

No. 24

1st Session, 14th Legislature, Alberta
8 Elizabeth II

BILL 24

A Bill to amend The Bills of Sale Act

HON. MR. MANNING

Explanatory Note

General. The Bills of Sale Act (R.S.A. 1955, c. 23) is amended to permit one affidavit of *bona fides* for use in registering Bills of Sale under this Act. The present situation under sections 8, 9 and 10 results in the use of three types, or one type being modified for three different circumstances. Sections 8, 9 and 10 presently read:

- “8. (1) Where a bill of sale is given as security
- (a) for repayment of any advances to be made by the grantee under an agreement therefor,
 - (b) against loss or damage by reason of the endorsement of a bill of exchange or promissory note,
 - (c) against loss or damage by reason of any other liability incurred by the grantee for the grantor, or
 - (d) against loss or damage by reason of any liability to be incurred under an agreement by the grantee for the grantor,
- the bill of sale shall set forth clearly by recital or otherwise, and shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the bill of sale truly sets forth,
- (e) the terms or substance of the agreement entered into between the parties in respect of the advances,
 - (f) a copy of the bill of exchange or promissory note endorsed and of the endorsement,
 - (g) the nature and extent of such other liability incurred by the grantee for the grantor, or
 - (h) the terms or substance of the agreement in respect of the liability to be incurred by the grantee for the grantor,
- as the case may be, and in all cases the affidavit shall state that the bill of sale truly sets forth the extent or amount of the liability incurred or to be incurred and to be secured by the bill of sale.
- (2) The affidavit shall also state that the bill of sale was executed in good faith and for the purpose of securing the grantee
- (a) repayment of the advances made by him,
 - (b) against loss or damage by reason of the endorsement,
 - (c) against loss or damage by reason of the liability incurred by the grantee for the grantor, or
 - (d) against loss or damage by reason of the liability to be incurred by the grantee for the grantor under the agreement therefor,
- as the case may be, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor nor for the purpose of preventing the creditors from recovering any claims that they have against the grantor.
9. (1) Where a bill of sale, other than a bill of sale within the scope of section 8, is given to secure the payment of
- (a) an ascertained amount due or accruing due from the grantor to the grantee, or
 - (b) a present advance being made by the grantee to the grantor,
- it shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent.
- (2) The affidavit shall state
- (a) that the amount set forth in the bill of sale as being the consideration therefor
 - (i) is justly due or accruing due from the grantor to the grantee, or
 - (ii) is a present advance being made by the grantee to the grantor, as the case may be, and
 - (b) that the bill of sale was executed
 - (i) in good faith and for the purpose of securing to the grantee the payment of such amount, and
 - (ii) not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, nor for the purpose of preventing the creditors from recovering any claims that they have against the grantor.
10. Where a bill of sale other than a bill of sale within the scope of section 8 or section 9 is presented for registration it shall be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the bill of sale was executed
- (a) in good faith and for good consideration, as set forth in the bill of sale, and
 - (b) not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, nor for the purpose of preventing the creditors from recovering any claims that they have against the grantor.”

BILL

No. 24 of 1960

An Act to amend The Bills of Sale Act

(Assented to _____, 1960)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Bills of Sale Act*, being chapter 23 of the Revised Statutes, is hereby amended.

2. Sections 8, 9 and 10 are repealed and the following are substituted therefor:

8. Where a bill of sale is given

- (a) to secure to the grantee repayment of advances to be made by him under an agreement therefor, or
- (b) to secure the grantee against loss or damage by reason of
 - (i) the endorsement of a bill of exchange or promissory note,
 - (ii) any other liability incurred by the grantee for the grantor, or
 - (iii) any liability to be incurred under an agreement by the grantee for the grantor,

the bill of sale shall set forth clearly by recital or otherwise

- (c) the terms or substance of the agreement entered into between the parties in respect of the advances,
- (d) a copy of the bill of exchange or promissory note endorsed and of the endorsement,
- (e) the nature and extent of such other liability incurred by the grantee for the grantor, or
- (f) the terms or substance of the agreement in respect of the liability to be incurred by the grantee for the grantor.

9. Where a bill of sale is presented for registration it shall be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the bill of sale was executed

- (a) in good faith and for good consideration as set forth in the bill of sale or for the purpose set out in the bill of sale, and

(b) not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, nor for the purpose of preventing the creditors from recovering any claims that they have against the grantor.

3. This Act comes into force on the day upon which it is assented to.

No. 24

FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

BILL

An Act to amend The Bills of
Sale Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
