

**CONDITIONAL SALES  
AND BAILMENTS  
WITH FORMS**

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Conditional Sales and Bailments with Forms by William W. Morrill

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BY

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ALBANY, N. Y.  
MATTHEW BENDER, LAW PUBLISHER,  
1901

## Conditional Sales and Bailments.

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As the terms are here used, a conditional sale is a sale and delivery of personal property with an agreement that title is to remain in the vendor until payment is complete; and a bailment is a contract by which such property is leased, and in which it is provided that after a certain amount of rent is paid, title shall be in or shall be given to the lessee, without further payment.

Manufacturers and dealers in manufactured articles frequently have occasion to make delivery of goods in connection with some sort of contract for future payment; and it is often desirable to retain title until payment is complete. For such purpose resort is had to contracts of one or other of the above named kinds; and printed blank forms are often used indiscriminately, regardless of the laws of the particular jurisdictions to which the articles are delivered.

In fact, however, a good deal of discrimination is necessary; for while as between the parties the validity of such sales is unquestioned, and in many jurisdictions, in the absence of fraud, the rule is the same as to third persons, since in absence of statutes requiring filing or recording the general rule is that the vendee under a conditional sale obtains no title to the property, before

payment, so as to render the property subject to levy and sale upon execution in favor of his creditors, or so that he can convey to a *bona fide* purchaser title that can be enforced against the original vendor; yet the rule has many exceptions, and the laws of the various jurisdictions in this country alone are in this respect extremely varied. For example, in many jurisdictions there are statutes making such contracts invalid as against *bona fide* purchasers from the conditional vendee or his creditors, unless in writing, unless containing certain specified provisions, unless executed with specified formalities, or unless filed or recorded in designated offices. In a few states, the only safe course is to sell outright and take security by chattel mortgage. In Pennsylvania, chattel mortgages are not recognized, and contracts of bailment alone are available. In most states, however, no distinction is recognized between such bailments and conditional sales, the purpose and effect of both being the same.

The above illustrations may serve to emphasize the importance of some ready means of information, available to vendors and their legal advisers, as to the requirements, in these particulars, of the fifty odd civil jurisdictions embraced within the United States.

The information here given was sought at the request of a client; and the scope of this volume is limited to the precise line of inquiry required by said client, namely, the requisite information to enable a vendor in one jurisdiction to make valid contracts with respect to articles to be delivered in other jurisdictions, and to protect himself thereunder.

Much of the information herein contained was received from leading attorneys in the respective jurisdictions, with whom correspondence was opened and to whom acknowledgment is hereby made. It has been supplemented and brought down to date by personal examination of statutes and decisions.

The plan of this work is briefly as follows:

The arrangement is alphabetical, according to the names of the various states and territories.

Under the name of each state and territory are arranged:

(1) The statute, if one exist, either in full or by summary.

(2) Quotations from the letters of advice received from local attorneys wherever important.

(3) Forms, whether for body of contract, certificates of acknowledgment, vendor's affidavit for filing or refiling, or otherwise, especially appropriate to the particular jurisdiction.

At the end of the book will be found forms of more general application.



**ALABAMA.**

**CONTRACT MUST BE RECORDED.**

<i>By whom executed:</i>	<i>Not specified.</i>
<i>In what office recorded:</i>	<i>Judge of Probate.</i>
<i>Within what time:</i>	<i>Thirty days after date.</i>
<i>How long effective:</i>	<i>Not specified.</i>
<i>How time extended:</i>	<i>Not specified.</i>

**Statute.**

The following is a summary of the statute (Code 1896, §§ 1016, 1017):

Contracts of conditional sale, vendor retaining title until payment of purchase money and the purchaser obtaining possession,—and contracts for lease, rent or hire of personal property, property being delivered to lessee on condition that it shall belong to him whenever certain sum paid, title meantime to remain in lessor,—are void against purchasers for valuable consideration, mortgagees and judgment creditors without notice, unless in writing, and within thirty days after date recorded in the office of the judge of probate of the county in which vendee or lessee resides, and also in the county in which property is delivered and remains; and if property removed to another county before payment complete, the contract must be again recorded within three months from the time of such removal in the county to which it is removed; and if any such property is brought into this state while sub-

ject to such condition, the contract must within three months thereafter be recorded in the county in which it is brought and remains.

Similar contracts of conditional sale of railroad equipments or rolling stock must, in order to be valid against judgment creditors of or purchasers from the vendee, without notice, be "in writing and within three months after the making thereof, recorded in the office of the judge of probate of the county in which such corporation may have its principal office or place of business; and if it has not in this state a principal office or place of business, then in the office of the secretary of state; and, in addition, all cars or engines so sold must have thereon, plainly marked, the name of the vendor."

Both parties must execute the contract, and as it is to be recorded it should be acknowledged.

The statute contains no provision for re-filing.

**Certificate of acknowledgment.**

The following certificate of acknowledgment is prescribed by statute for instruments to be recorded in the State of Alabama (Code 1896, § 996):

STATE OF..... }  
County of..... } ss.:

I (name and style of officer), hereby certify that ..... , whose name is signed to the foregoing conveyance (or other instrument), and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he exe-

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cuted the same voluntarily on the day the same bears  
date. Given under my hand, this .... day of .....,

A. D. ....

A. B., Judge (or as the case may be).

(Two witnesses required.)