

No. 50

2nd Session, 15th Legislature, Alberta
13 Elizabeth II

BILL 50

A Bill to amend The Conditional Sales Act

HON. MR. MANNING

Explanatory Note

1. The Conditional Sales Act, R.S.A. 1955, chapter 54 amended.

2. Section 10 presently reads:

10. (1) Nothing in this Act relating to registration applies to railway companies in cases of sales or bailments of rolling stock or equipment for use on railways if the conditional sale agreement relating thereto or a copy thereof

(a) certified under the hand of the president or vice-president and secretary of the company,

(b) verified by an affidavit of the secretary attached thereto or endorsed thereon, and

(c) having the corporate seal attached thereto,
is filed with the Registrar of Companies within thirty days from the execution thereof.

(2) A memorandum of satisfaction or of partial discharge of the indebtedness under any such contract with a railway company may be registered with the Registrar of Companies.

The new subsection (1) extends to all conditional sales agreements of railway rolling stock irrespective of who are the parties to them. The present subsection (1) is confined to those cases where a railway company is the buyer or bailee but as railways are now more frequently leasing their rolling stock, the section will cover cases where the conditional buyer is the leasing company itself or a trustee under an equipment trust financing arrangement.

Documents will be filed with the Motor Vehicle Branch, which already serves as a central registry for agreements affecting "itinerant machines", rather than with the Registrar of Companies.

Clauses (a), (b) and (c) of subsection (1) are removed in order to make the registration requirements uniform with those in sections 4 and 5 under which it is sufficient to register the agreement itself or a true copy thereof.

3. Section 19 is revised to clarify its intent and to provide that where goods are surrendered to the seller (rather than seized) the seller can not recover the balance owing on the purchase price from the purchaser. This is presently the case when goods are seized. Clause (b) of subsection (8) is also new. Section 19 presently reads:

19. (1) When any goods or chattels are hereafter sold and after delivery the vendor has a lien on them for all or part of the purchase price, the vendor's right to recover the unpaid purchase money, if he seizes or causes the said goods or chattels or a portion thereof to be seized under a conditional sale agreement, is restricted to his lien on the goods or chattels and his right to repossession and sale thereof, in which case no action is maintainable for the purchase price or any part thereof notwithstanding anything to the contrary in any other Act or in an agreement or contract between the vendor and purchaser.

BILL

No. 50 of 1965

An Act to amend The Conditional Sales Act

(Assented to _____, 1965)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Conditional Sales Act* is hereby amended.

2. Section 10 is struck out and the following is substituted therefor:

10. (1) Nothing in this Act relating to registration applies to a sale or bailment of rolling stock or equipment for use on railways if the conditional sale agreement relating thereto or a true copy thereof is filed with the registration clerk of the Motor Vehicle Branch within thirty days from the execution of the agreement.

(2) A memorandum of the discharge or partial discharge of the indebtedness under an agreement in respect of which filing is made under subsection (1) may be filed with the registration clerk of the Motor Vehicle Branch.

(3) The Registrar of Motor Vehicles shall maintain separate records in respect of documents filed under this section.

3. Section 19 is struck out and the following is substituted:

19. (1) Subject to subsections (6) to (8) this section applies only to a sale or agreement for the sale of goods made before or after the commencement of this section of any of the following kinds, namely,

(a) an agreement for sale under which the right of property in the goods remains in the seller until the purchase price is paid in full or until some other condition is fulfilled, and

(2) Instead of seizing or causing to be seized the goods or chattels or any of them under the provisions of the conditional sale agreement, the vendor may elect to bring an action against the purchaser for the purchase price or part thereof of any of the goods or chattels so sold.

(3) If the said goods or chattels or any of them are seized under an execution issued pursuant to a judgment obtained in the said action, then the vendor's right to recover under the said judgment in so far as it is based on the purchase price of the said goods or chattels is restricted to the amount realized from the sale of the said goods or chattels so seized and the said judgment, to the extent that it is based upon the purchase price of the said goods or chattels and the taxed costs, shall be deemed to be fully paid and satisfied.

(4) This section applies to all instalment sales whether effected by way of a conditional sale agreement or lien note or by way of an agreement or arrangement made at the time of sale or subsequent thereto whereby the purchaser gives to the vendor a chattel mortgage or bill of sale covering the whole or part of the purchase price of the goods or chattels sold.

(5) This section does not apply to a case where, after seizure, the goods or chattels are destroyed or damaged to such an extent that the vendor's security is materially impaired either by the wilful act of the purchaser or by his neglect or otherwise.

(6) This section does not apply to instalment sales of machinery, equipment or material manufactured or made for use in the exploration for, or in the production of, petroleum or natural gas.

(7) Notwithstanding the foregoing provisions of this section, where a vendor, in order to recover unpaid purchase money owing under an instalment sale, has seized or caused to be seized the goods or chattels sold, and it is found that an accessory forming part of his security was removed from the goods or chattels before they were seized and was not replaced by another accessory of a like kind and value, the vendor may sue the purchaser

(a) for the value of the accessory, or

(b) for the amount by which the sum realized on the sale of the goods or chattels falls short of the amount owing by the purchaser and the amount of the proper fees, charges, claims and disbursements in connection with the seizure and the sale,

whichever is the less.

- (b) a sale effected by way of a lien note or by way of any agreement or arrangement made at the time of the sale or subsequent thereto whereby the buyer gives to the seller a chattel mortgage or a bill of sale covering the whole or part of the purchase price of the goods sold, and
 - (c) a sale made pursuant to a contract of bailment under which it is intended that the property in the goods will pass to the bailee on the payment of the purchase price in whole or in part or on the performance of a condition.
- (2) A seller may enforce his right to recover the purchase price owing to him under a sale either
- (a) by seizure of the goods pursuant to the agreement, and in the manner provided by *The Seizures Act*, or
 - (b) by an action against the buyer for the money owing in respect of the goods.
- (3) If the seller elects to seize the goods and the goods are seized, his rights are restricted to his right of repossession and sale of the goods and no action is maintainable for the purchase price or any part thereof, notwithstanding anything to the contrary in any other Act or in any agreement between the seller and the buyer.
- (4) If the seller elects to bring an action against the buyer and recovers a judgment for the money owing, then if the goods in respect of which that money is owing are seized under an execution issued pursuant to that judgment, the seller's rights are restricted to the amount realized from the sale of those goods and the judgment, to the extent that it is based on the purchase price of those goods and chattels, and the taxed costs, shall be deemed to be fully paid and satisfied.
- (5) When goods
- (a) are surrendered by the buyer to the seller with the seller's consent, or
 - (b) are sold following their seizure
 - (i) pursuant to the agreement as mentioned in subsection (3), or
 - (ii) under execution as mentioned in subsection (4),
 - or
 - (c) are ordered by a judge to be delivered up to the seller or execution creditor pursuant to clause (b) of subsection (4) of section 29 of *The Seizures Act*,
- the indebtedness of the buyer under the agreement or under the judgment, to the extent that it is based on the purchase price of the goods, is extinguished, and any moneys thereafter paid in respect of the purchase price, or judgment therefor, are recoverable by action against the seller.

4. Commencement of Act.

(6) This section does not apply where, after seizure, the goods are destroyed or damaged to such an extent that the seller's security is materially impaired either by the wilful act of the buyer or by his neglect or otherwise.

(7) Notwithstanding anything in this section, where a seller in order to recover unpaid purchase money due, has seized or caused to be seized the goods, and it is found that an accessory forming part of his security was removed from the goods before they were seized and was not replaced by another accessory of a like kind and value, the seller may sue the buyer

(a) for the value of the accessory, or

(b) for the amount by which the sum realized on the sale of the goods falls short of the amount owing by the buyer and the amount of the proper fees, charges, claims and disbursements in connection with the seizure and the sale,

whichever is the less.

(8) This section does not apply to a sale of

(a) machinery, equipment or material manufactured or made for use in the exploration for, or in the production of, petroleum or natural gas, or

(b) rolling stock or equipment for use on railways.

4. This Act comes into force on the day upon which it is assented to.

No. 50

SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

BILL

An Act to amend The Conditional
Sales Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
