

1914

## c 136 Conditional Sales Act

Ontario

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## CHAPTER 136.

## An Act respecting Conditional Sales of Goods.

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Conditional Sales Act*. Short title.  
1 Geo. V. c. 30, s. 1.

2. In this Act,

“Goods” shall include wares and merchandise. 1 Geo. V. c. 30, s. 2.

Interpre-  
tion.

3.—(1) Where possession of goods is delivered to a purchaser, or a proposed purchaser or a hirer of them, in pursuance of a contract which provides that the ownership is to remain in the seller or lender for hire until payment of the purchase or consideration money or part of it, as against a subsequent purchaser or mortgagee claiming from or under the purchaser, proposed purchaser or hirer, without notice in good faith and for valuable consideration, such provision shall be invalid, and such purchaser, or proposed purchaser or hirer, shall be deemed the owner of the goods, unless

Invalidity of  
conditional  
sale  
accompanied  
by delivery  
against  
subsequent  
purchaser or  
mortgagee  
unless

(a) the contract is evidenced by a writing signed by the purchaser, proposed purchaser or hirer or his agent, stating the terms and conditions of the sale or hiring and describing the goods sold or lent for hire; and,

the contract  
is in writing

(b) within ten days after the execution of the contract a true copy of it is filed in the office of the clerk of the County or District Court of the county or district in which the purchaser, proposed purchaser or hirer resided at the time of the sale or hiring.

and a copy  
filed in office  
of clerk of  
County or  
District  
Court.

(2) Subsection 1 shall apply to the case of a hire receipt where the hirer is given an option to purchase.

Hire  
receipts.

(3) Where the delivery is made to a trader or other person for the purpose of resale by him in the course of business such provision shall also, as against his creditors, be invalid and he shall be deemed the owner of the goods unless the provisions of this Act have been complied with.

Goods deliv-  
ered for the  
purpose of  
resale.

Ownership on resale.

(4) Where such trader or other person resells the goods in the ordinary course of his business the property in and ownership of such goods shall pass to the purchaser notwithstanding that the provisions of this Act have been complied with.

Application of s. 3 (1b) to musical instruments, etc.

(5) Clause (b) of subsection 1 shall not apply to a contract respecting manufactured goods, including pianos, organs or other musical instruments which, at the time possession is delivered, have the name and address of the seller or lender painted, printed, stamped or engraved thereon or plainly attached thereto, nor to a contract respecting household furniture other than pianos, organs or other musical instruments.

Error in name or description.

(6) An error or inaccuracy in the name or address of the seller or lender which does not mislead shall not prevent the application of subsection 5.

Rolling stock sold to railway company.

(7) This section shall not apply to a contract for the sale by an incorporated company to a railway company of rolling stock if the contract or a copy of it is filed in the office of the Provincial Secretary within ten days from its execution. 1 Geo. V. c. 30, s. 3.

Copy of contract to be given to purchaser or hirer.

4. The seller or lender shall deliver a copy of the contract to the purchaser or hirer within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so the Judge of the County or District Court of the county or district in which the purchaser or hirer resided when the contract was made may, on summary application, make an order for the delivery of such copy. 1 Geo. V. c. 30, s. 4.

Index to be kept by clerk of County or District Court.

5. The clerk of the County or District Court shall make a record of every contract of which a copy is filed in his office under this Act in an index book to be kept for that purpose, and he shall be entitled to a fee of ten cents for making the record and to a fee of five cents for every search in respect thereof. 1 Geo. V. c. 30, s. 5.

Immaterial errors.

6. An error of a clerical nature or in an immaterial or non-essential part of the copy of the contract which does not mislead shall not invalidate the filing or destroy the effect of it. 1 Geo. V. c. 30, s. 6.

Seller's or lender's duty to give particulars of claim.

7.—(1) The seller or lender shall, within five days after the receipt of a request in writing from any proposed purchaser of any goods to which this Act applies, or from any other person interested, furnish particulars of the amount remaining due to him and the terms of payment of it, and in default he shall incur a penalty not exceeding \$50, recoverable under *The Ontario Summary Convictions Act*.

(2) If the request is by letter the person making the request shall give a name and post office address to which a reply may be sent, and it shall be sufficient if the information is given by registered letter deposited in the post office within the prescribed time addressed to the person inquiring at his proper post office address, or, where the name and address is given by him, by the name and at the post office address so given. 1 Geo. V. c. 30, s. 7.

How particulars to be given.

8.—(1) Where the seller or lender retakes possession of the goods for breach of condition he shall retain them for twenty days, and the purchaser or hirer or his successor in interest may redeem the same within that period on payment of the amount then in arrear, together with interest and the actual costs and expenses of taking and keeping possession.

Seller's or lender's duty after re-taking.

(2) Where the purchase price of the goods exceeds \$30, and the seller or lender intends to look to the purchaser or hirer for any deficiency on a resale of the goods, they shall not be resold until after notice in writing of the intended sale has been given to the purchaser or hirer or his successor in interest.

Notice of re-selling.

(3) The notice shall be served personally upon or left at the residence or last known place of abode in Ontario of the purchaser or hirer or his successor in interest at least five days before the sale, or may be sent by registered post at least seven days before the sale addressed to the purchaser or hirer or his successor in interest at his last known post office address.

Service of notice.

(4) The notice may be given during the twenty days mentioned in subsection 1.

Time for giving notice.

(5) This section shall apply notwithstanding any agreement to the contrary. 1 Geo. V. c. 30, s. 8.

Application of this section.

9. Where the goods have been affixed to realty they shall remain subject to the rights of the seller or lender as fully as they were before being so affixed, but the owner of such realty or any purchaser or any mortgagee or other encumbrancer thereof shall have the right as against the seller or lender or other person claiming through or under him to retain the goods upon payment of the amount owing on them. 1 Geo. V. c. 30, s. 9.

Goods affixed to realty subject to rights of seller or lender.