

1971 Bill 54

Fourth Session, 16th Legislature, 20th Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 54

An Act to amend The Conditional Sales Act

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

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BILL 54

1971

AN ACT TO AMEND THE CONDITIONAL SALES ACT

(Assented to _____, 1971)

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

1. The Conditional Sales Act is hereby amended.

2. Section 5 is amended by striking out subsections (2) and (3) and by substituting the following:

(2) The description of a motor vehicle, aircraft or trailer in a conditional sale agreement shall include the serial number of the motor vehicle, aircraft or trailer.

(3) The description of oil well drilling equipment in a conditional sale agreement shall be such that the oil well drilling equipment is readily and easily known and distinguishable.

3. Section 18, subsection (1) is amended by striking out the words "a person demanding it" and by substituting the words "the buyer or bailee".

4. The following section is added after section 18:

18.1 (1) In this section,

- (a) "consumer purchase" means a purchase, other than a cash purchase, of goods or services or an agreement to purchase goods or services
 - (i) by an individual other than for resale or for use in the course of his business, profession or calling, and
 - (ii) from a person who is engaged in the business of selling or providing those goods or services;
- (b) "time sales agreement" means
 - (i) 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,
 - (ii) a sale effected by way of a lien note or by way of any agreement or arrangement made at the

Explanatory Notes

1. This Bill amends chapter 61 of the Revised Statutes of Alberta 1970.

2. Section 5, subsections (2) and (3) presently read:

(2) The description of a motor vehicle in a conditional sale agreement shall include the serial number of the motor vehicle.

(3) The description of an aircraft, trailer or oil well drilling equipment in a conditional sale agreement shall be such that the aircraft, trailer or the oil well drilling equipment may be readily and easily known and distinguished.

3. Section 18, subsection (1) presently reads:

18. (1) The seller or bailor on payment or tender of the amount due in respect of the goods or on performance of the conditions of the sale or bailment shall sign and deliver to a person demanding it a memorandum in writing stating that his claims against the goods are satisfied and the memorandum thereupon operates to divest the seller or bailor of any further interest or right of possession, if any, in the goods.

4. This amendment is designed to complement an Act to amend The Bills of Exchange Act (Bill C-208), proclaimed in force November 1, 1970. The federal Act permits a buyer to raise any defence against the holder of a bill of exchange which could be raised against the seller. This amendment is to achieve the same result in an action on the contract and to prevent sellers contracting out of the legislative protection, since these matters are of provincial jurisdiction.

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

- (iii) 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) The right of an assignee of the seller under a time sales agreement made in respect of a consumer purchase, to have the whole or any part of the agreement performed by the buyer is no greater than that the seller would have had in any action on the agreement and the assignee is subject to the same obligations, duties, liabilities and defences, other than counter-claim, as the seller would have been.

(3) Any portion of a time sales agreement which

- (a) purports in any manner to limit or render inapplicable, or
- (b) has the effect of in any manner limiting or rendering inapplicable

the application of subsection (2) is contrary to public policy and void.

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

