

2007 Bill 29

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 29

FARM IMPLEMENT AMENDMENT ACT, 2007

REVEREND ABBOTT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 29

2007

FARM IMPLEMENT AMENDMENT ACT, 2007

(Assented to _____, 2007)

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

Amends RSA 2000 cF-7

1 The *Farm Implement Act* is amended by this Act.

2 Section 1 is amended

(a) **in clause (b)(ii) by adding “, but does not include a financial institution that has entered into financial leases or financial lease-purchase agreements” after “distributor”;**

(b) **by adding the following after clause (d):**

(d.01) “financial institution” means a bank, a treasury branch, a loan corporation, a trust corporation, a credit union and any other institution designated in the regulations as a financial institution if the legislation of the jurisdiction where the institution is incorporated or continued authorizes the institution to enter into financial leases or financial lease-purchase agreements and the institution is not prohibited from entering into financial leases or financial lease-purchase agreements;

(d.02) “financial lease” means a lease between a financial institution and a lessee that, after allowing for the rate of return to the financial institution agreed to by the lessee, is intended to recoup to the financial institution its entire

Explanatory Notes

1 Amends chapter F-7 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads in part:

1 In this Act,

(b) “dealer” means a person who

(i) sells or offers for sale farm implements on that person’s own account or on account of a distributor, or

(ii) leases or offers for lease, with or without the right to purchase, farm implements on that person’s own account or on account of a distributor;

(d.1) “Fund” means the money held by the Board pursuant to this Act;

(g) “lease-purchase agreement” means a lease of a farm implement under which the lessee is given the right to purchase the farm implement;

(h) “lessor” means the lessor under a lease or lease-purchase agreement;

investment in the farm implement, taking into consideration the value of any tax benefits accruing to the financial institution on account of the lease, including tax credits and capital cost allowance claims;

(d.03) “financial lease-purchase agreement” means a financial lease of a farm implement under which the lessee is given the right to purchase the farm implement;

(c) by adding the following after clause (g):

(g.1) “lessee” means the lessee under a lease, lease-purchase agreement, financial lease or financial lease-purchase agreement;

(d) in clause (h) by striking out “or lease-purchase agreement” and substituting “, lease-purchase agreement, financial lease or financial lease-purchase agreement”;

(e) by repealing clause (j) and substituting the following:

(j) “purchaser” means a person who

(i) purchases or leases, with or without the right to purchase, a farm implement from a dealer, or

(ii) leases, with or without the right to purchase, a farm implement from a financial institution under a financial lease or a financial lease-purchase agreement if the financial institution obtains the farm implement from a dealer at the request of the person;

3 Section 3(2) is amended

(a) by adding “, financial lease or financial lease-purchase agreement” after “sale agreement”;

(b) by adding “and, if a financial lease or a financial lease-purchase agreement was entered into, the financial institution,” after “advise the purchaser”.

- (j) *“purchaser” means a farmer who purchases a farm implement from a dealer for the farmer’s own farming use;*

3 Section 3 presently reads in part:

(2) If, with respect to a farm implement that is manufactured with a serial number, the serial number of the farm implement is not available to the dealer at the time the sale agreement is entered into, the dealer shall, in writing, advise the purchaser of the serial number not later than the date the farm implement is delivered to the purchaser.

4 Section 4(1), (2) and (3) are amended by striking out “or lease-purchase agreement” wherever it occurs and substituting “, lease-purchase agreement, financial lease or financial lease-purchase agreement”.

5 The following is added after section 4:

Financial lease and financial lease-purchase agreement

4.1 When a financial institution acquires a farm implement from a dealer at the request of a purchaser and the financial institution leases the farm implement to the purchaser pursuant to a financial lease or a financial lease-purchase agreement,

- (a) the purchaser is deemed to have leased the farm implement from the dealer,
- (b) this Act applies with respect to that farm implement as if the purchaser had leased the farm implement directly from the dealer pursuant to a lease or a lease-purchase agreement with the dealer,
- (c) the dealer has the same obligations to the purchaser that the dealer would have pursuant to this Act if the purchaser had leased the farm implement directly from the dealer, and
- (d) the purchaser is entitled to enforce the warranty described in sections 5, 6, 7 and 8 against the dealer and the distributor who provided the farm implement.

Notice to dealer

4.2(1) When a financial institution acquires a farm implement from a dealer at the request of a purchaser, the financial institution shall provide the dealer with

- (a) the name and address of the purchaser of the farm implement, and

4 Section 4 presently reads in part:

4(1) A lease or lease-purchase agreement shall set out all the terms and conditions of the agreement.

(2) This Act and the regulations apply to a lease or lease-purchase agreement as if it were a sale agreement.

(3) A lease or lease-purchase agreement is assignable by the lessor or an assignee of the lease or lease-purchase agreement.

5 Financial lease and financial lease-purchase agreement; notice to dealer.

(b) the year, make, model and serial number of the farm implement and all attachments to which the financial lease or financial lease-purchase agreement relates.

(2) The failure of a financial institution to provide the information referred to in subsection (1) does not affect the purchaser's rights or the dealer's obligations under section 4.1.

6 The following is added after section 7:

Warranties enforceable under financial lease

7.1 Without limiting the generality of section 4 or 4.1, a purchaser who leases a new farm implement pursuant to a financial lease or a financial lease-purchase agreement is entitled to enforce the warranty described in section 7 against the dealer and distributor who provided the new farm implement and for that purpose

- (a) the purchaser is deemed to have leased the new farm implement directly from the dealer, and
- (b) section 7 applies, with any necessary modification, to the purchaser, the dealer, the distributor and the financial institution.

7 Section 25 is amended by adding the following after subsection (1):

(1.1) A financial institution shall not lease or offer for lease under a financial lease or a financial lease-purchase agreement a new farm implement unless the farm implement was obtained from a dealer.

6 Warranties enforceable by purchaser under a financial lease or financial lease-purchase agreement.

7 Section 25 presently reads:

25(1) A dealer shall not

(a) sell or offer for sale, or

(b) lease or offer for lease, under a lease or lease-purchase agreement,

a new farm implement unless the farm implement was obtained by the dealer from or through a distributor licensed under this Act.

(2) A distributor shall not

(a) sell a farm implement to any person except a dealer licensed under this Act, or

8 Section 26 is amended by adding the following after subsection (1.1):

(1.11) A financial institution is not required to hold a dealer's licence in order to lease a farm implement or offer a farm implement for lease pursuant to a financial lease or a financial lease-purchase agreement if the farm implement is acquired from a dealer at the request of a purchaser.

9 Section 30 is amended

(a) by adding the following after clause (j):

(j.1) designating institutions as financial institutions;

(b) in clause (k) by adding “, financial lease, financial lease-purchase” after “lease-purchase”;

(c) in clause (l) by adding “, financial lease, financial lease-purchase” after “lease-purchase”.

10 Section 37 is amended

(a) by adding the following after subsection (1):

(1.1) Subject to section 26(7), this section applies to a farm implement purchased or leased pursuant to a financial lease or a financial lease-purchase agreement on or after the coming into force of this subsection.

(b) in subsection (2) by striking out “or lease-purchase agreement” and substituting “, lease-purchase agreement, financial lease or financial lease-purchase agreement”.

11 This Act comes into force on Proclamation.

- (b) *supply a farm implement to any person except a dealer licensed under this Act or another person authorized by a dealer to take delivery of a farm implement.*

8 Section 26 presently reads in part:

26(1) No person shall

- (a) *sell, offer for sale, lease or offer for lease, lease-purchase or offer for lease-purchase or enter into any sale agreement, lease or lease-purchase agreement respecting a farm implement unless that person holds a dealer's licence, or*
- (b) *carry on business as a distributor unless the person holds a distributor's licence*

issued to that person under this Act.

(1.1) The requirement in subsection (1)(a) for a licence does not apply to a purchaser or to a lessee.

9 Section 30 presently reads in part:

30 The Lieutenant Governor in Council may make regulations

- (k) *governing the form of lease, lease-purchase and sale agreements of farm implements;*
- (l) *governing the contents of lease, lease-purchase and sale agreements of farm implements;*

10 Section 37 presently reads in part:

37(1) Subject to section 26(7), this section applies to a farm implement purchased or leased pursuant to a sale agreement, lease agreement or lease-purchase agreement on or after January 1, 2003.

(2) A purchaser, lessee, distributor or dealer may apply to the Board for compensation for loss arising from the breach of a sale agreement, lease or lease-purchase agreement or of a provision of this Act within one year of the loss.

11 Coming into force.

