



DOWNEY DIGEST

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A NOTE FROM DOUG

Consumers deserve better in Ontario.

That's why our government is working to create new, and updated, protections for consumers in Ontario. If adopted, the *Better for Consumers, Better for Businesses Act, 2023*, will help provide better protections and simplify transactions for customers and businesses.

Below is a list of changes included in this new bill. Please do not hesitate to contact my offices if you have questions or concerns regarding this bill, or any other concerns. As always, my team is happy to assist.

ONTARIO INTRODUCES BETTER FOR CONSUMERS, BETTER FOR BUSINESSES ACT

The proposed Better for Consumers, Better for Businesses Act, 2023, would introduce a new Consumer Protection Act and amend the Consumer Reporting Act. If passed, it would strengthen protections and make life easier for consumers and businesses.

With our increasingly online world, consumer habits and business practices have evolved. Stronger consumer protections and better compliance by businesses would help strengthen confidence in the marketplace while supporting Ontario's continued economic growth.



The proposed new legislation includes the following initiatives to enhance consumer protection:

Tackling Unfair Business Practices

The proposed new legislation would clarify and strengthen prohibitions against unconscionable conduct by explicitly prohibiting specific unfair business practices such as price gouging or taking advantage of a consumer's inability to understand language in a contract. It would also update the list of examples of prohibited false, deceptive or misleading representations to expressly forbid practices that businesses may use, such as false claims of government oversight and false prize offers. Consumers would also have the right to rescind a contract for one year after entering that contract if an unfair practice has taken place or one year after an unfair practice takes place - whichever is later.

Addressing Predatory Practices by Some Suppliers Leasing Equipment to Homeowners

Many homeowners in Ontario lease or rent water heaters, furnaces, and other home comfort equipment on a long-term basis. Some suppliers make it very difficult and costly for consumers to exit these contracts.

The proposed new legislation would establish specific rules for a new category of long-term leases for heating, ventilation, and air conditioning (HVAC) and other home comfort appliances, called “purchase-cost-plus leases”. It would establish a 10-day cooling-off period and would set limits on termination costs for purchase-cost-plus leases if a consumer wishes to end a contract early.

Providing An Exit for Timeshares

Consumers can find themselves and their families locked indefinitely into timeshare arrangements. The proposed new legislation would provide consumers with the right to exit a timeshare contract, if they so choose, after 25 years have passed. This would apply to new and existing timeshare contracts. It also would provide a similar exit option for others (e.g., the owner’s heirs) upon a timeshare owner’s death and would limit the costs that a consumer may be charged for exercising an exit option, with details to be determined in regulations.

Helping Consumers with Discharging Certain Notices of Security Interest

A Notice of Security Interest (NOSI) is a registration on the land registry system that gives notice to third parties that a lender or lessor has an interest in a fixture on the land –

– such as a water heater or furnace that is installed in the home. A business may register a NOSI on title at any time after entering into a contract with the consumer/debtor to protect its interest in the goods should the homeowner default on payment or if the homeowner decides to sell or needs to refinance the property. A NOSI does not give the business any claim against the land itself – or the right to any proceeds from the sale of the land – and is often incorrectly referred to as a lien. When a NOSI is in place, some bad actors use the NOSI as leverage when consumers try to sell or refinance their home. Consumers may have to pay excessive amounts to clear the NOSI from their title or may even need to spend their time and hard-earned money in court to have it discharged.

The Personal Property Security Act (PPSA) allows for NOSIs to be registered on title to land. The PPSA also includes remedies in cases when a consumer has fulfilled their obligations related to the NOSI (or if obligations related to the NOSI are forgiven) but a business has not discharged the NOSI. The proposed new legislation would clarify a business’ obligation to discharge a NOSI under specific circumstances. It also would allow some consumers to receive assistance from the Ministry of Public and Business Service Delivery in enforcing a business’ obligations to discharge a NOSI.

Clarifying Rules for Gift Cards

The proposed new legislation would make it even clearer that gift cards and other forms of prepaid purchase cards cannot expire, regardless of whether the gift card is electronic or physical and regardless of how it is purchased (e.g., in a store, online or via an app).

Protecting Consumers' Right to Take Action in Court

Sometimes businesses may include contract terms that suggest consumers can only pursue a claim against the business in a court in another jurisdiction outside Ontario, such as the country where the business is headquartered. However, people have the legal right to pursue claims in Ontario courts. The proposed new legislation would clarify that businesses cannot include terms in a contract that mislead consumers about their right to have disputes adjudicated in an Ontario court.

Larger Fines for Illegal Business Activity

Currently, the maximum fines when an individual or corporation has been convicted of an offence under the Consumer Protection Act are \$50,000 and \$250,000, respectively. The proposed new legislation would double the maximum fines (\$100,000 for individuals and

– and \$500,000 for corporations) to further deter offences and egregious business behaviour.

Deterring Businesses from Refusing to Provide Statutory Refunds

When a consumer is entitled to a refund under the existing Consumer Protection Act, the business must issue that refund within 15 days of the consumer giving notice. The legislation also gives the consumer the right to sue when businesses do not provide refunds as required. When a consumer takes legal action to obtain a refund that a business has failed to provide, the proposed new legislation would give consumers the right to recover three times the original refund amount.

Addressing Automatic Contract or Service Renewals

To better protect consumers from unilateral contract changes and/or unwanted automatic renewals or extensions, the proposed new legislation would limit when businesses can make unilateral contract amendments, renewals, and extensions without express consumer consent. Regulations could also require that automatic renewals or extensions of contracts, where permitted, must include an ongoing right for the consumer to cancel. This would provide consumers who enter into long-term and ongoing contracts, with more certainty that their consent is needed to make changes, including to prices.

Right to Review

Some businesses try to control negative consumer comments and bill people whose comments they consider to be damaging or disparaging. The proposed new legislation, if passed and once implemented, would support the free exchange of information in the marketplace by prohibiting businesses from including terms in a contract that try to deter consumers from publishing reviews or that bill consumers in response to the contents of reviews. Consumers could share their experiences with a business without fear of repercussions.

During the regulation-making phase, the following proposals would be consulted upon with the public and stakeholders:

Making It Easier to Cancel Subscriptions and Membership Agreements

Some businesses make the process of exiting a subscription or membership-based contract (e.g., a gym membership or online service) challenging, time-consuming, and inconvenient for consumers. To protect consumers against this frustrating business practice, the ministry would develop regulations that would, once approved and implemented, prohibit businesses from creating unnecessary barriers when consumers are trying to cancel a contract, particularly a subscription or membership-based contract.

Greater Consumer Access to Credit Information

The proposed amendments to the [Consumer Reporting Act](#) would enable consumers to receive free electronic access to their consumer reports and credit scores once per month.

Additional Tools for Consumers

To prevent the harms that could be caused by identity theft, the proposed amendments would allow consumers to place a security freeze on their credit reports for certain purposes, which would prevent creditors or lenders from accessing those reports. Consumers would also have a statutory right to place an explanatory statement on their consumer file to contextualize their information, such as the circumstances of a loan.

Quick Facts:

- The proposed Better for Consumers, Better for Businesses Act, 2023, introduces a new Consumer Protection Act that would amend the [Consumer Protection Act, 2002](#) which governs most personal and household consumer transactions.
- The new Act reflects extensive consultation with the public and stakeholders over a three-year period and will make the marketplace easier to navigate for businesses and consumers alike.

ONTARIO WINDING BACK CHANGES TO OFFICIAL PLANS

Recently, Minister Calandra announced he will be introducing legislation, as soon as he is able, to reverse the official plan decision for Barrie, Belleville, Guelph, Hamilton, Ottawa, the Regional Municipalities of Halton, Niagara, Peel, Waterloo and York, as well as Wellington County. This legislation would wind back provincial changes to official plans and official plan amendments, except in circumstances where construction has begun. This includes winding back changes to urban boundaries.

Impacted municipalities are being asked to submit changes and updates to these plans within 45 days, including information on projects that are already underway.



My office is always here to help with any provincial matters and concerns. While we endeavour to respond to every matter in a timely manner, our team is often busy helping constituents. Take a look at the month so far:



1,167

email contacts



73

phone calls



8

walk-in visits



5

new cases

You can always contact us at Doug.Downey@pc.ola.org or 705-726-5538.