**Should Ontario Reduce the Maximum Total Cost of Borrowing a Payday Loan?**

We want to know what you think about how to make payday loans more affordable to borrowers.

# Context

A payday loan is a short term loan provided in exchange for a post-dated cheque or pre-authorized debit. The average payday loan in Ontario is estimated to be $435 borrowed for sixteen days.

Payday loans have been available in Canada for approximately 20 years. Since their introduction, there have been concerns about the cost of payday loans.

When a 2007 change to the Criminal Code allowed provinces to limit the total cost of borrowing for a payday loan, Ontario took action. Ontario and six other provinces have legislation to protect payday loan borrowers. Ontario’s Payday Loans Act was introduced in 2008 and took effect in 2009.

The maximum that can be charged for a payday loan in Ontario is $21 per $100 lent. This is the total cost of all amounts that the borrower can be charged in connection with a payday loan agreement. The maximum total cost of borrowing, set by law at $21 per $100 lent, applies to payday loans for $1,500 or less and 62 days or less.

In early 2009, the then Ministry of Small Business and Consumer Services established an advisory board to provide a recommendation to government on an appropriate total cost of borrowing rate ceiling for payday loans. That board recommended that the maximum total cost of borrowing be set at $21 per $100. The total cost of borrowing a payday loan has remained at $21 per $100 lent since 2009. The advisory board noted that the cost of borrowing could be reduced if:

1. The industry remained competitive,
2. There was no real change in business models, or
3. Borrowing costs rose to the recommended maximum.

Industry trends, stakeholder views, and international experience support a review of the maximum total cost of borrowing at this time. Ontarians continue to express concern about the cost of borrowing and its potential to encourage repeat borrowing or dependency on payday loans (see [**Appendix 1**](#_Appendix_1_-)).

The payday lending industry in Ontario appears to be thriving. There are over 800 payday lending branches and head offices in Ontario and over 200 different lenders. Online lending has grown and is likely to continue to grow. Aside from that shift in the mode of delivery, the business model of payday lending appears to have remained consistent and the average cost of borrowing is approximately $20 per $100 lent.

Experience in other jurisdictions suggests that there may be room to reduce the cost of payday lending in Ontario. Most North American jurisdictions that allow payday lending set a lower cost of borrowing a payday loan than Ontario. The lower price does not appear to prevent consumers from accessing payday loans.

Even in jurisdictions with significantly lower costs of borrowing, consumers have access to payday loans. For example, a $435 payday loan that costs $91 in Ontario would cost approximately $49 in Florida. Yet Florida has regulatory restrictions above and beyond Ontario’s, including: limiting payday loans to $500 per loan, requiring the use of a transaction tracking system, limiting borrowers to only one loan at a time, a minimum term of seven days and a maximum term of 31, and a sixty day grace period if the loan cannot be repaid. Even with a lower cost of borrowing and increased regulatory restrictions, Florida has more payday lending stores per capita than Ontario. In Colorado, a 2010 payday lending law reshaped payday lending into a lower cost and longer-term instalment loan product. Two years after the change, payday lending had become more efficient. While the number of payday lending storefronts had decreased by 53%, the total number of borrowers had only decreased by 7%. Despite these lower prices and higher regulatory restrictions, payday loans remain available to consumers in these jurisdictions.

The availability of payday loans is important. Ontario’s recent consultation revealed that a wide range of stakeholders see payday lending to be an important option for consumers who do not have access to other sources of credit. The Ministry also received feedback that:

* Ontario’s market for credit should be fair and safe and that consumers should be well informed.
* Consumers seeking access to credit should not face undue financial hardship from the use of high-cost, short-term credit, such as payday loans.

# Options to Consider

As a result, the Ministry of Government and Consumer Services is seeking input on how reducing the cost of borrowing a payday loan would affect payday loan borrowers, payday lenders, and payday loan brokers. This paper describes three potential reductions in the maximum total cost of borrowing a payday loan. Two of these are based on the cost of borrowing in other jurisdictions with active payday lending industries. While the costs of offering a payday loan are likely to vary amongst jurisdictions, the Ministry is unaware of features of these jurisdictions that are likely to account for Ontario’s relatively high cost of borrowing a payday loan.

As an objective of this consultation is to inform analysis of *whether* to reduce the cost of borrowing, an option to retain the current cost of borrowing is also described.

The options proposed are based on several principles:

* High-cost credit poses an inherent risk to consumers with financial issues such as insufficient or irregular cash flow or damaged or limited credit records;
* In the absence of alternatives, payday loans can provide a helpful emergency source of credit;
* The price of short-term credit for vulnerable Ontarians should be determined by a combination of consumer protection principles and tools, that includes examining the total cost of borrowing; and
* A reduction in the number of payday lending outlets is acceptable, particularly in areas where there is a high concentration of lenders.

The information gathered from this consultation will help to determine whether Ontario’s maximum total cost of borrowing should be reduced.

## Option 1: $15 per $100 advanced

| Loan Amount | Maximum Total Cost of Borrowing | Resulting Cost of $300 Advance | Current Maximum Cost of $300 Advance | Potential Annual Consumer Savings (8 loans) |
| --- | --- | --- | --- | --- |
| $300 | $15 per $100 advanced | $45 | $63 | $144 |

### Considerations

This option would make the cost of borrowing in Ontario comparable to many US states. $15 per $100 is the most common price cap in the US states that allow payday lending. Payday loans are available in 36 states in the US and 29 of them have a lower cost of borrowing than Ontario.

## Option 2: $17 per $100 advanced

| Loan Amount | Maximum Total Cost of Borrowing | Resulting Cost of $300 Advance | Current Maximum Cost of $300 Advance | Potential Annual Consumer Savings (8 loans) |
| --- | --- | --- | --- | --- |
| $300 | $17 per $100 advanced | $51 | $63 | $96 |

### Considerations

At $17 per $100, Manitoba currently has the lowest maximum total cost of borrowing in Canada. Manitoba has set the cost of payday loans at this amount since 2010. While there are fewer payday lenders per capita than in Ontario, Manitobans continue to have access to payday loans.

## Option 3: $19 per $100 advanced

| Loan Amount | Maximum Total Cost of Borrowing | Resulting Cost of $300 Advance | Current Maximum Cost of $300 Advance | Potential Annual Consumer Savings (8 loans) |
| --- | --- | --- | --- | --- |
| $300 | $19 per $100 advanced | $57 | $63 | $48 |

### Considerations

A $19 per $100 maximum total cost of borrowing a payday loan is approximately a 10% reduction. Ontario would continue to have the second lowest maximum total cost of borrowing a payday loan in Canada.

##  Option 4: No change - $21 per $100 advanced

| Loan Amount | Maximum Total Cost of Borrowing | Resulting Cost of $300 Advance | Current Maximum Cost of $300 Advance | Potential Annual Consumer Savings (8 loans) |
| --- | --- | --- | --- | --- |
| $300 | $21 per $100 advanced | $63 | $63 | $0 |

### Considerations

$21 per $100 advanced is the current maximum total cost of borrowing. Based on current rates in other provinces, Ontario would continue to have the second lowest maximum total cost of borrowing a payday loan in Canada.

# Tell Us What You Think

Your comments will help inform decisions on potentially lowering the maximum total cost of borrowing in Ontario. Please send us your comments by May 20, 2016.

Questions are provided below for your consideration. Any additional information, documentation, or references that support your comments are welcome.

## General Questions

1. Which of the options do you prefer and why?
2. Is there an alternative option that would better address the objectives of this review?
3. Would reductions in the cost of borrowing benefit payday loan borrowers and their communities?
4. Do you think reducing the cost of borrowing will influence how often people borrow or default on payday loans?
5. How could reductions in the cost of borrowing affect the availability of payday loans (e.g., changes in operational expenditures, store locations, online availability, or lending decision-making) and why?
6. How would reduced availability of payday loans affect consumers and communities?
7. Is there anything unique to Ontario that justifies a higher cost of borrowing than other many other jurisdictions?

## If you are a member of the alternative financial services industry

1. How would you change your operating costs to offset a reduction in revenues? What kinds of operating costs would you decrease and why?
2. Would a reduction in the cost of borrowing cause you to take stronger measures to determine credit-worthiness of borrowers? Why or why not?
3. Would you consider offering a wider range of products in response to reduced revenues in payday lending (e.g., instalment loans?)

## Personal Information

Please include the following information in your response:

1. Your name.
2. Whether you are replying on behalf of an organization and, if so, the name of the organization.
3. Contact email and phone number (optional.)

Respecting your privacy and protecting your personal information is a priority for us. The Ontario government’s management of personal information is governed by the Freedom of Information and Protection of Privacy Act (FIPPA).

# Privacy Statement

Please note that unless requested and agreed otherwise by the Ministry of Government and Consumer Services, all materials or comments received from organizations in response to this consultation will be considered public information and may be used and disclosed by the ministry to assist the ministry in developing the proposed regulatory amendments. This may involve disclosing materials or comments, or summaries of them, to other interested parties during and after the request for public comment process.

An individual who provides materials or comments and who indicates an affiliation with an organization will be considered to have submitted those comments or materials on behalf of the organization so identified. Materials or comments received from individuals who do not indicate an affiliation with an organization will not be considered public information unless expressly stated otherwise by the individual. However, materials or comments from individuals may be used and disclosed by the ministry to assist in developing the proposed regulatory amendments.

Personal information of those who do not specify an organizational affiliation, such as an individual’s name and contact details, will not be disclosed by the ministry without the individual’s consent unless required by law. If you have any questions about the collection of this information, please contact Shane Gallagher, Senior Policy Advisor, Consumer Policy and Liaison Branch, Ministry of Government and Consumer Services at 416-326-8873.

# Sharing your Views:

You can send your comments by e-mail or through the mail.

## Email:

consumerpolicy@ontario.ca

Use “Payday Loan Cost of Borrowing” in the subject line of your e-mail.

## Mail:

Send your thoughts to:

Payday Loan Cost of Borrowing Review

Consumer Policy and Liaison Branch

Ministry of Government and Consumer Services

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# Appendix 1 - Strengthening Consumer Financial Protection Consultation: Selected Feedback

In summer 2015, a consultation on how to strengthen financial protections for consumers asked Ontarians for feedback on how to protect consumers who have debts in collection, use remittance services and enter into payday loans agreements. Feedback was provided through multiple channels:

* Meetings held in six communities across the province ;
* Ten meetings held with sectors within the alternative financial services industry;
* An online survey; and
* Written submissions.

Payday lending was the focus of most comments from members of the public.

Overall, there was strong support for stricter regulations.

While some consumers saw banning payday loans to be crucial to borrowers’ financial security, others indicated that payday loans are an important source of credit in the absence of lower cost credit options.

The consultation raised questions about the process of setting the maximum total cost of borrowing, including the frequency of review, the cost of default, and promotional rates for payday loans.

There was general support for establishing:

1. A clear process for setting the maximum total cost of borrowing for payday loans;
2. Reducing the cost of payday lending while preserving the availability of credit;
3. A five year cycle to review the cost of borrowing for payday loans; and
4. Engaging stakeholders.