

Reminder for lenders and brokers: British Columbia high-cost credit regime to come into force May 1, 2022

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On May 1, 2022, British Columbia's new high-cost credit regime will come into force and British Columbia will join Alberta, Manitoba and Quebec as the fourth Canadian jurisdiction to specifically regulate high-cost credit. All lenders who provide high-cost credit and high-cost credit brokers operating in the province of British Columbia will be required to be licensed. Such lenders and brokers who have not already begun the registration process are reminded to do so promptly in order to meet the May 1 deadline.

Below we set out some of the key details about the new high-cost credit regime.

The legislative process began some time ago in 2019 when British Columbia passed major amendments to the *Business Practices and Consumer Protection Act* (the BPCPA). Among other changes, these amendments introduced a new framework under the BPCPA for the regulation of high-cost credit products. However, additional details were still to follow in regulations, such as the definition of what constituted high-cost credit.

Around two years later, in November 2021, two related Orders in Council were published setting out the High-Cost Credit Products Regulation (the Regulation) and announcing May 1, 2022 as the in-force date for both the Regulation and the broader legislative framework governing high-cost credit.

When it comes into force, British Columbia's new high-cost credit regime will require all high-cost credit lenders and brokers to be licensed and will provide certain cancellation rights and disclosure requirements for high-cost credit agreements, along with other consumer rights, such as a one-business-day cooling off-period.

While the fundamental contours of British Columbia's new high-cost credit regime have been clear since the amendments to the BPCPA were passed back in 2019, the Regulation sets out additional key details. Most critically, the Regulation sets out the APR threshold: the high-cost credit regime will apply to fixed credit, open credit, and leases with an APR or annual interest rate exceeding 32%. This is similar to the high-cost thresholds that apply in Alberta (32% or more) and Manitoba (over 32%). The Regulation also clarifies that the regime only applies to credit that is extended primarily for a personal, family or household purpose.

As expected, based on the carveouts provided under the BPCPA amendments, the Regulation continues to fully exempt "savings institutions" (i.e., banks, credit unions, and certain trust and loan companies) from the application of the high-cost credit regime.

Other exemptions provided under the Regulation include:

- High-cost credit provisions of the BPCPA and the Regulation do not apply to loan brokers who arrange, negotiate or facilitate an extension of credit that is not a high-cost credit product
- High-cost credit product cancellation provisions under the BPCPA do not apply in respect of a high-cost credit sale or lease agreement
- Provisions restricting the use and disclosure of borrower information do not apply to a high-cost credit grantor when the high-cost credit grantor requires, requests or accepts consent from a borrower to disclose the borrower's personal information to a reporting agency

Additionally, the Regulation prohibits high-cost credit grantors from charging any fees for additional attempts to process a regularly scheduled payment that was dishonoured, and requires high-cost credit grantors to review certain key terms with the borrower, each of which must be initialed by the borrower, before the borrower signs the agreement.

High-cost credit licenses

As of May 1, 2022, any person who offers, arranges, provides or facilitates high-cost credit products to or for British Columbia consumers must obtain a licence from Consumer Protection BC.

To apply for a licence, a high-cost credit grantor (which term includes both lenders and brokers) will need to provide certain information to Consumer Protection BC, including proof of registration or incorporation; information regarding web domains; a criminal record check for senior officers, partners or proprietors; and samples of the standard forms to be used, including the form of agreement for each high-cost credit product type offered, the cancellation notice, receipts, and the debt collection notice, as applicable. Applicants must submit all required fees together with the completed application, including the required contributions to the Consumer Financial Education Fund.

High-cost credit grantor licenses will be valid for up to three years and must be obtained for each location from which the high-cost credit grantor conducts business in British Columbia. Such licenses must be prominently displayed in the location for which it is issued and also on any websites.

Further information regarding the application process is available from [Consumer Protection BC](https://www.consumerprotectionbc.ca/).