

Acts to Amend s. 347 of the *Criminal Code*

Bill S-210, *An Act to amend the Criminal Code (criminal interest rate)*

- Proposed rate of interest: **20%** + BoC's overnight rate (at time, 1%)
- Rationale: In the US interest rate legislations vary between 5 and 24%.
- Business Loan Exemptions: rate remains the same for loans below \$1 million. No limit for loans equal or above \$1 million.
- Stated legislative objectives: cover abusive lending practices **beyond loansharking** and **prevent the worsening of financial difficulties** through unpayable high interest rates.
- Opposition: a need for **further consultation** with the business, banking and legal communities.
- Concerns: the **effectiveness** of the *Criminal Code* to regulate predatory lenders due to its **lack of enforcement**.
- Result: The Bill reached **the Second Reading** in the Senate before **lapsing**.

2004

Bill S-19, *An Act to amend the Criminal Code (criminal interest rate)*

2013

- Proposed rate of interest: **35%** + BoC's overnight rate (at time, 2.5%)
- Rationale: realistic, would make the market fair and has had proven success in Quebec.
- Changes to calculation of interest: **Insurance rates added**
- Exemptions: agreements in which the credit advanced **exceeds \$100,000**.
- Stated legislative objectives: preserve freedom of contract while protecting consumers against abuse.
- Concerns: the provision was not used extensively for consumer protection purposes + has primary concern of loansharking.
- Result: The Bill **passed through the Senate** but only made it through the **First Reading at the House of Commons** due to a change in the federal government.

2017

Bill S-237, *An Act to amend the Criminal Code (criminal interest rate)*

- Proposed rate of interest: **20%** + BoC's overnight rate (at time, 0.5%)
- Business Loan Exemptions: no limits for **loans under \$1 million**. **60%** limit for loans over **\$1 million**.
- Stated legislative objectives: **preserve the financial well-being of consumers**.
- Rationale: **the criminal rate of interest is outdated**. The rate would be 1.5% today if the same 1981 multiplier was used.
- Concerns: the **ideal percentage of the usury cap** (discussion points of reference include 35% in QB, 36%+ in the US, 32% in AB and MB) and the continued exclusion of **payday loans** and **the effect of lowering the cap on alternative forms of lending**, like pawnshops and installment loans, that **some consumers rely on**.
- Result: Clause 1 of the Bill was **amended** on division to lower the **criminal rate of interest to 45%**. A **sub-amendment** required the **rate of interest to be reviewed every 3 years** by a committee of the Senate or House of Commons.
- Result: The Bill **lapsed** at the Third Reading with a proposal to lower the rate to 45%.

March
2021

Bill C-274, *An Act to amend the Criminal Code (criminal interest rate)*

- Proposed rate of interest: **30%** + BoC's overnight rate (at time, 0.25%)
- Other amendments: repeal s. 347.1's payday loan exemption.
- Effect: payday loans would be subject to s. 2 of the *Interest Act*.
- Changes to calculation of interest: **Insurance rates added**
- Rationale: the banking sector and federal government have **failed low and moderate-income people**, especially during the pandemic, as the rich continue to accumulate wealth and the poorest struggle.

May
2021

Bill S-233, *An Act to amend the Criminal Code (criminal interest rate)*

- Proposed rate of interest: **20%** + BoC's overnight rate (at time, 0.25%)
- Rationales: tying the rate to the BoC's overnight rate allows the limit to be **reasonably reflective of the market** as it moves with general interest rates. **Most financial instruments** like mortgages and credit cards **can operate at this rate** or below. **2021 budget's** commitment to begin consultation to reduce the criminal rate of interest underscores the **need for action**.
- Stated legislative objective: address the **rising debt crisis** occurring while interest rates are at all-time lows + exacerbated by the pandemic