

1968 Bill 38

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First Session, 16th Legislature, 17, Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 38**

**An Act to amend The Chattel Security Registries Act**

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THE ATTORNEY GENERAL

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 38

1968

An Act to amend The Chattel Security Registries Act

(Assented to \_\_\_\_\_, 1968)

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

**1.** *The Chattel Security Registries Act* is hereby amended.

**2.** Section 2 is amended by adding immediately before clause (b) the following:

(a1) "authorizing Act" means *The Assignments of Book Debts Act, 1958, The Bills of Sale Act, The Conditional Sales Act* or any other Act that authorizes the registration of any class of documents in the Registry;

**3.** Section 3 is amended by striking out the word "Registry" and by substituting the word "registry".

**4.** Section 6 is amended by striking out the words "to authenticate certificates under this Act" and by substituting the words "to issue certificates under this Act on behalf of the registrar".

**5.** Section 7 is amended

- (a) as to subsection (5) by adding after the word "registrar" the words "or a registration clerk on his behalf",
- (b) as to subsection (6),
  - (i) in clause (c) by striking out the words "in the registrar's opinion" and by substituting the words "in the opinion of the registrar or a registration clerk",
  - (ii) in clause (d) by adding after the word "registrar" the words "or a registration clerk",
  - (iii) in the portion of the subsection following clause (d) by striking out the words "the registrar may" and by substituting the words "the registrar, or a registration clerk on his behalf, may",

## Explanatory Notes

**1.** This Bill amends chapter 12 of the Statutes of Alberta, 1966. The Central Registry under that Act commenced operations on September 1, 1967, the date that the three Schedules to the Act were proclaimed in force.

**2.** The term "authorizing Act" is used in sections 8 and 10 (b) of the Act but was not defined.

**3.** Corrects a typographical error. "Registry" is defined as being the Central Registry but in section 3 "registry" is not used in the defined sense.

**4.** Section 6 reads:

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.

Registration clerks will be permitted to issue certificates on behalf of the registrar and not merely authenticate those issued by him.

**5.** Section 7, subsections (5) and (6) now read:

(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 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.

The effect of the amendments is to give a registration clerk power to act on behalf of the registrar in refusing registration or prescribing registration requirements.

- (iv) in the portion of the subsection following clause (d) by striking out the words "required by the registrar" and by substituting the words "so required".

**6.** Section 9 is struck out and the following is substituted:

**9.** Upon the request of any person and upon payment of the prescribed fee

- (a) the registrar or a registration clerk on his behalf shall issue a certificate in respect of any person stating whether, at the time mentioned in the certificate, there is registered in the Registry a document in which that person is shown as a party, and, if there is,
  - (i) whether that person is shown as a debtor in the document and, if so, the amount of the indebtedness,
  - (ii) the registration number of the document, and
  - (iii) any other information required to be given in the certificate by the regulations,
- (b) any registered document on file at the central office of the Registry shall be provided for inspection at the central office, unless it has been returned pursuant to section 8 or destroyed,
- (c) a reproduced copy of a document registered in the Registry shall be provided for inspection at the central office or a branch office of the Registry, and
- (d) a certified copy of any document registered in the Registry shall be furnished by the registrar or by a registration clerk on his behalf.

**7.** Section 12 is amended by striking out the words "by or under that Act," and by substituting the words "under the regulations,".

**8.** Section 14, subsection (3) is amended by striking out the words "out of the Fund pursuant to section 15 or 16" and by substituting the words "pursuant to section 16".

**9.** Section 15 is amended by striking out the words "out of the assurance fund".

**10.** Section 16 is struck out and the following is substituted:

**16.** The Provincial Treasurer shall pay the amount of any judgment recovered against the Crown under section 14 and of any claim and costs directed to be paid under section 15

**6. Section 9 presently reads:**

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.

The main change occurs in clause (a), which will permit certificates in cases in addition to those where a party to a document is a "debtor", for example, where the person is a seller under a bill of sale of goods under which title passes and the whole of the price is paid.

The section is recast so that clauses (b) and (c) will no longer, on a literal interpretation, require that documents be produced for inspection by the registrar himself but rather by anyone on his staff.

**7. Section 12 reads:**

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.

Effective September 1, 1967 the registration fees are prescribed by regulations under The Chattel Security Registries Act and not under the individual Acts enumerated in section 12. The amendment corrects this error.

**8. Section 14, subsection (3) presently reads:**

(3) No payment shall be made out of the Fund pursuant to section 15 or 16 of an amount greater than one hundred thousand dollars in respect of any omission, mistake or misfeasance of the registrar or an official of the Registry or the registration clerk in the Motor Vehicle Branch, as the case may be.

The amendment is made as a consequence of the new section 16 (see clause 10 of this Bill). As payments might conceivably be paid out of the General Revenue Fund, the limit of \$100,000 will apply regardless of the source of the moneys used to pay the claim.

**9. Section 15 presently reads:**

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.

The new section 16 will make the deleted words redundant: See clause 10 of this Bill.

**10. Section 16 presently reads:**

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.

The new section effects two changes, i.e., the inclusion of reference to claims directed to be paid under section 15 (claims which the Government concedes) and the authority to pay out of the General Revenue Fund if the Fund itself should be insufficient.

- (a) out of the Fund, and
- (b) to the extent that the Fund is insufficient for that purpose, out of the General Revenue Fund.

**11.** Section 17 is amended

- (a) by striking out the word "Fund" and by substituting the word "Crown",
- (b) by adding the word "or" at the end of clause (c) and by adding after that clause the following:
- (d) sustained through an omission, mistake or misfeasance of the registrar or an official of the Registry in respect of any document deemed to be registered in the Registry by virtue of section 19.

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

**11. The opening words of section 17 read:**

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

“Fund” is changed to “Crown” to be consistent with the new section 16. The effect of section 19 of the Act is that, as of September 1, 1967, all chattel mortgages, conditonal sale agreements, etc. previously registered in the various court houses were to be deemed by law to be registered in the Central Registry. As to these documents there was, under the court house system, no assurance fund legislation equivalent to that under the present Act. The amendment will have the effect of permitting claims to be made only as to documents actually registered in the Central Registry since it commenced operations on September 1, 1967.