to door sales of household appliances such as water heaters, furnaces, air conditioners, and water filters may be on the agenda.

In addition to prohibiting direct sales of prescribed products, the new regulations would also allow consumers to cancel and receive a refund where the seller does not follow the restrictions on door to door sales. Presumably the government's aim is to curb abusive unsolicited transactions. Note that the ministry has indicated in its press release that it would heed public input before actually implementing any new prohibitions or regulations.