

No. 73

3rd Session, 15th Legislature, Alberta
14 Elizabeth II

BILL 73

A Bill respecting Registries for the Registration of
Security Interests in Chattels

HON. MR. MANNING

Explanatory Note

At present all conditional sale agreements, bills of sale and chattel mortgages other than those affecting automobiles, trucks, etc., are registered in the several court houses and registration is effective only as to the judicial district concerned. This Bill will establish the Central Registry which will provide a single registration office in place of the present district system. It will be the counterpart of the registration office in the Motor Vehicle Branch which will continue registry of documents affecting automobiles, trucks, etc.

The Bill contemplates the possibility of eventual amalgamation of the two registration systems. Accordingly, the Bill provides for one assurance fund for both systems. The existing assurance fund for the registration system in the Motor Vehicle Branch will become the Central Registry Assurance Fund under this Bill. The assurance fund provisions of this Bill will thus replace The Central Registry Assurance Fund Act.

The Bill contemplates the transition from the district registration system to the new system in stages. For example, conditional sales will be registered in the Registry only when the consequential amendments to The Conditional Sales Act in Part 1 of the Schedule are proclaimed in force. The three parts of the Schedule may be brought into force at different times: see section 24 of this Bill.

2. Definitions.

3. Registration with the registration clerk in the Motor Vehicle Branch.

4. Creation of the Registry.

5. Central office and branches.

BILL

No. 73 of 1966

An Act respecting Registries for the Registration of
Security Interests in Chattels

(Assented to _____, 1966)

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

1. This Act may be cited as "*The Chattel Security
Registries Act*".

2. In this Act,

- (a) "Fund" means the Central Registry Assurance Fund;
- (b) "Motor Vehicle Branch" means the Motor Vehicle Branch of the Department of Highways;
- (c) "registrar" means the registrar of the Central Registry;
- (d) "registration district" means a judicial district;
- (e) "Registry" means the Central Registry constituted under this Act.

The Registration Clerk in the Motor Vehicle Branch

3. The office of the registration clerk in the Motor Vehicle Branch is the Registry for documents that may be registered with him under

- (a) *The Bills of Sale Act*,
- (b) *The Conditional Sales Act*, and
- (c) *The Garagemen's Lien Act*.

The Central Registry

4. (1) There shall be a Central Registry under the direction and supervision of a registrar.

(2) The Registry shall be a branch of the Department of the Attorney General.

(3) The registrar shall have a seal of office in such form as the Attorney General approves.

5. (1) The central office of the Registry shall be located at or near the city of Edmonton.

6. Designation of signing officers.

7. Registration of documents.

(2) Branch offices of the Registry may be located at such places in the Province as the Attorney General determines.

(3) The central office and the branch offices shall be kept open during the same hours that the offices of the Clerks of the Supreme Court of Alberta are required to be kept open.

6. The registrar may designate one or more persons on the staff of the central office or a branch office as registration clerks to effect the registration of documents on behalf of the registrar and to authenticate certificates under this Act.

7. (1) Documents to be registered in the Registry may be submitted at the central office or at any branch office.

(2) Registration of a document in the Registry is effective only from the time of the recording thereof in the central office and the assignment thereto of an appropriate registration number.

(3) When a document is recorded in the central office and is assigned an appropriate registration number, the registrar or a registration clerk shall endorse the document with a memorandum of the date, hour and minute of its filing and its registration number.

(4) Upon the commencement of Schedule 2 of this Act, the provisions of subsection (4) of section 6, subsection (2) of section 17, subsection (3) of section 18 and section 33 of *The Bills of Sale Act* do not apply in respect of registrations made in the Registry.

(5) The registrar may refuse to accept a document for registration

- (a) where the document does not comply with the Act authorizing its registration in the Registry, or
- (b) where the document is greater in size than eight and one-half inches by fourteen inches, or
- (c) unless at least two copies of the document are submitted to him.

(6) Where a document submitted for registration does not clearly identify the debtor thereunder

- (a) by his surname and his given name or names in full, or
- (b) by reference to the Social Insurance Number, if any, assigned to him under the *Canada Pension Plan*, or
- (c) otherwise than by a signature which, in the registrar's opinion, is illegible, or
- (d) in any other manner that is sufficient, in the opinion of the registrar, for the purposes of registration,

the registrar may refuse registration of the document until either the document is changed to contain the information

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(2) Registration of a document in the Registry is effective only from the time of the recording thereof in the central office and the assignment thereto of an appropriate registration number.

(3) When a document is recorded in the central office and is assigned an appropriate registration number, the registrar or a registration clerk shall endorse the document with a memorandum of the date, hour and minute of its filing and its registration number.

(4) Upon the commencement of Schedule 2 of this Act, the provisions of subsection (4) of section 6, subsection (2) of section 17, subsection (3) of section 18 and section 33 of *The Bills of Sale Act* do not apply in respect of registrations made in the Registry.

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- (a) by his surname and his given name or names in full, or
- (b) by reference to the Social Insurance Number, if any, assigned to him under the *Canada Pension Plan*, or
- (c) otherwise than by a signature which, in the registrar's opinion, is illegible, or
- (d) in any other manner that is sufficient, in the opinion of the registrar, for the purposes of registration,

the registrar may refuse registration of the document until either the document is changed to contain the information

8. Microfilming and return of registered document.

9. Search certificates, searches and certified copies of documents.

10. Regulations.

required by him or there is furnished to him a memorandum made by or on behalf of the person submitting the document for registration setting out the information required by the registrar.

8. Where he is directed to do so by the Attorney General, the registrar shall

- (a) cause each document registered in the Registry to be photographed on microfilm, and
- (b) thereafter return the document to the person who registered it,

and the microfilm, for the purposes of this Act or an authorizing Act, shall be deemed to be the document registered in the Registry.

9. Upon the request of any person and upon payment of the prescribed fee, the registrar shall

- (a) issue a certificate stating whether there is registered at the time mentioned in the certificate a document in which the person named in the certificate is shown as a debtor and, if there is, the registration number of it, and any other information required to be given in the certificate by the regulations in respect of it,
- (b) provide for inspection at the central office of the Registry of any document registered in the Registry and on file in the central office, unless it has been destroyed or returned pursuant to section 8,
- (c) provide for inspection at the central office or a branch office a reproduced copy of a document registered in the Registry, and
- (d) furnish a certified copy of any document registered in the Registry.

10. The Lieutenant Governor in Council may make regulations

- (a) providing for the manner in which any documents are to be registered,
- (b) prescribing the duties of the registrar or registration clerks in respect of the registration of documents and any other functions of the registrar under this Act or an authorizing Act,
- (c) prescribing the manner in which searches may be made or information obtained regarding any document registered in the Registry,
- (d) prescribing fees for the registration of documents or any classes of documents in the Registry and for any other services performed by the registrar or the registration clerks,
- (e) prescribing the information to be given in certificates issued under clause (a) of section 9,

11. Constitution of Fund. The sections under the heading "Central Registry Assurance Fund" replace the present Central Registry Assurance Fund Act. Section 11 (3) and (4) of the Bill vary section 3 (2) of that Act which presently authorizes any amounts in the fund over \$25,000 to be transferred to the General Revenue Fund.

12. Assurance fund fee payable to registrar.

13. Assurance fund fee payable to registration clerk in the Motor Vehicle Branch.

- (f) prescribing the form of any class of documents that may be registered in the Registry, and authorizing the registrar to refuse registration of a document of that class that is not in the form so prescribed,
- (g) prescribing, as to any class of documents that may be registered in the Registry, the information to be contained in the document, and authorizing the registrar to refuse registration of a document of that class that does not contain that information, and
- (h) generally, providing for any other matter necessary for the purposes of carrying out the purpose of this Act.

Central Registry Assurance Fund

11. (1) An assurance fund, called the Central Registry Assurance Fund, shall be formed and into which shall be paid

- (a) the fees paid to the registrar under section 12, and
- (b) the fees paid to the registration clerk in the Motor Vehicle Branch under section 13.

(2) The Fund shall be held and administered by the Provincial Treasurer and the fees paid under sections 12 and 13 shall be paid over to the Provincial Treasurer at such times and in such manner as he may direct.

(3) When the Fund exceeds twenty-five thousand dollars, any part of the Fund in excess of that figure may, at the direction of the Provincial Treasurer, be invested in

- (a) bonds or debentures issued by the Government of Canada, or
- (b) bonds or debentures guaranteed as to the payment of principal and interest by the Government of Canada or the Government of Alberta.

(4) When the Fund exceeds one hundred thousand dollars, any amount in the Fund in excess of that figure may, at the direction of the Lieutenant Governor in Council, be transferred to the General Revenue Fund.

12. Before the registrar registers any document that may be registered in the Registry under

- (a) *The Assignments of Book Debts Act, 1958,*
- (b) *The Bills of Sale Act,* or
- (c) *The Conditional Sales Act,*

he shall, in addition to the fee prescribed by or under that Act, demand and receive for the Fund a fee of twenty-five cents for each document required to be registered.

13. Before the registration clerk in the Motor Vehicle Branch registers any document that may be registered with him under

- (a) *The Bills of Sale Act,*

14. Claim against Fund.

15. Payment of claim.

16. Payment of judgment.

17. Limitations on liability of Fund.

18. Payment of costs by unsuccessful plaintiff.

(b) *The Conditional Sales Act*, or

(c) *The Garagemen's Lien Act*,

he shall, in addition to the fee prescribed by or under that Act, demand and receive for the Fund a fee of twenty-five cents for each document required to be registered.

14. (1) Any person sustaining loss or damage through an omission, mistake or misfeasance of the registrar, an official of the Registry or the registration clerk in the Motor Vehicle Branch in the execution of his duties under an authorizing Act and who by the operation of that Act is barred from maintaining an action against any other person for the recovery of his loss or damage, may bring an action for damages against the Crown in right of Alberta.

(2) No Action for damages under this Act shall be brought against the Crown unless it is brought within three years from the date when the cause of action arose.

15. The Attorney General upon being satisfied that any claim that is or might be the subject of an action for damages against the Crown under this Act is well founded may issue a certificate to that effect, and thereupon the Lieutenant Governor in Council may direct the payment of the claim out of the assurance fund, together with a reasonable sum for costs incurred in making the same.

16. The Provincial Treasurer shall pay the amount of any judgment recovered against the Crown in respect of a claim under section 14 out of the Fund.

17. The Fund is not under any circumstances liable for compensation for loss or damages

- (a) occasioned by the plaintiff's breach of any trust, whether express, implied or constructive, or
- (b) by reason of the improper use of the seal of a corporation or the want of capacity in a corporation to deal with the property or interest involved or to execute or take the benefit of the document registered, or
- (c) by reason of the registration of a document executed by a person under legal disability, unless the fact of the disability is disclosed on the face of the document.

18. Where, in an action against the Crown, judgment is given in favour of the Crown, or the plaintiff discontinues the action, the plaintiff is liable to pay the full costs of defending the action, and the full costs when taxed shall be levied in the name of the Crown by the like process of execution as in ordinary civil cases.

19. Previously registered documents deemed to be registered in the Registry.

20. Section 11 of The Assignments of Book Debts Act, 1958 presently reads:

11. For the purpose of registration of documents under this Act each chattel mortgage registration district in the Province is a registration district, and the registration clerk whose office is situated within a registration district is the proper officer for the registration of such documents in that registration district.

See note to clause 22. "Chattel mortgage registration district" refers to a registration district under The Bills of Sale Act, that is, a judicial district.

21. The new definition of motor vehicle is the same as that in The Conditional Sales Act, which includes tools and accessories. Section 2, clause (i) presently reads:

- (i) "motor vehicle"
 - (i) means every vehicle propelled by any power other than muscular power, but
 - (ii) does not mean aircraft, tractors, whether equipped with rubber tires or not, traction engines and such vehicles as run only upon rails or tracks;

22. Section 2, clause (e) of The Conditional Sales Act presently reads:

- (e) "registration district" means a registration district for bills of sale and established under The Bills of Sale Act;

At present the registration districts for conditional sales are the same as those under The Bills of Sale Act which in turn are, by section 19 of that Act, co-extensive with judicial districts. The amendment here anticipates the possibility that Schedule 2 (which repeals section 19) might come into force before Schedule 1.

23. Repeal of The Central Registry Assurance Fund Act and transitional provisions.

Transitional and Repeal

19. (1) Upon the commencement of Schedule 1, all assignments of book debts registered under *The Assignment of Book Debts Act* or *The Assignments of Book Debts Act, 1958* in any registration district shall be deemed to be registered in the Registry.

(2) Upon the commencement of Schedule 2, all bills of sale within the meaning of *The Bills of Sale Act* that are registered under that Act in any registration district shall be deemed to be registered in the Registry.

(3) Upon the commencement of Schedule 3, all conditional sales agreements registered under *The Conditional Sales Act* in any registration district shall be deemed to be registered in the Registry.

20. *The Assignments of Book Debts Act, 1958* is amended as to section 11 by striking out the words "chattel mortgage registration district" and by substituting the words "judicial district".

21. *The Bills of Sale Act* is amended by striking out clause (i) of section 2 and by substituting the following:

(i) "motor vehicle"

(i) means a vehicle propelled by any power other than muscular power, except aircraft, tractors whether equipped with rubber tires or not, traction engines, and such vehicles as run only upon rails or tracks, and

(ii) includes all tools and accessories belonging to and kept in, on or attached to a motor vehicle;

22. *The Conditional Sales Act* is amended by striking out clause (e) of section 2 and by substituting the following:

(e) "registration district" means a judicial district;

23. (1) *The Central Registry Assurance Fund Act*, being chapter 8 of the Statutes of Alberta, 1961, is hereby repealed.

(2) In this section, "the repealed Act" means *The Central Registry Assurance Fund Act*.

24. Commencement of Act. Schedules 1, 2 and 3 contain consequential amendments to The Assignments of Book Debts Act, 1958, The Bills of Sale Act and The Conditional Sales Act, respectively. Subsection (2) permits the Schedules to be proclaimed in force in stages, if necessary.

This Schedule amends chapter 6 of the Statutes of Alberta, 1958. As in the case of the other Schedules, these amendments will achieve the change over to registration in the Central Registry of assignments of book debts.

- (3) Upon the commencement of this section,
- (a) all moneys in the assurance fund under the repealed Act shall be transferred to and form part of the Central Registry Assurance Fund under this Act,
 - (b) any action commenced against the Minister of Highways under the repealed Act shall be continued as if it had not been repealed,
 - (c) any judgment recovered under the repealed Act shall be paid from the Central Registry Assurance Fund under this Act,
 - (d) any claim that could have been made against the assurance fund under the repealed Act, except for its repeal, shall be made under this Act, and
 - (e) any action that could have been brought under the repealed Act, except for its repeal, shall be brought against the Crown under this Act but within three years from the date when the cause of action arose.

24. (1) This Act, except the Schedules, comes into force on the day upon which it is assented to.

(2) Schedules 1, 2 and 3 of this Act come into force on the day or days to be fixed by proclamation of the Lieutenant Governor in Council.

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS TO THE ASSIGNMENTS OF BOOK DEBTS ACT, 1958

1. *The Assignments of Book Debts Act, 1958* is amended by this Schedule.

2. Section 2 is amended

- (a) as to subsection (1)
 - (i) by adding after clause (e) the following clause:
 - (e1) "Central Registry" or "office" means the Central Registry constituted under *The Chattel Security Registries Act*;
 - (ii) by striking out clauses (h) and (i) and by substituting the following:
 - (h) "registrar" means the registrar of the Central Registry;
- (b) as to subsection (2) by striking out the words "with the proper officer, as herein provided" and by substituting the words "in the Central Registry".

3. Section 5 is amended by striking out subsections (1) and (2) and by substituting the following:

5. (1) Registration of an assignment shall be effected within thirty days from the date of its execution.

4. Section 6 is repealed.

5. Section 7 is amended

(a) by striking out subsections (3) and (4) and by substituting the following:

(3) Within thirty days after the making of the affidavit, the renewal statement and affidavit, or duplicate originals thereof, shall be registered in the Central Registry.

(b) by striking out subsection (8).

6. Section 8 is amended

(a) as to subsection (1) by striking out the words "any office in which the first assignment is registered" and by substituting the words "the Central Registry",

(b) by striking out subsection (2).

7. Section 9 is repealed.

8. Section 10 is amended

(a) as to subsection (1) by striking out the words "office or offices in which it is registered" and by substituting the words "Central Registry",

(b) by striking out subsections (2), (3) and (4).

9. Section 11 is repealed.

10. Section 14, subsection (1) is amended by striking out the words "proper officer of any registration district" and by substituting the words "registrar or a registration clerk of the Central Registry".

11. Section 15 is amended

(a) by striking out subsection (2) and by substituting the following:

(2) An order under this section, or a copy thereof, shall be filed in the Central Registry.

(b) as to subsection (3) by striking out the words "with the proper officer," and by substituting the words "in the Central Registry,".

12. Section 17 is amended

(a) as to subsection (1) by striking out the words "proper officer," and by substituting the words "the registrar or a registration clerk in the Central Registry,"

(b) as to subsection (2) by striking out the words "proper officer's" and by substituting the words "registrar's or registration clerk's",

Schedule 2 amends chapter 23 of the Revised Statutes. As in the case of Schedule 1, these amendments will achieve the change over to registration in the Central Registry of bills of sale and chattel mortgages of chattels other than motor vehicles, aircraft, trailers or oil well drilling equipment.

- (c) as to subsection (3) by striking out the words "a proper officer" and by substituting the words "the registrar or a registration clerk".
- 13.** Sections 18 and 19 are repealed.
- 14.** The Schedule is amended
- (a) as to Form 1 by striking out the words "office of the proper officer of the registration district of" and "in the office (s) of the proper officer (s) of the registration district (s)" and the column heading "Registration District",
 - (b) as to Form 2 by striking out the words "office of proper officer of the registration district of".

SCHEDULE 2

**CONSEQUENTIAL AMENDMENTS TO
THE BILLS OF SALE ACT**

- 1.** *The Bills of Sale Act* is amended by this Schedule.
- 2.** Section 2 is amended
- (a) by adding after clause (a) the following clause:
 - (a1) "Central Registry" means the Central Registry constituted under *The Chattel Security Registries Act*;
 - (b) as to clause (k) by striking out subclause (i) and by substituting the following:
 - (i) means the registrar of the Central Registry, and
 - (c) by striking out clause (m).
- 3.** Section 6 is amended
- (a) as to subsection (1) by striking out the words "office of the proper officer of the registration district in which the chattels comprised in the bill of sale are situate at the date of the execution of the bill of sale" and by substituting the words "Central Registry",
 - (b) by striking out subsection (3).
- 4.** Section 12 is amended by striking out subsection (1) and by substituting the following:
- 12.** (1) Where a bill of sale made on or after the first day of July, 1951, comprises an itinerant machine and personal chattels other than itinerant machines, the bill of sale shall be registered under both section 6 and section 11.
- 5.** Section 13 is amended by striking out subsection (3) and by substituting the following:

Schedule 3 amends chapter 54 of the Revised Statutes. This will achieve the change-over to registration in the Central Registry of conditional sale agreements.

(3) As regards chattels included in the bill of sale other than any itinerant machine, the renewal statement accompanied by the affidavit shall be registered in the Central Registry.

6. Section 14 is repealed.

7. Section 15 is amended by striking out subsection (3) and by substituting the following:

(3) Where the mortgage relates to a chattel other than an itinerant machine, it shall be registered by filing the instruments and affidavit required by subsection (1) in the Central Registry within thirty days after the grantee receives notice of the permanent removal into the Province of the chattel.

8. Section 17 is amended

(a) as to subsection (1) by striking out the words "in any office in which the bill of sale is registered" and by substituting the words "in the Central Registry or with the registration clerk of the Motor Vehicle Branch, as the case may be",

(b) by striking out subsection (3).

9. Section 18 is amended by striking out subsection (4).

10. Sections 19 and 20 are repealed.

11. Section 23, subsection (1) is amended by striking out the words "proper officer of any registration district" and by substituting the words "proper officer, a registration clerk of the Central Registry".

12. Section 34 is repealed.

13. Section 35, subsection (4) is amended by striking out the words "Every registration clerk" and by substituting the words "The registrar of the Central Registry".

14. The Schedule is amended by striking out the words "of the registration district of" where they occur in Forms 1 and 2.

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS TO THE CONDITIONAL SALES ACT

1. *The Conditional Sales Act* is amended by this Schedule.

2. Section 2 is amended

(a) by relettering clause (a) as clause (a1) and by adding immediately prior thereto the following:

(a) "Central Registry" means the Central Registry constituted under *The Chattel Security Registries Act*;

(b) by striking out clause (d).

3. Section 4 is amended

- (a) as to subsection (1) by striking out the words "office of the registration clerk for chattel mortgages in the registration district within which the buyer or bailee resides" and by substituting the words "Central Registry",
- (b) by striking out subsection (2).

4. Section 6 is amended by striking out subsection (1) and by substituting the following:

6. (1) Where a conditional sale agreement made on or after the first day of July, 1951, comprises an itinerant machine and other personal chattels, the conditional sale agreement shall be registered under both section 4 and section 5.

5. Section 7 is amended

- (a) as to subsection (1) by striking out the words "office of the registration clerk of the registration district where the property is then situate," and by substituting the words "Central Registry",
- (b) as to subsection (3) by striking out the words "office of the registration clerk of the district where the goods are then situate," and by substituting the words "Central Registry".

6. Section 8 is repealed.

7. Section 9 is repealed.

8. Section 13 is amended

- (a) as to subsection (1) by striking out the words "the judicial district within which the original or copy of a conditional sale agreement, statement or affidavit is required to be registered or filed under any of the provisions of this Act," and by substituting the words "the district within which the buyer or bailee resides",
- (b) by striking out subsection (2).

9. Section 14 is amended

- (a) as to subsection (2) by adding after the words "registration clerk" the words "in the Motor Vehicle Branch",
- (b) by striking out subsection (3) and by substituting the following:
 - (3) Where the conditional sale agreement comprises goods or chattels other than an itinerant machine, it shall be registered in the Central Regis-

try within thirty days after the seller or bailor receives notice of the permanent removal into the Province of the goods or chattels.

10. Section 20 is amended

- (a) as to subsection (1) by striking out the words "registration clerk" and by substituting the words "registrar or a registration clerk of the Central Registry or the registration clerk in the Motor Vehicle Branch, as the case may be,"
- (b) as to subsection (2) by striking out the word "clerk's".

11. Section 21, subsection (1) is amended by striking out the words "registration clerk" and by substituting the words "the registrar or a registration clerk of the Central Registry, the registration clerk in the Motor Vehicle Branch".

No. 73

THIRD SESSION
FIFTEENTH LEGISLATURE
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BILL

An Act respecting Registries for
the Registration of Security Interests
in Chattels

Received and read the

First time

Second time

Third time

HON. MR. MANNING
