

Bill 180 - Consumer Protection Act, 2002

PURPOSE OF THIS REPORT

This report provides excerpts from the Hansard Transcripts of Debates at the Legislative Assembly of Ontario and Ontario Standing Committee of Finance and Economic Affairs on Bill 180, Consumer Protection Act, 2002. The court in deciding the legal jurisdiction of the Act to employer sponsored and insurer administered disability insurance, is expected to take into account the intention of Parliament, as described in the Supreme Court of Canada's preferred approach to statutory interpretation:

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament.³

CONCLUSION

The intention of Parliament, as gleaned from the Hansard Transcripts of debates at the Legislative Assembly of Ontario and Ontario Standing Committee of Finance and Economic Affairs, is for the Consumer Protection Act to have broad scope and flexibility and that it adapts and prepares for the future. The Act is intended as an important legislative tool to help individuals who have been unfairly taken advantage of or who are hard done by when it comes to the practices of business.

The Explanatory Notes on the Legislative Assembly of Ontario website indicate the Act is to apply to all consumer transactions, subject to limited exceptions. Furthermore, there is an anti-avoidance provision that allows the substance of a transaction or entity to be examined to determine whether it is covered by the Act, permitting the form to be ignored.

Hon Mr. Hudak: We are truly bringing consumer protection in Ontario into the 21st century...In closing, I would like to say that all of us on all sides of the House will find very important tools in this legislation, if passed, to help out those individuals in our ridings who have been unfairly taken advantage of.

Mr R. Gary Stewart: ...The proposed initiatives provide for the harmonization of nine pieces of legislation into a legislative framework that is flexible. I suggest to you that is a very key point: that it must be flexible. There must be protection but there also must be flexibility in this legislation to make sure that we can adapt and prepare for the future.

Mr Bisson: ...the right to be able to protect consumers or to make sure that there's legislation that makes sure that society is not hard done by when it comes to the practice of a business.

Mr Tascona ... In closing, this bill would update consumer legislation to provide a clear, efficient, flexible, up-to-date set of rules for consumers and businesses alike. As MPPs, we all want to help prevent our constituents from being taken advantage of.

Mr Crozier: ...In fact there's little that we do today with our money, unless you're putting it under your mattress, that doesn't involve acting as a consumer.

Mr Beaubien: ...If I may give you a bit of background, the proposed amendment takes a more general approach to defining "goods," to increase the clarity of the statute's broad scope, particularly with respect to subsection 104(2).

SCHEDULE OF DEBATES AND VOTES

The Consumer Protection Act, 2002 and all of the Hansard Transcripts of the Legislative Assembly of Ontario and Ontario Standing Committee of Finance and Economic Affairs debates may be found at the attached Ontario Legislature webpage.

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=1048&isCurrent=false&detailPage=bills_detail_debates

Debates and Progress

First Reading

[September 26, 2002](#)

[Minister's Statement](#) and Mr. Duncan, Mr. Crozier, Mr. Christopherson

Second Reading

Debate

[October 28, 2002](#)

Mr. Hudak, Mr. Wettlaufer, Mr. Stewart, Mr. Crozier, Mr. Bisson, Mr. Klees, Mrs. Dombrowsky, Mr. Parsons, Mr. Prue, Mr. Levac

[October 31, 2002](#)

Mrs. Elliott, Mr. Bradley, Mr. Kormos, Mr. Dunlop, Mr. Prue, Mr. Agostino, Mr. Klees, Mr. Kwinter, Mr. Colle, Mr. McDonald, Ms. Churley, Mr. Bryant, Mr. Conway, Mr. Phillips, Mr. Stockwell, Mr. Kennedy

[November 18, 2002](#)

Mr. Kormos, Mr. Tascona, Mr. Bradley

Time Allocation

[November 19, 2002](#)

Mr. Hudak, Mr. Bradley, Mr. Christopherson, Mr. Tascona, Mr. Crozier, Mr. Marchese, Mrs. Munro, Mr. Cordiano, Mr. Geretsen

Carried on division.

[November 21, 2002](#)

Vote deferred until November 25, 2002

[November 25, 2002](#)

Carried on division and referred to the Standing Committee on Finance and Economic Affairs

Committee

Standing Committee on Finance and Economic Affairs

[December 4, 2002](#)

[December 5, 2002](#)

Reported as amended.

Ordered for third reading.

Third Reading

[December 9, 2002](#)

Vote deferred

[December 10, 2002](#)

Carried on division

Royal Assent: [Friday, December 13, 2002](#)

RELEVANT EXCERPTS IN CHRONOLOGICAL ORDER:

First Reading in Ontario Legislature

September 26, 2002

Hon Mr. Hudak: This proposed legislation would strengthen protections for the consumer, in turn helping Ontario businesses, **because consumers feel more comfortable spending their hard-earned money in a marketplace they know is safe and secure.** It would also give businesses clear rules and a level playing field by combining six overlapping consumer protection statutes into one modern legislative framework.

Hon Mr. Hudak: **We are truly bringing consumer protection in Ontario into the 21st century. ... It would strengthen disclosure rules so that consumers have clear and complete information to make informed decisions, and by improving consumer confidence in our marketplace,** it would also encourage businesses to develop and invest in Ontario and create jobs well into this century.

Second Reading in Ontario Legislature

October 28, 2002

Hon Mr. Hudak: As I mentioned earlier on, that's why it's important to strengthen protections for consumers, and it helps to make sure that we have the confidence in the businesses in these areas, **so consumers will feel comfortable spending their hard-earned money in investing or making a purchase that creates jobs in the province of Ontario,** which this government is all about.

Hon Mr. Hudak: ... **Many of these scams can cause a serious financial loss to the individuals, often upwards of thousands of dollars. The challenge is that these individuals are crafty. As I mentioned, they target people who can least afford it:** seniors on fixed incomes may be trusting of somebody that comes up to the door or calls

them on their phone; students away from home that may not have great experience in dealing with contracts and ascertaining for themselves whether it's a fair deal or not.

Hon Mr. Hudak: **In closing, I would like to say that all of us on all sides of the House will find very important tools in this legislation, if passed, to help out those individuals in our ridings who have been unfairly taken advantage of. We all want to help protect seniors and young people, help them to protect themselves against scam artists and make sure they invest their money in goods and services -- or on the Internet -- that will benefit them and their families. We all want to have a very strong, safe and secure marketplace and confidence in that marketplace so these businesses can continue to grow and create jobs.**

Mr R. Gary Stewart (Peterborough): **The proposed initiatives provide for the harmonization of nine pieces of legislation into a legislative framework that is flexible. I suggest to you that is a very key point: that it must be flexible. There must be protection but there also must be flexibility in this legislation to make sure that we can adapt and prepare for the future.**

Mr Bisson: I just say to the government that it took you seven years to figure that out. It's about time you figured out what government is all about. It's not about getting rid of government or taking government out of the face of business, as you put it. It's about trying to strike that balance between the ability of the private sector to do what it needs to do in order to make money and a return on its investment, and **the right to be able to protect consumers or to make sure that there's legislation that makes sure that society is not hard done by when it comes to the practice of a business.**

Mr Crozier: I want to take a couple of minutes to say to the minister that I agree: **we're all in favour of consumer protection. In fact there's little that we do today with our money, unless you're putting it under your mattress, that doesn't involve acting as a consumer. You can put your money in your bank and you're a consumer as far as the bank is concerned. You can go out to the grocery store and buy groceries and you're part of the overall consumer trade. You of course buy cars, goods and services. We're all consumers. We're consumers every day.**

November 18, 2002

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): Bill 180, as a whole, includes some key provisions. **One of them is disclosure. The proposed Consumer Protection Act, 2002, would require that information for general goods and services purchased be disclosed clearly and prominently, not hidden in fine print. It would also specify that if the language in a contract provided by a business is ambiguous, it would be interpreted in the interest of the consumer.**

November 19, 2002

Hon Tim Hudak (Minister of Consumer and Business Services):... As well, I want to say that we have made every effort, to some comments from members, to do a broad-based consultation on this piece of legislation, CP21. **In fact, this is not something that we did overnight. This is something that came about after several years of work by ministry staff and some of my predecessors.**

Mr Tascona: ... Helping consumers make informed purchase decisions by proposing to provide for more disclosure during any transaction is an important point in Bill 180. Consumers should know what they're paying for. Many unscrupulous operators hide information in the fine print or use ambiguous language that is hard to interpret. The proposed Consumer Protection Act, 2002, would help combat this by requiring that information be disclosed clearly and prominently, not hidden in fine print. **The proposed legislation would also specify that if the language in a contract provided by a business is ambiguous, it would be interpreted in the interests of the consumer. ... In closing, this bill would update consumer legislation to provide a clear, efficient, flexible, up-to-date set of rules for consumers and businesses alike. As MPPs, we all want to help prevent our constituents from being taken advantage of. We want a safe, secure marketplace as well as a level playing field for businesses. This bill would help provide that.**

November 21, 2002

A vote.

November 25, 2002

A vote.

Standing Committee of Finance and Economic Affairs

December 4, 2002

Mr Beaubien: I move that the definition of "goods" in section 1 of the Consumer Protection Act, 2002, as set out in schedule A to the bill, be struck out and the following substituted:

"`goods' means any type of property; (`marchandises')."

If I may give you a bit of background, the proposed amendment takes a more general approach to defining "goods," to increase the clarity of the statute's broad scope, particularly with respect to subsection 104(2). That subsection intends to bring real estate transactions within the part of the bill dealing with false advertising.

December 5, 2002

Nothing relevant.

Third Reading in Ontario Legislature

December 9, 2002

A vote.

December 10, 2002

Another Vote

December 13, 2002 (Royal Assent)

EXPLANATORY NOTES

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=1048&isCurrent=false&detailPage=bills_detail_about&Intranet=

Part I: Interpretation and Application

The new Act, subject to limited exceptions, applies to all consumer transactions where the consumer or the person with whom the consumer is conducting the transaction is located in Ontario. There is an anti-avoidance provision that allows the substance of a transaction or entity to be examined to determine whether it is covered by the Act, permitting the form to be ignored. Consumer agreements that meet the criteria for more than one type of agreement covered by the Act must comply with the provisions applicable to all the types of agreement for which they meet the criteria, except as the provisions are exempted by regulation. Supplier disclosure under the new Act must be clear, comprehensible and prominent. If a supplier is required to deliver information to a consumer, it must be delivered in a form in which it can be retained by the consumer.

Part III: Unfair Practices

Unfair practices include making a false, misleading or deceptive representation, making an unconscionable representation and renegotiating the price charged to a consumer in specified circumstances. Engaging in unfair practices is prohibited. A consumer agreement may be rescinded if it is entered into as the result of unfair practice and a consumer is entitled to any remedy available at law, including damages when an agreement is rescinded. Rescission of an agreement operates to cancel, as if they never existed, the agreement, related agreements, related guarantees and security and related credit agreements.

RELEVANT SECTIONS OF *Consumer Protection Act, 2002*

PART I

INTERPRETATION AND APPLICATION

Interpretation

1. In this Act,

"consumer" means an individual acting for personal, family or household purposes and does not include a person who is acting for business purposes;

"consumer agreement" means an agreement between a supplier and a consumer in which the supplier agrees to supply goods or services for payment;

"consumer transaction" means any act or instance of conducting business or other dealings with a consumer, including a consumer agreement;

Application

2. (1) Subject to this section, this Act applies in respect of all consumer transactions if the consumer or the person engaging in the transaction with the consumer is located in Ontario when the transaction takes place.

Exceptions

(2) This Act does not apply in respect of,

- (a) consumer transactions regulated under the *Securities Act*;
- (b) financial services related to investment products or income securities;
- (c) financial products or services regulated under the *Insurance Act*, the *Credit Unions and Caisses Populaires Act, 1994*, the *Loan and Trust Corporations Act* or the *Mortgage Brokerages, Lenders and Administrators Act, 2006*;
- (d) consumer transactions regulated under the *Commodity Futures Act*;
- (e) prescribed professional services that are regulated under a statute of Ontario;
- (f) consumer transactions for the purchase, sale or lease of real property, except transactions with respect to time share agreements as defined in section 20; and
- (g) consumer transactions regulated under the *Residential Tenancies Act, 2006*.

Same

(3) This Act does not apply to the supply of a public utility or to any charge for the transmission, distribution or storage of gas as defined in the *Ontario Energy Board Act, 1998* if such charge has been approved by the Ontario Energy Board.

Anti-avoidance

3. In determining whether this Act applies to an entity or transaction, a court or other tribunal shall consider the real substance of the entity or transaction and in so doing may disregard the outward form.

PART X

POWERS AND DUTIES OF MINISTER AND DIRECTOR

Powers of Minister

102. (1) The Minister may,

- (a) disseminate information for the purpose of educating and advising consumers;
- (b) provide information to consumers about the use of alternate dispute resolution techniques as a means of resolving disputes arising out of consumer transactions; and

(c) enforce this Act and other legislation for the protection of consumers.