[Français](http://www.ontario.ca/fr/lois/loi/90c41)

Costs of Distress Act

R.S.O. 1990, Chapter C.41

**Consolidation Period:** From June 22, 2006 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [2006, c.19, Sched.C, s.1(1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1).

Legislative History: [2006, c.19, Sched.C, s.1(1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1).

Tariff of costs

**1** No person making distress for rent or for a penalty and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the distress into effect, shall levy, take or receive any costs in respect of the distress other than those prescribed by the Lieutenant Governor in Council. R.S.O. 1990, c. C.41, s. 1.

Tariff of costs under chattel mortgage

**2** No person making a seizure or sale of goods for default in payment of the principal money or interest secured by a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by the vendor for default in payment of an instalment of principal or interest shall levy, take or receive any greater or other fees or costs than those prescribed by the Lieutenant Governor in Council. R.S.O. 1990, c. C.41, s. 2.

Costs in respect of seizure of exempted goods

**3** No costs shall be levied, taken or received for or in respect of exempted goods when they may not be lawfully sold, and, when sold, no greater sum in all than $2 and actual and necessary payments for possession money shall be levied, taken or received for or in respect of costs and expenses of sale of such exempted goods. R.S.O. 1990, c. C.41, s. 3.

No charge for anything not done

**4** No person shall make any charge for anything for which the Lieutenant Governor in Council has prescribed a fee under this Act unless it has been actually done. R.S.O. 1990, c. C.41, s. 4.

Right of action not affected

**5** No person aggrieved by a seizure or sale of goods under a chattel mortgage or by a distress for rent or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by the vendor for default in payment of an instalment of principal or interest shall be barred from any action or remedy that the person would have had if this Act had not been passed. R.S.O. 1990, c. C.41, s. 5.

Furnishing statement of demand and costs

**6** (1)  A person who makes a distress shall give a statement in writing signed by the person of the demand and of the costs and expenses of the distress to the person on whose goods the distress was made and a person who makes a seizure under a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by the vendor for default in payment of an instalment of principal or interest shall give to the person in possession of the goods seized a statement in writing signed by the person making the seizure of the demand and of the costs charged in respect of the seizure and subsequent proceedings. R.S.O. 1990, c. C.41, s. 6 (1).

Assessment of costs of distress

(2)  The person whose goods are distrained or seized or the person authorizing the distress or seizure or any other person interested, upon giving two days notice in writing, may have the costs and expenses of the bailiff or other person making the distress or seizure assessed by the local registrar of the Superior Court of Justice for the area in which the distress or seizure was made. R.S.O. 1990, c. C.41, s. 6 (2); 2006, c. 19, Sched. C, s. 1 (1).

Furnishing bill of costs to registrar for assessment

(3)  The bailiff or person making the distress or seizure shall furnish the registrar with a statement of the costs and expenses for assessment at the time mentioned in the notice or at such other time as the registrar directs, and, in default of so doing, is not entitled to any costs or expenses. R.S.O. 1990, c. C.41, s. 6 (3).

Duty of registrar on assessment

(4)  Upon the assessment the registrar shall, among other things, consider the reasonableness of any charges for removal and keeping possession of the goods, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath touching the same, and the person requiring the assessment shall pay the registrar a fee of 25 cents therefor. R.S.O. 1990, c. C.41, s. 6 (4).

Appeal

(5)  An appeal may be made from such assessment to a judge of the Superior Court of Justice. R.S.O. 1990, c. C.41, s. 6 (5); 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Fees and costs

**7** The Lieutenant Governor in Council may prescribe fees and costs payable to persons performing the services mentioned in sections 1 and 2. R.S.O. 1990, c. C.41, s. 7.

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