

2003 Fredericton, NB

Result of Consultations Relating to Proposed Amendments to Section 347 of the Criminal Code

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[1] A paper regarding suggestions for amending Section 347 of the Criminal Code was prepared and circulated to the Uniform Law Conference of Canada in the 2002 - 2003 year. The paper was posted on the website of the Conference and comments from the profession were solicited.

[2] Only four comments containing any substance were submitted. Two of those comments agreed generally with suggestions made in the paper. Of those, one expressed a strong preference for the repeal of s. 347 in its entirety but, failing that, agreed with the recommendations. The second was considerably more extensive and expressed preference for the removal of commercial loans completely from the ambit of the section with a dollar limit (as proposed); failing that solution, this commentator's second choice was the removal of commercial transactions unless prosecution had been approved by the Attorney General.

[3] This commentator also added another possible amendment if none of those already proposed was acceptable: the exclusion of loans where the cause of exceeding the 60% limit is either that the term was shorter than reasonably expected, whether because of voluntary prepayment (which would already be protected) or an early demand or default and the exclusion of loans where the full amount of credit had not actually been drawn.

[4] Of the remaining two comments, one expressed a jurisdictional concern relating to the Federal power over criminal law; the second focused only on the definition of interest and expressed the opinion that the major problem was the inclusion of administration fees in that definition.

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[5] Obviously the results of the requests for comment were disappointing. I doubt that much, if anything general can be concluded from the comments received. While the comments themselves were helpful and interesting, there simply are not a sufficient number to determine whether the proposed amendments were found by the profession to be an adequate solution to the problem.