

UNEDITED

The Limitation of Civil Rights Act

being

Chapter 95 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1953).

FOR HISTORICAL REFERENCE ONLY

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 95

An Act respecting the Limitation of Certain Civil Rights

SHORT TITLE

Short title

1 This Act may be cited as *The Limitation of Civil Rights Act*.

R.S.S. 1953, c.95, s.1.

MORTGAGES AND AGREEMENTS FOR SALE AND LEASES OF LAND

Action of personal covenant prohibited in certain cases

2(1) Where land is hereafter sold under an agreement for sale in writing, or mortgaged whether by legal or equitable mortgage for the purpose of securing the purchase price or part of the purchase price of the land affected, or where a mortgage is hereafter given as collateral security for the purchase price or part of the purchase price of land, the vendor's or mortgagee's right to recover the unpaid balance due shall be restricted to the land sold or mortgaged and to cancellation of the agreement for sale or foreclosure of the mortgage or sale of the property, and no action shall lie on the covenant for payment contained in the agreement for sale or mortgage.

(2) The benefit of the provisions contained in subsection (1) shall extend to and include:

- (a) the personal covenant of the purchaser contained in any assignment by the vendor of such an agreement for sale;
- (b) the personal covenant of the assignee contained in any assignment by the purchaser of such an agreement for sale;
- (c) the personal covenant of the mortgagor contained in an agreement extending any such mortgage;
- (d) the personal covenant of a purchaser of lands subject to any such mortgage, to assume and pay the mortgage;

and no action shall lie on any such personal covenant.

R.S.S. 1940, c.88, s.2; R.S.S. 1953, c.95, s.2.

Restricted effect of payment or acknowledgment under mortgage or agreement of sale

3 No payment hereafter made or acknowledgment here after given to a mortgagee of land or to a vendor of land, of or in respect of moneys payable under the mortgage or agreement of sale, shall have the effect of extending the time within which an action on the personal covenant for payment in the mortgage or agreement must be commenced by the mortgagee or vendor, except as against the person by whom the payment is made or the acknowledgment is given. This section applies with respect to all mortgages and agreements of sale whether given or made before, on or after the first day of April, 1939. In this section "mortgagee" and "vendor" include a person claiming through a mortgagee or vendor.

R.S.S. 1940, c.88, s.3; R.S.S. 1953, c.95, s.3.

Power of court *re* certain executions under judgments on personal covenant

4(1) Where judgment is hereafter obtained in an action on a personal covenant for payment in a mortgage or an agreement for sale of land and a writ of execution, issued under the judgment, has been filed in the land titles office, the court or judge may upon summary application of the judgment debtor, after such hearing as the court or judge deems proper, order that the writ shall not affect any of the lands of the judgment debtor declared by *The Exemptions Act* to be free from seizure by virtue of writs of execution.

(2) When such order is made the local registrar or clerk of the district court shall forward a copy thereof, certified by him, to the proper registrar of land titles and the registrar shall file the same; and thereupon the writ shall have no effect against the lands of the execution debtor mentioned in subsection (1). The fee for filing the certified copy shall be collected from the execution debtor by the local registrar or clerk of the district court and shall accompany the copy of the order forwarded by him to the registrar.

R.S.S. 1940, c.88, s.4; R.S.S. 1953, c.95, s.4.

Reserve bid in mortgage sales

5 Where, in an action upon or relating to a mortgage of real property the mortgagee, or any person claiming through or under him, seeks to have the property sold, and the proceeds of sale applied in satisfaction of the mortgage indebtedness in whole or in part, the court or judge shall not order sale of the property except subject to such upset price or reserve bid as the court or judge deems proper having regard to all the circumstances.

R.S.S. 1940, c.88, s.5; R.S.S. 1953, c.95, s.5.

Effect of final order of foreclosure

6 Every final order of foreclosure of a mortgage on land shall operate in full satisfaction of the debt secured by the mortgage; provided that any right of redemption exercisable after a final order of foreclosure made prior to the twenty-first day of February, 1935, shall be exercisable after a final order of foreclosure made after that date.

R.S.S. 1940, c.88, s.6; R.S.S. 1953, c.95, s.6.

Mortgagee's inspection fees

7 The fees of a mortgagee for inspection of the mortgaged premises except the preliminary inspection consequent upon an application for a loan or a renewal or extension of a loan, shall be borne by the mortgagee and shall not be charged to the mortgagor or to the mortgage account.

R.S.S. 1940, c.88, s.7; R.S.S. 1953, c.95, s.7.

Mortgagee's collection costs

8(1) Subject to the provisions of subsection (2) and notwithstanding any stipulation, agreement or covenant contained in any mortgage of land or in any agreement renewing or extending any such mortgage, no fees, costs, charges or expenses or allowance for the time and service of any officer, inspector or employee of the mortgagee or of any other person appointed for the purpose, shall be charged to the mortgagor or added to the mortgage account in respect of the collection of any moneys due and payable under the mortgage, by way of commission upon or expenses of such collection or of getting in the mortgagee's share of the crop grown on the land in question in any year; and any provision in any such mortgage or agreement whereby the mortgagor contracts, agrees or covenants to pay any such fees, costs, charges, expenses, allowances or commissions, or that the same may be added to the principal money secured by the mortgage, is null, void and of no effect.

(2) Nothing in this section shall affect a mortgagee's right to recover costs as between party and party in any action under the mortgage instituted in any court of competent jurisdiction, or to recover the costs of distress allowed by *The Distress Act*, or, where grain is taken under *The Crop Payments Act* without levying a distress, to recover the actual expenses reasonably incurred in transporting the same to the nearest available market, not to exceed one and one-half cents per bushel in the case of oats and two cents per bushel in the case of all other grain for each five miles or fractional part thereof between the place of taking and the said market; nor shall anything in this section affect the right of a mortgagee, where, under any crop lease or agreement the mortgagor has failed to deliver to the mortgagee the latter's share of the crop within twenty days after the time for delivery thereof, to charge a disbursement made for a collection fee, of five per cent on the amount collected or the sum of ten dollars whichever is the lesser; nor shall anything in this section affect, alter or vary any right which, on the first day of May, 1937, a mortgagee had to reasonable and necessary costs and expenses of collecting the rents or profits of the mortgaged land where the same was leased to any person other than the owner.

R.S.S. 1940, c.88, s.8; R.S.S. 1953, c.95, s.8.

Declarations as to fixtures in agreements of sale and mortgages

9 Notwithstanding anything contained in any agreement for sale of land heretofore or hereafter made or in any of sale and mortgage of land heretofore or hereafter given or in any agreement renewing or extending the same or in any agreement collateral thereto or any other agreement, no erection, machinery, plant, building, improvement or other chattel erected, placed or put upon farm land sold or mortgaged shall, by reason only of a declaration, agreement or covenant in the agreement of sale or mortgage or in any agreement collateral thereto or any other agreement, become or be deemed to be a part of the realty or form a part of the security; and any agreement, stipulation or covenant that any chattel shall become a part of the realty or form part of the security, or having the same or a like effect, is null, void and of no effect.

R.S.S. 1940, c.88, s.9; R.S.S. 1953, c.95, s.9.

Payment of overdue moneys without notice or bonus

10 Notwithstanding anything contained in any agreement for sale of land heretofore or hereafter made or in any mortgage of land heretofore or hereafter given or in any agreement renewing or extending the same, in the event of non-payment of the principal money secured by the agreement or mortgage, or of any portion thereof, when due under the terms of the agreement or mortgage, the vendor or mortgagee shall not, by reason of such non-payment or as a condition of acceptance of the overdue moneys or any portion thereof, be entitled to receive any bonus or other additional sum or to receive notice from the purchaser or mortgagor of intention to pay the overdue moneys or any portion thereof; and any agreement, stipulation or covenant to the contrary is null, void and of no effect.

R.S.S. 1940, c.88, s.10; R.S.S. 1953, c.95, s.10.

Only land taxes chargeable to mortgagor

11 Notwithstanding anything contained in any mortgage of land whether heretofore or hereafter given or in any agreement renewing or extending the same, no taxes, rates or assessments, other than taxes, rates or assessments levied or charged against the land and paid by the mortgagee, shall be charged by the mortgagee to the mortgagor or added to the mortgage account; and any agreement, stipulation or covenant to the contrary is null, void and of no effect.

R.S.S. 1940, c.88, s.11; R.S.S. 1953, c.95, s.11.

Life insurance premiums not to form a charge on the land

12 Notwithstanding anything contained in any agreement for sale of land hereafter made or in any mortgage of land hereafter given, or in any agreement renewing or extending the same, no premium upon or in respect of an insurance policy on the life of the purchaser or mortgagor taken by or assigned to the vendor or mortgagee as collateral security for the amount owing under the agreement for sale or mortgage, shall be charged or added by the vendor or mortgagee to the account of the purchaser or mortgagor in respect of the amount so owing or form a lien or charge on the land; and any agreement, stipulation or covenant to the contrary is null, void and of no effect.

R.S.S. 1940, c.88, s.12; R.S.S. 1953, c.95, s.12.

Application of fire insurance moneys

13(1) Notwithstanding anything contained in any agreement for sale of land heretofore or hereafter made or in any mortgage of land heretofore or hereafter given, or in any agreement renewing or extending the same, in the event of damage to or destruction of buildings on the land by fire the purchaser or mortgagor may, after giving the notice required by subsection (2), apply to a judge of the Court of Queen's Bench for an order governing the application of any moneys received or receivable under any insurance policy, in respect of the damage or destruction; and upon such application the judge may make an order directing the application of such moneys on the mortgage or agreement of sale or in or towards rebuilding, restoring or repairing the building damaged or destroyed, or partly in the one way and partly in the other.

(2) No application shall be made under subsection (1) unless within sixty days after the amount of the loss is adjusted and unless ten days' notice of intention to make the same has been given to the vendor or mortgagee, which notice shall be given by registered mail, postage prepaid, and shall be deemed to have been given on the date upon which the envelope containing the notice is deposited with the postmaster.

R.S.S. 1940, c.88, s.13; R.S.S. 1953, c.95, s.13.

Hail insurance premiums

14 Notwithstanding anything contained in any lease, premiums agreement for sale or mortgage of land, whether heretofore or hereafter entered into, made or given, or in any agreement renewing or extending the same, where the lessor, vendor or mortgagee insures the crops grown on the land against loss by hail, the cost of the insurance shall not be chargeable against the lessee, purchaser or mortgagor unless with his written consent given in the year in which the insurance is effected; and any agreement, stipulation or covenant to the contrary is null, void and of no effect. This section does not apply to insurance of crops under the provisions of *The Municipal Hail Insurance Act*.

R.S.S. 1940, c.88, s.14; R.S.S. 1953, c.95, s.14.

Restriction of rights under lease option agreements

15(1) Where a lessee of land has an option of purchasing the land, or is to become the purchaser of the land, upon the performance of any condition or conditions, the right of the lessor or his personal representatives or assigns to recover by action or extrajudicial proceeding rent payable by the lessee in respect of the land shall be restricted to the recovery of an amount not exceeding the reasonable rental value of the land, which value shall be determined by the court in the course of the action or, in the case of an extrajudicial proceeding, by the judge of the district court of the judicial district in which the land is situated, on the summary application of the lessor or lessee, provided that in the case of leases of farm lands a one-third share crop rental shall be deemed a reasonable yearly rental and in the case of urban property a one-hundredth part of the price mentioned in the option shall be deemed a reasonable monthly rental, and in such cases application to the said judge shall not be necessary.

(2) If an option of purchasing land, where the holder of the option is in possession thereof as lessee, is sought to be terminated on account of breach or non-performance of any covenant, agreement, stipulation or condition contained in the lease, the holder of the option may make an application for relief to the judge of the district court of the judicial district in which the land is situated, in which case the judge may in his discretion make an order upon such terms as he deems just granting an extension of time wherein the holder of the option may perform his obligations.

(3) For the purpose of an application under subsection (2), the holder of the option may, within thirty days of the giving of notice of termination or intention to terminate, apply to the judge to fix a place and time for hearing the application and the judge shall thereupon fix a place and time, having regard to the requirements of subsection (4).

- (4) Fifteen days' notice of an intended application under subsection (1) or (2) stating the place and time thereof shall be given by the lessor or lessee to the other or his assigns, which notice shall be personally served or may be given by registered mail postage prepaid and shall be deemed to have been given on the date following that upon which the envelope containing the notice is deposited with the postmaster.
- (5) This section does not apply to leases or options of mines or minerals.

R.S.S. 1940, c.88, s.18; 1942, c.19, s.2; R.S.S.
1953, c.95, s.15.

MORTGAGES AND CHATTEL MORTGAGES

Application of moneys realized by mortgagee where more than one debt secured by a mortgage

16 Where a mortgage or chattel mortgage, whether heretofore or hereafter given, is held as security for more than one debt and moneys are paid by the mortgagor or are realized by the mortgagee under the terms of the mortgage, the mortgage moneys received or realized shall be applied immediately in or towards payment of one or more of the debts secured by the mortgage and unless the mortgagor, in exercise of any right, has given directions as to the application of such moneys, the mortgagee shall immediately notify the mortgagor of the debt in or towards payment of which the moneys have been applied; and any agreement, stipulation or covenant to the contrary is null, void and of no effect.

R.S.S. 1940, c.88, s.19; R.S.S. 1953, c.95, s.16.

Certain conditions prohibited

17 No chattel mortgage or agreement collateral thereto shall contain any provision the application of which depends merely on the opinion of the mortgagee that a circumstance or state of things exists which affects his security; and any such provision is null, void and of no effect.

R.S.S. 1940, c.88, s.20; R.S.S. 1953, c.95, s.17.

CONDITIONAL SALES

Vendor's right to recover price restricted

18(1) When an article, the selling price whereof exceeds \$100, is hereafter sold, and the vendor, after delivery, has a lien thereon for all or part of the purchase price, the vendor's right to recover the unpaid purchase money shall be restricted to his lien upon the article sold, and his right to repossession and sale thereof, notwithstanding anything to the contrary contained in *The Farm Implement Act* or in any other Act or in any agreement or contract between the vendor and purchaser.

(2) Subsection (1) does not apply to:

- (a) the sale of land with chattels upon an entire consideration;
- (b) an agreement for the sale of live stock;
- (c) the sale of aeroplanes or parts thereof, aeroplane engines or parts thereof, or mining machinery, equipment or material;
- (d) the sale of any article which is thereafter affixed to realty and to which section 15 of *The Conditional Sales Act* applies;

- (e) the sales of goods in bulk within the meaning of *The Bulk Sales Act*.
- (3) Notwithstanding anything contained in this Act, section 30 of *The Farm Implement Act* respecting the assignment of the earnings of a large implement shall continue to be operative.
- (4) Subsection (1) applies to all instalment sales, whether such sales are effected by way of a conditional sale agreement or lien note, or by way of a promissory note in the first instance with the delivery at the time of sale or subsequent thereto to the vendor of a chattel mortgage covering the whole or part of the purchase price of the article sold.
- (5) This section does not apply where the article sold is totally destroyed, either by the wilful act of the purchaser, or otherwise.
- (6) Where it is shown to a court of competent jurisdiction that the purchaser has wilfully damaged the article sold or that the article has been damaged by his neglect, or that for any other reason it is inequitable that the provision contained in subsection (1) of this section should apply, the court may make such order in the premises as it may deem just and expedient.

R.S.S. 1910, c.88, s.21; R.S.S. 1953, c.95, s.18.

Right to repossess restricted

- 19(1)** In this section and sections 20 and 21 “article” means an implement to which *The Farm Implement Act* applies, a cream separator, a washing machine, a stove, a heater or a sewing machine, the selling price whereof exceeds \$50 and “vendor” includes an assignee of a vendor.
- (2) Notwithstanding anything contained in any other Act or in any contract or agreement between the vendor and purchaser of an article with respect to repossession by the vendor upon failure of the purchaser to pay an instalment of the purchase price, the vendor shall not, by reason only of such failure, take any proceedings to recover possession of the article:
 - (a) if he had a lien thereon for the purchase price or part thereof on the thirty-first day of March, 1939, and at that time or thereafter one-third of the purchase price has been paid or tendered by or on behalf of the purchaser;
 - (b) if the article was sold after the thirty-first day of March, 1939, and the vendor has a lien thereon for the purchase price or part thereof; unless in accordance with the following provisions.
- (3) The vendor shall notify the purchaser that he intends to take possession of the article, which notice shall be in form A in the schedule hereto. Service of the notice may be effected either by personal service or by mailing it in a registered letter, postage prepaid, addressed to the purchaser at his last known address.
- (4) Service by registered mail shall be deemed sufficient if a receipt from the postmaster for the envelope containing the notice and a post office receipt therefor purporting to be signed by the purchaser are produced as exhibits to the affidavit of service filed in any subsequent proceedings. A notice so served shall be deemed to have been served on the day of the elate of the receipt which purports to be signed by the purchaser.

(5) If a purchaser has died, the judge of the district court of the judicial district in which the purchaser resided at the time of his death may, upon *ex parte* application of the vendor, appoint some person to represent the estate of the deceased for the purposes of the proceeding and any further proceeding consequent thereon, and service of the notice shall be made upon the person so appointed, in the manner hereinbefore provided. The order so made and any orders consequent thereon shall bind the estate of the deceased in the same manner as if a duly appointed personal representative of the deceased had been a party to the proceeding. In this section and sections 20 and 21 "purchaser" includes a person appointed under this subsection.

(6) If upon *ex parte* application of the vendor it is made to appear to the judge of the district court of the judicial district in which the purchaser resided when the article was sold that the vendor is from any cause unable to effect prompt service under subsection (3) or that the whereabouts of the purchaser is unknown, after all reasonable efforts to ascertain the same have been exhausted, the provisions of rules 22 to 26 of the rules of the Court of Queen's Bench apply *mutatis mutandis*.

(7) Within twenty days after the date on which the notice is served in the case of personal service thereof, or on which the notice is received by the purchaser if it is served by mail, the purchaser may apply *ex parte* to the judge of the district court of the judicial district in which he resides, or resided when the article was sold, for a hearing, or may request the clerk of the court to fix a time and place for a hearing by the judge. Upon such application or request the judge or clerk, as the case may require, may fix a time and place for a hearing and in such case shall direct notice of the hearing to be given to the vendor.

(8) If notice of the hearing is not served upon the vendor within thirty days after the date on which the notice given by him under subsection (3) was served on or received by the purchaser, the vendor may proceed to recover possession of the article.

(9) If notice of the hearing is served upon the vendor within the said period no further proceeding shall be taken by him without leave of the judge.

(10) Acceptance by the vendor of a payment on account of the purchase price after notice has been served or mailed by him under subsection (3) shall *ipso facto* cancel the notice.

(11) If the vendor recovers possession of the article in contravention of the foregoing provisions, the contract of sale shall thereupon determine, and the purchaser shall thereupon be released from all liability under the contract and be entitled to recover from the vendor in an action for money had and received all sums paid by the purchaser under the contract or under any security given by him in respect thereof.

(12) The judge may, upon application of the vendor at any time after service of the notice mentioned in subsection (3), make such orders as he deems just for the purpose of protecting the article from damage or depreciation including orders restricting or prohibiting the use of the article or giving directions as to its custody.

R.S.S. 1940, c.88, s.22; R.S.S. 1953, c.95, s.19.

Orders of judge

20(1) Upon the hearing the judge may make such orders as he deems just and, without prejudice to the generality of the foregoing, may:

- (a) order delivery of the article to the vendor, subject to such conditions as the judge deems just;

(b) order delivery of the article to the vendor and postpone the operation of the order on condition that the purchaser pays the unpaid balance of the purchase price at such times and in such amounts as the judge, having regard to the means of the purchaser and the value and lifetime of the article, deems just, and subject to fulfilment of such other conditions by the purchaser as the judge deems just.

(2) If a vendor and purchaser do not agree as to the amount of the unpaid balance of the purchase price, the judge may determine the amount.

(3) The judge may vary the conditions of the postponement of the operation of an order, as to the times and amounts referred to in clause (b) of subsection (1), and make such further modification of the contract of sale as he deems necessary having regard to the variation of the conditions of the postponement.

(4) The authority conferred by subsection (3) may be exercised during the postponement of the operation of the order or at any time before the judge authorizes proceedings by the vendor upon an application made by him under subsection (2) of section 21, or, if the judge has dispensed with such application, at any time before repossession of the article by the vendor.

(5) No order shall be made under clause (b) of subsection (1) or subsection (3) unless the purchaser satisfies the judge that the article is in his possession or control at the time the order is made.

(6) The judge may at any time revoke the postponement of the operation of an order for delivery of an article, subject to such conditions as he deems just.

R.S.S. 1940, c.88, s.23; 1941, c.18, s.3; 1943, c.16, s.4; R.S.S. 1953, c.95, s.20.

Effect of postponement of operation of judge's order

21(1) While the operation of an order for delivery of an article to the vendor is postponed under section 20, no further sum shall be or become payable by the purchaser on account of the unpaid balance of the purchase price, except in accordance with the terms of the order.

(2) If, while the operation of an order for delivery of an article to the vendor is so postponed, the purchaser fails to comply with any condition of the postponement or any term of the contract of sale as varied by the judge, or disposes of the article the vendor shall not, unless the judge has dispensed with a further application, take any proceedings against the purchaser otherwise than by making an application to the judge, notice of which shall be given in the manner mentioned in subsection (3) of section 19, and the provisions of subsections (4), (5) and (6) the said section apply where applicable.

(3) When the unpaid balance of the purchase price has been paid in accordance with the terms of the order, the vendor's title to the article shall vest in the purchaser.

R.S.S. 1940, c.88, s.24; R.S.S. 1953, c.95, s.21.

Costs

22 No costs shall be awarded to either party with respect to any proceeding under section 19, 20 or 21; provided that if, in the opinion of the judge, any application made to him is an abuse of the applicant's right to make such application, the judge may order payment of costs by the applicant and, where costs of an application are ordered to be paid by the purchaser, the judge may order that such costs be added to the unpaid balance of the purchase price.

1943, c.16, s.5; R.S.S. 1953, c.95, s.22.

FARM IMPLEMENTS**Power to take promissory note on sale of farm implement**

23(1) Notwithstanding anything contained in *The Farm Implement Act* the vendor of a farm implement may agree to take from the purchaser his promissory note or notes for the purchase price or balance of the purchase price, and if the vendor does so the clause in the contract of sale governing payment of the purchase price shall be altered so that it refers to promissory notes instead of lien notes or agreements and the clauses respecting assignment of earnings, insurance against fire and seizure for taxes shall be deleted.

(2) Where a vendor exercises the power conferred by subsection (1):

1 No lien, mortgage or other security shall be taken or given; and subject to subsection (1), when the contract in form A or B in the schedule to the said Act is duly completed it shall be taken and held to be the entire contract between the parties;

2 In case of an action by the vendor for the price or balance of the price of the implement, subsection (1) of section 5 of *The Exemptions Act* does not apply.

R.S.S. 1910, c.88, s.25; R.S.S. 1953, c.95, s.23.

EXECUTIONS**Proceedings upon certain judgments affected**

24 Where judgment is hereafter obtained in an action on a personal covenant for payment in a mortgage or an agreement for sale of land, and the debtor, either before or after judgment, sells any of his property declared by *The Exemptions Act* to be free from seizure by virtue of writs of execution, no execution issued under the judgment shall affect the proceeds of the sale, and the execution debtor may dispose of the proceeds as freely as he could have done if the judgment had not been obtained and execution had not issued thereunder.

R.S.S. 1940, c.88, s.26; R.S.S. 1953, c.95, s.24.

Power of court or judge to stay execution

25(1) Upon application of a judgment debtor, the court or a judge may make an order staying execution under the judgment or, if a writ of execution has issued, staying seizure or sale thereunder, upon such terms as to costs or otherwise and subject to such undertaking, if any, as the court or judge deems just.

(2) No application shall be made under subsection (1) unless fifteen days' notice of intention to make the same has been given to the judgment creditor. The notice shall be given by registered mail, postage prepaid, and shall be deemed to have been given on the date upon which the envelope containing the notice is deposited with the postmaster.

R.S.S. 1940, c.88, s.27; R.S.S. 1953, c.95, s.25.

MISCELLANEOUS

Judgment summons

26 So long as this Act remains in force sections 85 to 87 inclusive of *The Queen's Bench Act* and sections 73 to 88 inclusive of *The District Courts Act* shall be suspended in operation.

R.S.S. 1940, c.88, s.28 (1); R.S.S. 1953, c.95, s.26.

Payment in lawful money of Canada discharges certain obligations

27 Notwithstanding anything contained in any agreement, mortgage, chattel mortgage or other instrument hereafter made or given, whether wholly or in part executed in Saskatchewan, involving payment of money or liability to pay money, whereby payment is secured on land or chattels or land and chattels situated in Saskatchewan and is, expressly or impliedly, to be made otherwise than in lawful money of Canada, all moneys payable under the agreement, mortgage or instrument may be paid in lawful money of Canada and payment in lawful money of Canada of the amount payable under the agreement, mortgage or instrument shall entitle the debtor to a discharge of the obligation and a release of any security given, to the same extent as if payment had been made in accordance with the agreement, mortgage or instrument; and any agreement, stipulation or covenant, whether express or implied, in any such instrument hereafter made or given, whereby payment of money is to be made otherwise than in lawful money of Canada, is null, void and of no effect.

R.S.S. 1940, c.88, s.29; R.S.S. 1953, c.95, s.27.

Agreements waiving Act null and void

28 Every agreement or bargain, verbal or written, express or implied, that this Act or any provision thereof shall not apply or that any benefit or remedy provided by it shall not be available, or which in any way limits, modifies or abrogates or in effect limits, modifies or abrogates any such benefit or remedy, is null, void and of no effect.

R.S.S. 1940, c.88, s.30; R.S.S. 1953, c.95, s.28.

Appeals

29 Where an appeal is taken under this Act each court appealed to shall have and exercise a discretion similar to that of the court or judge appealed from, notwithstanding that the judgment or order appealed from was made in the discretion of the court or judge or master or local master, and may draw inferences of fact and pronounce the judgment or make the order which in its judgment the court or judge or master or local master whose judgment or order is appealed from ought to have pronounced or made.

R.S.S. 1940, c.88, s.31; R.S.S. 1953, c.95, s.29.

Penalty

30 Every mortgagee who violates any of the provisions of section 7 or section 8 is guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

R.S.S. 1940, c.88, s.32; R.S.S. 1953, c.95, s.30.

SCHEDULE

FORM A

(Section 19)

NOTICE OF INTENTION TO REPOSSESS ARTICLE

Date _____.

To _____

Take notice that, on account of your failure to pay \$_____ on the _____ day of _____, 19____, I intend to take possession of the said article.

Further that, under section 19 of *The Limitation of Civil Rights Act* if you object to repossession of the said article by me, you may, within twenty days after the date on which this notice is served upon you (or received by you by registered mail), make an application to the judge of the district court of the judicial district in which you reside, or resided when the article was sold, for a hearing, or you may request the clerk of such court to fix a time and place for a hearing by the judge, to show cause why repossession by me should not be permitted.

Further that, upon a hearing, the judge may make such orders in the matter as he deems just.

Further that, if notice of the hearing is not served upon me within thirty days after the date on which this notice is served upon you or received by you by registered mail I shall proceed to recover possession of the said article as authorized by the said section 19.

My address for service is _____

Vendor

FOR HISTORICAL REFERENCE ONLY