

1979 BILL 52

---

First Session, 19th Legislature, 28 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 52**

**THE CHATTEL SECURITY STATUTES AMENDMENT ACT,  
1979**

---

THE ATTORNEY GENERAL

---

First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

*Bill 52*

## **BILL 52**

1979

### **THE CHATTEL SECURITY STATUTES AMENDMENT ACT, 1979**

*(Assented to                      , 1979)*

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

#### **The Bills of Sale Act**

*1(1) The Bills of Sale Act is amended by this section.*

*(2) Section 2 is amended*

*(a) by repealing clause (j) and substituting the following:*

*(j) “motor vehicle” means a motor vehicle as defined  
in The Motor Vehicle Administration Act;*

*(b) by adding the following after clause (p):*

*(p.1) “trailer” means a trailer as defined in The Motor  
Vehicle Administration Act;*

*(3) Section 6(3) is repealed.*

## **Explanatory Notes**

### **The Bills of Sale Act**

**1**(1) This section will amend chapter 29 of the Revised Statutes of Alberta 1970.

(2) Defines “motor vehicle” and “trailer”.

Section 2 presently reads in part:

(j) “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;*

(3) Section 6(3) presently reads:

*(3) The proper officer shall cause every bill of sale, or copy thereof, filed in his office*

*(a) to be numbered,*

*(b) to be endorsed with a memorandum of the day, hour and minute of its filing, and*

*(c) to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the bill of sale with their descriptions, the dates of execution and registration of the bill of sale and the amount, if any, of the consideration for which the bill of sale was made.*

(4) *Section 13.1 is repealed and the following is substituted:*

**13.1**(1) In this section,

(a) “Court” means the Court of Queen’s Bench;

(b) “Registrar” means the Registrar as defined in *The Land Titles Act*.

(2) If a chattel that is the subject of a mortgage is or may become affixed to realty and the bill of sale evidencing that mortgage is registered under this Act, the grantee may, notwithstanding sections 106 and 107 of *The Land Titles Act*, register in a land titles office a personal property notice

(a) setting forth the registration number assigned to the bill of sale when it was registered in the Central Registry,

(b) identifying the chattel in the manner prescribed by the regulations,

(c) giving the legal description of the realty to which the chattel is or may become affixed, and

(d) stating that the chattel identified in the personal property notice does not form part of the realty described in the personal property notice.

(3) A personal property notice may only be registered in the land titles office for the land registration district in which the realty described in the personal property notice is situated.

(4) From the time that a personal property notice is registered in a land titles office until it is discharged or lapses the chattel identified in the personal property notice is subject to the mortgage and does not form part of the realty described in the personal property notice.

(5) Notwithstanding subsection (4), if a personal property notice is registered in a land titles office, the rights of the grantee or any person claiming through or under the grantee are subject to the rights of a person who acquired an interest in the realty subsequent to the chattel becoming affixed to the realty but prior to the registration of the personal property notice in the land titles office.

(6) Notwithstanding subsections (2) and (4), the owner, purchaser, mortgagee or encumbrancee of realty to which a chattel is affixed may, as against the grantee or a person claiming through or under the grantee, retain the chattel upon payment of the amount due under the mortgage given in respect of that chattel.

(4) Section 13.1 presently reads:

*13.1 Where any chattel that is the subject of a mortgage becomes, after registration of the mortgage, affixed to realty, the chattel remains subject to the mortgage and is not realty, but the owner or purchaser of the realty, or a mortgagee or encumbrancee of the realty, has the right, as against the grantee or a person claiming through or under him, to retain the chattel on payment of the amount due and owing under the registered mortgage.*

(7) A grantee may postpone his rights under a personal property notice that is registered in a land titles office by registering in the land titles office a postponement in the form prescribed in the regulations.

(8) A grantee may assign his rights under a personal property notice that is registered in a land titles office by registering in the land titles office an assignment in the form prescribed in the regulations.

(9) The Registrar shall discharge a personal property notice registered in a land titles office upon receiving

(a) a discharge in the form prescribed in the regulations given by the grantee, or

(b) an order of the Court declaring that no money is owing or, by reason of the operation of *The Limitation of Actions Act*, recoverable in respect of the bill of sale identified in the personal property notice.

(10) A personal property notice registered in a land titles office under this section lapses after the expiration of 60 days from the day a notice to take proceedings in the form prescribed in the regulations is served upon the grantee, unless within that 60-day period the grantee

(a) commences proceedings in the Court for an order or a judgment substantiating his interest in the chattel identified in the personal property notice, and

(b) registers a certificate of lis pendens in the form prescribed in the regulations in the land titles office in which the personal property notice is registered.

(11) Notwithstanding subsection (10), the Court may by order shorten the 60-day period within which a grantee is required to

(a) commence proceedings, and

(b) register a certificate of lis pendens in the proper land titles office.

(12) An order made under subsection (11) shall be served upon the grantee at the same time that the notice to take proceedings is served on the grantee.

(13) A personal property notice does not lapse under subsection (10) unless the person on whose behalf the notice to take proceedings was served establishes to the satisfaction of the Registrar that



(a) he has an interest in the realty described in the personal property notice, and

(b) the notice to take proceedings was served upon the grantee.

(14) An application for an order under this section may be made by originating notice and, at the discretion of the Court, may be made ex parte.

(15) A notice to take proceedings, an originating notice or an order made under this section may be served upon the grantee

(a) by personal service,

(b) by registered mail or certified mail addressed to the grantee at his latest address shown in respect of the personal property notice in the records of the land titles office, or

(c) as directed by an order of the Court.

*(5) Section 15(2) is repealed.*

*(6) Section 16(5) is repealed.*

*(7) Section 29 is repealed.*



(5) Section 15(2) presently reads:

*(2) The proper officer in whose office an assignment is registered shall note the fact of the assignment against each entry in the books of his office respecting the registration of the bill of sale, and shall make a like notation upon the bill of sale or copy filed in his office.*

(6) Section 16(5) presently reads:

*(5) The proper officer in whose office a postponement is registered shall note the fact of a postponement against each entry in the books of his office respecting the registration of the bill of sale, and shall make a like notation upon the bill of sale or copy filed in his office.*

(7) Section 29 presently reads:

*29(1) A person shall, upon payment of the prescribed fees, have access to and is entitled to inspect the books of any proper officer containing records or entries of bills of sale or documents registered or filed under this Act.*

*(2) No person shall be required as a condition of his right to such access and inspection to disclose the name of the person in respect of whom such access or inspection is sought.*

*(3) Every proper officer shall, upon request accompanied by payment of the prescribed fees, produce for inspection any bill of sale or document registered or filed in his office.*

*(8) Section 34 is repealed and the following is substituted:*

**34** The Lieutenant Governor in Council may make regulations:

- (a) prescribing fees to be charged for registering a document, issuing a certificate or rendering a service under this Act;
- (b) prescribing the method of identifying a chattel in a personal property notice;
- (c) prescribing forms, other than those shown in the Schedule, to be used under the Act.

### **The Chattel Security Registries Act**

*2(1) The Chattel Security Registries Act is amended by this section.*

*(2) Section 2 is amended*

*(a) in clause (a) by striking out “the Registry” and substituting “a registry”,*

*(b) by adding the following after clause (a):*

(a.1) “collateral” means personal property used to secure the payment of a debt or performance of an obligation;

*(c) by repealing clause (b) and substituting the following:*

(b) “Fund” means the Chattel Security Registries Assurance Fund;

*(d) by repealing clauses (d), (e), (f) and (g) and substituting the following:*

(d) “registrar” means

(i) with respect to the Central Registry, the Registrar of the Central Registry, and

(ii) with respect to the Vehicle Registry, the Registrar of the Vehicle Registry

(8) Section 34 presently reads:

*34 The Lieutenant Governor in Council may prescribe a tariff of fees to be charged for registering any documents, for issuing any certificate and for rendering any other service under this Act.*

### **The Chattel Security Registries Act**

2(1) This section will amend chapter 44 of the Revised Statutes of Alberta 1970.

(2) Section 2 presently reads

2 *In this Act,*

*(a) "authorizing Act" means The Assignments of Book Debts Act, 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;*

*(b) "Fund" means the Central Registry Assurance Fund;*

*(c) repealed 1975(2), c.68, s.119(b) Eff. Jan. 1/76.*

*(d) "registrar" means the registrar of the Central Registry;*

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

*(f) "Registry" means the Central Registry constituted under this Act;*

*(g) "Vehicle Registry" means the Vehicle Registry of the Department of the Attorney General.*

and includes a person designated as a clerk under section 6;

(f) “registry” means

(i) the Central Registry, or

(ii) the Vehicle Registry.

*(3) Sections 3, 3.1 and 3.2 are repealed.*

(3) Sections 3, 3.1 and 3.2 presently read:

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

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

*3.1(1) The registration clerk of the Vehicle Registry may refuse to accept a document for registration*

- (a) repealed 1973 c13 s2(2),*
- (b) where the document is greater in size than 8 1/2 inches by 14 inches, or*
- (c) where there are not at least two copies of the document submitted to him, or*
- (d) where the lienholder does not record his mailing address on the document.*

*(2) Where a document submitted for registration to the office of the registration clerk of the Vehicle Registry*

- (a) is not in all respects legible, or*
- (b) is in any manner insufficient in the opinion of the registration clerk for the purposes of registration,*

*or does not clearly identify*

- (c) a motor vehicle, aircraft or trailer by its make, year and serial number, or*
- (d) oil well drilling equipment so that it may be readily and easily known and distinguished,*

*the registration clerk may refuse to register the document until either the document is changed to remedy the illegibility or insufficiency 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 registration clerk.*

*3.2 Where directed to do so by the Attorney General the registration clerk of the Vehicle Registry shall*

*(4) Sections 4, 5 and 6 and the heading preceding section 4 are repealed and the following is substituted:*

**4(1)** There shall be

(a) a Central Registry under the direction and supervision of the Registrar of the Central Registry, and

(b) a Vehicle Registry under the direction and supervision of the Registrar of the Vehicle Registry.

(2) The Registrar of the Central Registry and the Registrar of the Vehicle Registry shall each have a seal of office in the form prescribed by the Attorney General.

**5(1)** The central and branch offices of the registries shall be located at those places prescribed by the Attorney General.

(2) The hours maintained in the offices of the registries during which documents may be registered shall be the same as those maintained in the offices of the clerks of the Court of Queen's Bench.

**6** A registrar may designate in writing a person employed in an office of a registry as a clerk for the purpose of registering documents in the registry and performing other duties on behalf of the registrar.

**6.1(1)** A registrar may enter into an agreement with a person whereby any fees payable by that person to the registrar under this or an authorizing Act be charged on a continuing basis to that person's account.

(2) If an amount charged to a person's account under subsection (1) is not paid within 15 days of a request for payment by the registrar or other period of time as determined by the registrar, no further amount may be charged to that person's account until all amounts owing by that person to the registrar are paid.

*(a) cause each document registered in the office of the registration clerk 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 any authorizing Act shall be deemed to be the document registered in the office of the registration clerk of the Vehicle Registry.*

(4) Sections 4, 5 and 6 and the heading preceding section 4 presently read:

*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,*

*(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 Court of Queen's Bench 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 issue certificates under this Act on behalf of the registrar.*

(3) A registrar may terminate an agreement entered into under subsection (1) upon 7 days' written notice to the other party to the agreement.

(4) A notice given to a person by a registrar under subsection (3) may be served by registered mail or certified mail sent to that person at the latest address shown for that person on the records of the registry.

(5) *Section 7 is amended*

*(a) by striking out subsection (1) and substituting the following:*

**7(1)** Documents to be registered in a registry may be submitted for registration at any office maintained by the registry.

*(b) in subsection (2) by striking out “the Registry” and substituting “a registry”,*

*(c) in subsection (3) by striking out “or a registration clerk”, and*

*(d) by repealing subsections (4), (5) and (6).*



(5) Section 7 presently reads:

*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) The provisions of section 6, subsection (3), section 15, subsection (2), section 16, subsection (3) and section 29 of The Bills of Sale Act do not apply in respect of registrations made in the Registry.*

*(5) The registrar or a registration clerk on his behalf may refuse to accept a document for registration*

*(a) repealed 1973 c13 s2(3).*

*(b) where the document is greater in size than 8 1/2 inches by 14 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 opinion of the registrar or a registration clerk, is illegible, or*

*(d) in any other manner that is sufficient, in the opinion of the registrar or a registration clerk, for the purposes of registration,*

*the registrar, or a registration clerk on his behalf, 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 so required.*

*(6) The following is added after section 7:*

**7.1** Documents registered in a registry shall be indexed in a manner prescribed by the regulations.

**7.2** A registrar may refuse to register a document that is submitted for registration in a registry if it does not, in his opinion, comply with this or any other Act or the regulations made under this or any other Act.

**7.3** A registrar shall not register a document in a registry until the registration fees payable in respect of that document have been paid or, pursuant to an agreement entered into under section 6.1, charged to the account of the person who is submitting the document for registration.

*(7) Sections 8, 9 and 10 are repealed and the following is substituted:*

**8** Upon a document being registered in a registry, the registrar may cause the document to be photographed on microfilm and returned to the person on whose behalf it was registered and a document so photographed on microfilm is for the purpose of this or an authorizing Act deemed to be a document registered in the registry.

**9** Upon paying the prescribed fee, a person may require a registrar to do one or more of the following:

- (a) make a search for a document registered in a registry;
- (b) make available for inspection a document registered in a registry unless the document has been returned under section 8 or destroyed;
- (c) make available for inspection a photograph on microfilm of a document registered in a registry;
- (d) provide a certified copy of a document registered in a registry.

**9.1** Upon making a search in the Central Registry under section 9(1)(a), the Registrar of the Central Registry shall, in respect of that search, issue a certificate stating whether, at the time set forth in the certificate, a document is registered in the registry.

(6) Indexing of documents, refusal to register documents and the payment of fees.

(7) Sections 8, 9 and 10 presently read:

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*

*(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.*

10 *The Lieutenant Governor in Council may make regulations*

*(a) providing for the manner in which any documents are to be registered,*

**9.2(1)** Notwithstanding an authorizing Act, the Lieutenant Governor in Council may by regulation require that a document submitted for registration in a registry be accompanied by a financial information statement in a form prescribed by the regulations.

(2) The priority of registration of a document that is accompanied by a financial information statement shall be based upon the time of registration of the financial information statement and not of the document to which the financial information statement relates.

(3) If the information contained in a document is different or varies from the information contained in the financial information statement registered in respect of that document, the information contained in the financial information statement prevails as against the information contained in the document.

(4) Information contained in a certificate given under section 9.1 shall be based upon the information contained in the financial information statement and not upon the information contained in the document to which the financial information statement relates.

(5) A financial information statement is not invalid by reason only of a defect, error or omission in the financial information statement or in the execution of it unless, in the opinion of a court before which the defect, error or omission is in issue, the defect, error or omission has misled a person whose interests are affected by the financial information statement.

(6) For the purposes of this or any other Act or proceedings in a court, a financial information statement shall be treated in the same manner as a document registered or submitted for registration in a registry.

**9.3(1)** If, in respect of a document registered in a registry,

- (a) a defect, error or omission is to be corrected, or
- (b) additional collateral is to be identified,

a person may submit for registration in the registry an amending document that

- (c) sets out the corrections being made or identifies the additional collateral, and
- (d) sets out the registration number and time of registration of the document being amended.

- (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 section 9, clause (a),*
- (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.*

(2) An amendment to a document that makes a correction, other than one that relates to the address of a person shown on the document, or identifies additional collateral is effective only from the time that the amending document is registered in the registry.

**9.4(1)** A copy of a document registered in a registry and certified by the registrar as being a true copy of that document is admissible in evidence as if it were the original document and is prima facie proof of the execution of the original document.

(2) The date and time of the registration of a document as shown on a certificate issued under section 9.1 is prima facie proof as to the date and time of the registration of the document.

**10** The Lieutenant Governor in Council may make regulations

(a) prescribing the documents that may be registered in a registry;

(b) prescribing those documents submitted for registration in a registry that

(i) shall be accompanied by a financial information statement, or

(ii) may be accompanied by a financial information statement;

(c) prescribing the form of and the information to be contained in documents and financial information statements submitted for registration in a registry and in certificates issued by a registrar;

(d) prescribing the information that is to be contained in certificates, documents and financial information statements;

(e) prescribing the manner of indexing documents and financial information statements in a registry;

(f) providing for the manner of registration of documents and financial information statements in a registry;

(g) prescribing the manner in which searches may be made or information obtained in respect of documents or financial information statements registered in a registry;



(h) prescribing registration fees and service fees payable under this or an authorizing Act;

(i) prescribing the portion of the registration fees that is to be paid into the Fund.

*(8) The heading preceding section 11 is repealed.*

*(9) Section 11(1) is repealed and the following is substituted:*

**11(1)** The Central Registry Assurance Fund is continued as the Chattel Security Registries Assurance Fund.

*(10) Sections 12 and 13 are repealed and the following is substituted:*

**12** A registrar shall pay into the Fund that portion of the registration fee as prescribed by the regulations for each document that is to be registered in a registry under this or an authorizing Act.



(8) The heading preceding section 11 presently reads:

*Central Registry Assurance Fund*

(9) Section 11(1) presently reads:

*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 Vehicle Registry under section 13.*

(10) Sections 12 and 13 presently read:

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

*(a) The Assignments of Book Debts Act, or*

*(b) The Bills of Sale Act, or*

*(c) The Conditional Sales Act, or*

*(d) The Matrimonial Property Act*

*he shall, in addition to the fee prescribed under the regulations, demand and receive for the Fund a fee of 25 cents for each document required to be registered.*

*13 Before the registration clerk in the Vehicle Registry registers any document that may be registered with him under*

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

*(b) The Conditional Sales Act, or*

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

*(d) The Matrimonial Property Act,*

*he shall, in addition to the fee prescribed by or under that Act, demand and receive for the Fund a fee of 25 cents for each document required to be registered.*

*(11) Section 14 is amended*

*(a) in subsection (1) by striking out “the registrar, an official of the Registry, or the registration clerk in the Vehicle Registry” and substituting “a registrar or an official of a registry”, and*

*(b) by repealing subsection (3).*

*(12) Section 17(d) is amended by striking out “Registry” wherever it occurs and substituting “Central Registry”.*

*(13) In the following provisions, “of the Department of the Attorney General” is struck out and “constituted under The Chattel Security Registries Act” is substituted:*

*The Bills of Sale Act, section 2(q);*

*The Conditional Sales Act, section 2(f);*

*The Garagemen’s Lien Act, section 2(e);*

*The Matrimonial Property Act, sections 23 and 26(a).*

*(14) The Bills of Sale Act is amended in section 10(3) by striking out “registration clerk in” and substituting “Registrar of”.*

*(15) The Conditional Sales Act is amended in section 5(4) by striking out “registration clerk” and substituting “Registrar”.*

*(16) The Garagemen’s Lien Act is amended in form C by striking out “with the Registration Clerk for the Vehicle Registry” and substituting “in the Vehicle Registry”.*

### **The Conditional Sales Act**

*3(1) The Conditional Sales Act is amended by this section.*

(11) Section 14 presently reads:

*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 Vehicle Registry in the execution of his duties under this Act, The Assignments of Book Debts Act, The Bills of Sale Act, The Conditional Sales Act, The Garage-men's Lien Act or The Matrimonial Property Act, as the case may be, may bring an action against the Crown in right of Alberta for the recovery of damages.*

*(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.*

*(3) No payment shall be made pursuant to section 16 of an amount greater than \$100,000 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.*

(12) Replaces “Registry” with “Central Registry”.

(13) Consequential amendments.

(14) Amends chapter 29 of the Revised Statutes of Alberta 1970.

(15) Amends chapter 61 of the Revised Statutes of Alberta 1970.

(16) Amends chapter 155 of the Revised Statutes of Alberta 1970.

**The Conditional Sales Act**

**3(1)** This section will amend chapter 61 of the Revised Statutes of Alberta 1970.

(2) *Section 2 is amended*

(a) *by repealing clause (c) and substituting the following:*

(c) “motor vehicle” means a motor vehicle as defined in *The Motor Vehicle Administration Act*;

(b) *by adding the following after clause (e):*

(e.1) “trailer” means a trailer as defined in *The Motor Vehicle Administration Act*;

(3) *Section 8.1(2) is repealed.*

(4) *Section 10 is repealed.*

(5) *The following section is added after section 12*

**12.1**(1) Sections 11 and 12 only apply to a manufactured good or chattel that is the subject of a sale or bailment that takes place before the commencement of this section.

(2) This section and sections 11 and 12 are repealed on January 1, 1983.

(6) *Section 16 is repealed and the following is substituted:*

**16**(1) In this section,

(a) “Court” means the Court of Queen’s Bench;

(b) “Registrar” means the Registrar as defined in *The Land Titles Act*;

(c) “vendor” means a seller, bailor or manufacturer of goods who enters into a conditional sales agreement with a buyer of those goods.

(2) Defines “motor vehicle” and “trailer”.

Section 2 presently reads in part:

(c) “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;*

(3) Section 8.1(2) presently reads:

*(2) The proper officer in whose office the postponement is registered shall note the fact of the postponement against each entry in the books of his office respecting the registration of the conditional sale agreement, and shall make a like notation upon the conditional sale agreement or copy registered in his office.*

(4) Section 10 presently reads:

*10 The registration clerk of the Vehicle Registry shall maintain separate records in respect of documents filed under sections 8 and 9.*

(5) Restricts the application of sections 11 and 12 and repeals them on January 1, 1983.

(6) Section 16 presently reads:

*16 Where any goods or chattels that are the subject of a conditional sale agreement become, after registration of the agreement, affixed to realty, those goods or chattels remain subject to the conditional sale agreement and are not realty, but the owner or purchaser of the realty, or a mortgagee or encumbrancee of the realty, has the right, as against the manufacturer, bailor or seller thereof or a person claiming through or under any of them, to retain the goods or chattels on payment of the amount due and owing under the registered conditional sale agreement.*

(2) If a chattel that is the subject of a conditional sales agreement is or may become affixed to realty and the conditional sales agreement is registered under this Act, the vendor may, notwithstanding sections 106 and 107 of *The Land Titles Act*, register in a land titles office a personal property notice

(a) setting forth the registration number assigned to the conditional sales agreement when it was registered in the Central Registry,

(b) identifying the chattel in the manner prescribed by the regulations,

(c) giving the legal description of the realty to which the chattel is or may become affixed, and

(d) stating that the chattel identified in the personal property notice does not form part of the realty described in the personal property notice.

(3) A personal property notice may only be registered in the land titles office for the land registration district in which the realty described in the personal property notice is situated.

(4) From the time that a personal property notice is registered in a land titles office until it is discharged or lapses the chattel identified in the personal property notice is subject to the conditional sales agreement and does not form part of the realty described in the personal property notice.

(5) Notwithstanding subsection (4), if a personal property notice is registered in a land titles office, the rights of the vendor or any person claiming through or under the vendor are subject to the rights of a person who acquired an interest in the realty subsequent to the chattel becoming affixed to the realty but prior to the registration of the personal property notice in the land titles office.

(6) Notwithstanding subsections (2) and (4), the owner, purchaser, mortgagee or encumbrancee of realty to which a chattel is affixed may, as against the vendor or a person claiming through or under the vendor, retain the chattel upon payment of the amount due under the conditional sales agreement entered into in respect of that chattel.

(7) A vendor may postpone his rights under a personal property notice that is registered in a land titles office by registering in the land titles office a postponement in the form prescribed in the regulations.



(8) A vendor may assign his rights under a personal property notice that is registered in a land titles office by registering in the land titles office an assignment in the form prescribed in the regulations.

(9) The Registrar shall discharge a personal property notice registered in a land titles office upon receiving

(a) a discharge in the form prescribed by the regulations given by the vendor, or

(b) an order of the Court declaring that no money is owing or, by reason of the operation of *The Limitation of Actions Act*, recoverable in respect of the conditional sales agreement identified in the personal property notice.

(10) A personal property notice registered in a land titles office under this section lapses after the expiration of 60 days from the day a notice to take proceedings in the form prescribed in the regulations is served upon the vendor, unless within that 60-day period the vendor

(a) commences proceedings in the Court for an order or a judgment substantiating his interest in the chattel identified in the personal property notice, and

(b) registers a certificate of lis pendens in the form prescribed in the regulations in the land titles office in which the personal property notice is registered.

(11) Notwithstanding subsection (10), the Court may by order shorten the 60-day period within which a vendor is required to

(a) commence proceedings, and

(b) register a certificate of lis pendens in the proper land titles office.

(12) An order made under subsection (11) shall be served upon the vendor at the same time that the notice to take proceedings is served on the vendor.

(13) A personal property notice does not lapse under subsection (10) unless the person on whose behalf the notice to take proceedings was served establishes to the satisfaction of the Registrar that

(a) he has an interest in the realty described in the personal property notice, and

(b) the notice to take proceedings was served upon the vendor.





(14) An application for an order under this section may be made by originating notice and, at the discretion of the Court, may be made ex parte.

(15) A notice to take proceedings, an originating notice or an order made under this section may be served upon the vendor

(a) by personal service,

(b) by registered mail or certified mail addressed to the vendor at his latest address shown in respect of the personal property notice on the records of the land titles office, or

(c) as directed by an order of the Court.

*(7) Section 17 is amended by renumbering it as 17(1) and by adding the following:*

(2) Notwithstanding subsection (1), an assignment of a lien note or a conditional sales agreement may be registered by filing the assignment, accompanied by an affidavit of an attesting witness to the execution of the assignment, in the Central Registry or the Vehicle Registry, as the case may be.

### **Commencement**

*4 This Act comes into force on a date or dates to be fixed by Proclamation.*

(7) Section 17 presently reads:

*17 A valid assignment of a lien note or conditional sale agreement transfers the assignor's property in the goods therein comprised, his rights of seizure, removal and sale and all other rights with regard to the enforcement of the security possessed by him, and does not require registration under The Bills of Sale Act.*