

1985 BILL 73

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 73

PERSONAL PROPERTY SECURITY ACT

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 73

1985

PERSONAL PROPERTY SECURITY ACT

(Assented to , 1985)

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

Definitions

1(1) In this Act,

(a) “accessions” means goods that are installed in or affixed to other goods;

(a.1) “account” means a monetary obligation not evidenced by chattel paper, an instrument or securities, whether or not it has been earned by performance;

(b) “building” includes a structure, erection, mine or work built, erected, constructed or opened on or in land;

(b.1) “building materials” includes goods that are or will become incorporated or built into a building so that their removal would necessarily involve the removal or destruction of some other part of the building and thereby cause substantial damage to the building, apart from the value of the goods removed, but does not include

(i) goods that are severable from the building or land merely by unscrewing, unbolting, unclamping or uncoupling, or by some other method of disconnection, or

(ii) machinery installed in a building for use in the carrying on of an activity where the only substantial damage, apart from the value of the machinery removed, that would necessarily be caused to the building in removing the machinery from the building is that arising from the removal or destruction of the bed or casing on or in which the machinery is set and the making or enlargement of an opening in the walls of the building sufficient for the removal of the machinery;

(c) “chattel paper” means 1 or more writings that evidence both a monetary obligation and a security interest in or lease of specific goods or a security interest in specific goods and accessions, but does not include a security agreement providing for a security

interest in specific goods and after-acquired goods other than accessions;

(c.1) “collateral” means personal property that is subject to a security interest;

(d) “consignment” means a transaction under which goods are delivered for sale, resale or lease to a person who in the ordinary course of his business deals in goods of that description for sale, resale or lease by a person who

(i) in the ordinary course of his business deals in goods of that description, and

(ii) reserves a proprietary interest in the goods after they have been delivered,

but does not include a transaction under which goods are delivered to a person for sale, resale or lease if the person is generally known in the area in which he carries on business to be selling or leasing goods on behalf of others;

(d.1) “consumer goods” means goods that are used or acquired for use by the debtor primarily for personal, family or household purposes;

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

(e.1) “creditor” includes an assignee for the benefit of creditors, an executor, an administrator or a committee;

(f) “debtor” means a person who owes payment or other performance of the obligation secured, whether or not that person owns or has rights in the collateral, and includes any one or more of the following:

(i) a person who receives goods from another person under a consignment;

(ii) a lessee under a lease for a term of more than 1 year;

(iii) an assignor of an account or chattel paper;

(iv) except in sections 1(q), 9, 20, 26, 32, 34(4), 35(4), 38, 60(4), (5), (6) and (9), 61 and 62, a transferee of or a successor to another debtor’s interest in collateral;

(f.1) “default” means the failure to pay or otherwise perform under the secured obligation when due, or the occurrence of any event or set of circumstances on which under the terms of the security agreement the security interest becomes enforceable;

(g) “document of title” means a writing

(i) that purports to be issued by or addressed to a bailee,

(ii) that purports to cover goods in the bailee’s possession that are identified or are fungible portions of an identified mass, and

(iii) that in the ordinary course of business is treated as establishing that the person in possession of the writing is en-

titled to receive, hold and dispose of the writing and the goods it covers;

(g.1) "equipment" means goods that are held by a debtor other than as inventory or consumer goods;

(h) "financing statement" means a writing required or permitted to be registered pursuant to this Act and includes a financing change statement, where the context requires;

(h.1) "Fund" means the Personal Property Security Assurance Fund continued under section 45;

(i) "fungibles" means, with respect to goods or securities, goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit, and includes unlike units to the extent that they are treated as equivalents under a security agreement;

(i.1) "future advance" includes the payment of money, the provision of credit or the giving of other value by a secured party secured by the terms of a security agreement whether or not the secured party is obligated to pay the money, provide the credit or give the value;

(j) "goods" means tangible personal property other than chattel paper, documents of title, instruments, securities and money, and includes fixtures, growing crops and the unborn young of animals, but does not include timber until it is cut or minerals until they are extracted;

(j.1) "instrument" means a bill, note or cheque within the meaning of the *Bills of Exchange Act* (Canada) or any other writing that evidences a right to the payment of money and is of a type or kind that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment, but does not include

(i) chattel paper,

(ii) a document of title, or

(iii) securities;

(k) "intangible" means personal property other than goods, chattel paper, documents of title, instruments and securities;

(k.1) "inventory" means goods

(i) that are held by a person for sale or lease, or that have been leased,

(ii) that are to be furnished or have been furnished under a contract of service,

(iii) that are raw materials or work in progress, or

(iv) that are materials used or consumed in a business;

(l) "judge" means a judge of the Court;

(l.1) “lease for a term of more than 1 year” includes

(i) a lease for an indefinite term even though the lease is determinable by 1 or both parties not later than 1 year of its execution,

(ii) subject to subsection (2), a lease initially for 1 year or less than 1 year, if the lessee, with the consent of the lessor, retains uninterrupted, or substantially uninterrupted, possession of the leased goods for a period in excess of 1 year after the date the lessee first acquired possession of the goods, or

(iii) a lease for a term of 1 year or less that is automatically renewable or that is renewable at the option of one of the parties, or by agreement, for 1 or more terms, the total of which terms may exceed 1 year,

but does not include

(iv) a lease involving a lessor who is not regularly engaged in the business of leasing goods, or

(v) a lease of any prescribed goods, regardless of the length of the term of the lease;

(m) “minerals” means minerals as defined in the *Mines and Minerals Act*;

(m.1) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(n) “money” means a medium of exchange designated by the Parliament of Canada or designated by a foreign government as part of its currency;

(n.1) “obligation secured” means, when determining the amount payable under a lease that secures payment or performance of an obligation,

(i) the amount originally contracted to be paid under the lease,

(ii) any other amounts payable pursuant to the terms of the lease, and

(iii) any other amount required to be paid by the lessee

to obtain full ownership of the collateral;

(o) “person” means an individual, partnership, association, corporation, trustee, executor, administrator or legal representative;

(o.1) “prescribed” means prescribed by the regulations;

(p) “proceeds” means identifiable or traceable personal property in any form or fixtures derived directly or indirectly from any dealing with collateral or the proceeds of the collateral, and includes

(i) an insurance payment or any other payment as indemnity or compensation for loss of or damage to the collateral or proceeds therefrom, or any right to that payment, and

- (ii) any payment made in total or partial discharge or redemption of an intangible, chattel paper, an instrument or securities;
- (p.1) “purchase” includes taking by sale, lease, discount, negotiation, mortgage, pledge, lien, issue, reissue, gift or any other consensual transaction creating an interest in property;
- (q) “purchase money security interest” means
 - (i) a security interest taken or reserved in collateral to secure payment of all or part of its purchase price,
 - (ii) a security interest that is taken by a person who gives value for the purpose of enabling the debtor to acquire rights in or to collateral, to the extent that the value is applied to acquire those rights,
 - (iii) the interest of a lessor of goods under a lease for a term of more than 1 year, or
 - (iv) the interest of a person who delivers goods to another person under a consignment;
- (q.1) “purchaser” means a person who takes by purchase;
- (r) “Registrar” means the Registrar of Personal Property designated under section 40;
- (r.1) “Registry” means the Personal Property Registry established under Part 4;
- (s) “secured party” means
 - (i) a person who has a security interest, and
 - (ii) the trustee, if a security agreement is embodied or evidenced by a trust indenture,
 and for the purposes of sections 16, 57 to 59, 60 except subsections (4), (11) and (14) and 61 to 63, includes a receiver and a receiver-manager;
- (t) “securities” means a security as defined in section 42(2)(m) of the *Business Corporations Act*;
- (u) “security agreement” means an agreement that creates or provides for a security interest, and, if the context permits, includes a writing that evidences a security agreement;
- (v) “security interest” means an interest in goods, documents of title, securities, chattel paper, instruments, money or intangibles that secures payment or performance of an obligation and includes
 - (i) an interest arising from a transfer of an account or transfer of chattel paper,
 - (ii) the interest of a person who delivers goods to another person under a consignment, and

(iii) the interest of a lessor under a lease for a term of more than 1 year,

notwithstanding that the interests described in subclauses (i) to (iii) may not secure payment or performance of an obligation, but does not include the interest of a seller who has shipped goods to a buyer under a negotiable bill of lading to his own order or to the order of his agent, unless the parties have otherwise evidenced an intention to create or provide for a security interest;

(w) “serial numbered goods” means goods of a type prescribed to be serial numbered goods;

(x) “specific goods” means goods identified and agreed on at the time a security agreement in respect of those goods is made;

(y) “trust indenture” means any deed, indenture or document, however designated, including any supplement or amendment thereto, by the terms of which a corporation issues or guarantees, or provides for the issue or guarantee of, debt obligations and in which a person is appointed as trustee for the holder of the debt obligations issued, guaranteed or provided for thereunder and secured by a security interest;

(z) “value” means any consideration sufficient to support a simple contract, and includes an antecedent debt or liability.

(2) A lease referred to in subsection (1)(1.1)(ii) does not become a lease for a term of more than 1 year until the lessee’s possession extends for more than 1 year.

(3) If the debtor and the owner of the collateral are not the same persons, the debtor is deemed to be

(a) an owner of the collateral, in a provision of this Act dealing with the collateral, or

(b) an obligor, in a provision of this Act dealing with the obligation,

or both where the context requires.

PART 1 GENERAL

The Crown
is bound

2 The Crown is bound by this Act.

Application
of Act

3 Subject to sections 4 and 56, this Act applies to

(a) every transaction without regard to its form and without regard to the person who has title to the collateral that in substance creates a security interest including, without limiting the foregoing, a chattel mortgage, conditional sale, equipment trust, floating charge, pledge, trust indenture, trust receipt or assignment, and

(b) a transfer of an account or chattel paper, a lease of goods for a term of more than 1 year and a consignment notwithstanding

that the transfer, lease or consignment does not secure payment or performance of an obligation.

Non-application
of Act

4 Except as specifically otherwise provided, this Act does not apply to the following:

(a) a lien, charge or other interest given by statute or a lien given by rule of law for the furnishing of goods, services or materials;

(b) an assignment of an interest or claim in or under any contract of annuity or policy of insurance, except insofar as the money payable under a policy of insurance is or would be indemnity or compensation for loss of or damage to collateral, or any right to any such money payable;

(c) an assignment of present or future wages, salary, pay, commission or any other compensation for labour or personal services;

(d) an assignment of a right to payment under a contract to an assignee who is to perform the assignor's obligations under the contract;

(e) the creation or assignment of an interest in or a lien on real property, including a lease;

(f) an assignment of a right to payment or rent that arises in connection with an interest in or lien on real property, other than a right to payment evidenced by securities;

(g) a sale of accounts or chattel paper as part of a sale of the business out of which they arose, unless the vendor remains in apparent control of the business after the sale;

(h) an assignment of accounts made solely to facilitate the collection of accounts for the assignor;

(i) an assignment of a claim for damages or a judgment representing a right to damages;

(j) an assignment for the general benefit of creditors made pursuant to an Act of the Parliament of Canada relating to insolvency.

Validity of
security interests

5(1) Subject to this Act, the validity, perfection and effect of perfection or non-perfection of

(a) a security interest in goods, and

(b) a possessory security interest in securities, instruments, negotiable documents of title, money or chattel paper,

shall be governed by the law of the jurisdiction where the collateral is situated at the time the security interest attaches.

(2) A security interest in goods perfected under the law of the jurisdiction in which the goods are situated at the time the security interest attaches but before the goods are brought into the Province continues perfected in the Province if it is perfected in the Province

(a) not later than 60 days after the goods are brought into the Province,

(b) not later than 15 days after the day the secured party receives notice that the goods have been brought into the Province, or

(c) prior to the date that perfection ceases under the law of the jurisdiction in which the goods are situated at the time the security interest attached,

whichever is the earliest, but if the goods are consumer goods, the security interest is subordinate to the interest of a buyer of those goods who acquires the goods as consumer goods without knowledge of the security interest and before the security interest is perfected in the Province.

(3) A security interest that is not perfected as provided in subsection (2) may be otherwise perfected in the Province under this Act.

(4) If a security interest mentioned in subsection (1) is not perfected under the law of the jurisdiction in which the collateral was situated at the time the security interest attached and before the collateral was brought into the Province, it may be perfected under this Act.

Conflict of laws

6(1) Subject to section 7,

(a) if the parties to a security agreement that creates a security interest in goods in one jurisdiction understand at the time the security interest attaches that the goods will be kept in another jurisdiction, and

(b) if the goods are removed to the other jurisdiction, for purposes other than transportation through the other jurisdiction, not later than 30 days after the security interest attaches,

the validity, perfection and effect of perfection or non-perfection of the security interest shall be governed by the law of the other jurisdiction.

(2) If the goods are removed to another jurisdiction, but the goods are later brought into the Province, the security interest in the goods is deemed to be a security interest to which section 5(2) applies if it was perfected under the law of the jurisdiction to which the goods were removed.

Validity of
intangibles and
non-possessory
security interests

7(1) For the purposes of this section, a debtor is deemed to be located

(a) at his place of business, if he has a place of business,

(b) at his chief executive office, if he has more than 1 place of business, and

(c) at his place of residence, if he has no place of business.

(2) The validity, perfection and effect of perfection or non-perfection of

(a) a security interest in

(i) an intangible, or

(ii) goods that are of a type that are normally used in more than 1 jurisdiction, if the goods are equipment or inventory leased or held for lease by a debtor to others, and

(b) a non-possessory security interest in securities, an instrument, a negotiable document of title, money and chattel paper, shall be governed by the law of the jurisdiction where the debtor is located at the time the security interest attaches.

(3) If a debtor changes his location to another jurisdiction or transfers his interest in collateral to a person in another jurisdiction, a perfected security interest referred to in subsection (2) continues perfected in the Province if it is perfected in the new jurisdiction

(a) not later than 60 days from the day the debtor changes his location or transfers his interest in collateral to a person in another jurisdiction,

(b) not later than 15 days from the day the secured party receives notice that the debtor has changed his location or transferred his interest in collateral to a person in another jurisdiction, or

(c) prior to the day that perfection ceases under the law of the first jurisdiction,

whichever is earliest.

(4) If the jurisdiction in which a debtor is deemed to be located does not provide for the public registration or recording of a security interest referred to in subsection (2) and the collateral is not in the possession of the secured party, a security interest in the collateral that is not perfected under this Act is deemed to be an unperfected security interest in relation to an interest in the collateral acquired by a person in the Province.

(5) A security interest that is deemed to be unperfected under subsection (4) may be perfected under this Act.

(6) Notwithstanding section 6 and subsection (2), the validity, perfection and effect of perfection or non-perfection of a security interest that

(a) is created by a debtor who, before extraction, has an interest in minerals, and

(b) attaches in respect of the minerals upon extraction, or attaches to an account resulting from the sale of them at the wellhead or minehead,

is governed by the law of the jurisdiction in which the wellhead or minehead is located.

(7) Notwithstanding this section and sections 5 and 6,

(a) all procedural issues involved in the enforcement of the rights of a secured party against collateral other than intangibles are governed by the law of the jurisdiction in which the collateral is located at the time of the exercise of such rights,

(b) all procedural issues involved in the enforcement of the rights of a secured party against intangibles are governed by the law of the forum, and

(c) all substantive issues involved in the enforcement of the rights of a secured party against collateral are governed by the proper law of the contract between the secured party and the debtor.

PART 2
VALIDITY OF SECURITY AGREEMENTS AND
RIGHTS OF PARTIES

- Effectiveness of a security agreement **8** Subject to this Act or any other Act, a security agreement is effective according to its terms.
- Enforceability of security interest **9(1)** Subject to subsection (2), a security interest is not enforceable by a secured party against a person other than the debtor unless
- (a) the collateral is in the possession of the secured party, or
 - (b) the debtor has signed a security agreement that contains
 - (i) a description by item, if the security agreement provides for a security interest in specific items of collateral,
 - (ii) a description by type, if the security agreement provides for a security interest in types of collateral,
 - (iii) a statement to the effect that the security agreement provides for a security interest in all of the debtor's present or after-acquired personal property, if the security agreement so provides, and
 - (iv) a statement to the effect that the security agreement provides for a security interest in all of the present or after-acquired personal property except specific items or types of collateral, if the security agreement so provides, and a description of such collateral.
- (2) A security interest in proceeds is not unenforceable against a third party by reason only that the security agreement does not contain a description of the proceeds.
- Delivery of copy of security interest **10** Not later than 10 days after the execution of a security agreement, the secured party shall deliver a copy of the security agreement to the debtor, and if he fails to do so after a request by the debtor, the Court may, on application by the debtor, make an order for the delivery of a copy to the debtor.
- Attachment of security interests **11(1)** A security interest attaches when
- (a) value is given,
 - (b) the debtor has rights in the collateral, and
 - (c) except for the purpose of enforcing rights between the parties to the security agreement, the security interest becomes enforceable within the meaning of section 9,
- unless the parties intend it to attach at a later time, in which case it attaches in accordance with the intention of the parties.
- (2) Without limiting the generality of subsection (1)(b), the debtor is deemed to have rights in
- (a) goods purchased by him under an agreement to sell, when he obtains possession of the goods pursuant to the sales contract, and

(b) goods leased or hired by him or consigned to him, when he obtains possession of the goods pursuant to the lease, hiring agreement or consignment, as the case may be,

but is deemed not to have rights in

- (c) crops until they become growing crops,
- (d) the young of animals until they are conceived,
- (e) minerals until they are extracted, and
- (f) timber until it is cut.

After-acquired collateral

12(1) Except as provided in subsection (3), a security agreement may cover after-acquired property.

(2) A security interest in after-acquired property attaches in accordance with section 11, without the need for specific appropriation.

(3) A security interest does not attach under an after-acquired property provision in a security agreement

(a) to crops that become crops more than 1 year after the security agreement has been executed, except that a security interest in crops that is given in conjunction with a lease, purchase or mortgage of land may, if so agreed, attach to crops to be grown on the land concerned during the term of the lease, purchase or mortgage, or

(b) to consumer goods, other than accessions, unless the debtor acquires rights in them not later than 15 days after the secured party gives value.

Future advances

13(1) A security agreement may secure future advances whether or not the advances are given pursuant to an obligation in the security agreement.

(2) Unless the parties otherwise agree, no obligation to make future advances is binding on a secured party if the collateral has been seized, attached, charged or made subject to an equitable execution under circumstances described in section 19(1)(a) and the secured party receives notice of the fact.

Seller's warranties

14 Where a seller retains a purchase money security interest in goods,

(a) the law relating to contracts of sale governs the sale and any disclaimer, limitation or modification of the seller's conditions and warranties, and

(b) the conditions and warranties in a sale agreement shall not be affected by a security agreement.

Acceleration of payment or performance

15 Where a security agreement provides that the secured party may accelerate payment or performance if he considers that he is insecure or that the collateral is in jeopardy, the provision shall be construed to mean that the secured party has the right to do so only if he, in good faith, believes and has commercially reasonable grounds to believe that the prospect of payment or performance is or is about to

be impaired or that the collateral is or is about to be placed in jeopardy.

Preservation of collateral

16(1) A secured party shall use reasonable care in preserving the collateral in his possession and, unless the parties otherwise agree, in the case of an instrument, securities or chattel paper, reasonable care includes taking necessary steps to preserve rights against other parties.

(2) Unless the parties otherwise agree, if collateral is in the possession of a secured party,

(a) reasonable expenses, including the cost of insurance and payment of taxes or other charges incurred in the obtaining, maintaining possession of and preserving the collateral, are chargeable to the debtor and are secured by the collateral,

(b) the risk of loss or damage, except if caused by the negligence of the secured party, is on the debtor to the extent of any deficiency in any insurance coverage,

(c) the secured party may hold as additional security any increase or profits, except money, resulting from the collateral, and money so received, unless remitted to the debtor, shall be applied forthwith on its receipt in reduction of the secured obligation,

(d) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled, and

(e) the secured party may create a security interest in the collateral on terms that do not impair the debtor's right to redeem it.

(3) A secured party who fails to meet any obligations imposed by subsection (1) or (2) is liable for any loss or damage caused by his failure, but he does not lose his security interest.

(4) A secured party may use the collateral

(a) in the manner and to the extent provided in the security agreement,

(b) for the purpose of preserving the collateral or its value, or

(c) pursuant to an order of the Court

(i) before which a question relating to the collateral is being heard, or

(ii) on application with notice to all persons concerned.

Request for statement from secured party

17(1) The debtor, a creditor, a sheriff or a person with a legal or equitable interest in the collateral may, by a demand in writing containing an address for reply and sent by registered mail or delivered to the secured party at the address set forth in the security agreement or the financing statement, or at a more recent address if known, require the secured party to send or deliver to any person at the address specified in the demand or, if the demand is made by the debtor, to a person at an address specified by the debtor, any one or more of the following:

- (a) a statement in writing of the amount of the indebtedness and of the terms of payment of the indebtedness, as of the date specified in the notice;
 - (b) a written approval or correction, as of the date specified in the notice, of the itemized list of the collateral attached to the notice;
 - (c) a written approval or correction, as of the date specified in the demand, of the amount of the indebtedness and of the terms of payment of the indebtedness;
 - (d) a copy of the security agreement;
 - (e) sufficient information as to the location of the security agreement and any amendments to it and any copy of the security agreement and any amendments to it to enable a person entitled to receive a copy of the security agreement, or his authorized representative, to inspect it, if he so desires.
- (2) The demand mentioned in subsection (1) may be served in accordance with section 70 or by registered mail addressed to the address of the secured party as it appears on the security agreement or financing statement.
- (3) Where a demand is served in accordance with subsection (1)(b) and the secured party claims a security interest in all of the collateral or a particular type of collateral in which the debtor has rights, he may so indicate in lieu of approving or correcting the itemized list of such collateral.
- (4) The secured party shall reply to a demand served under subsection (1) not later than 10 days after it is served and if, without reasonable excuse, he fails to do so or his reply is incomplete or incorrect, the person who has served the demand is entitled, in addition to any other remedy provided by this Act, on notice to the secured party, to apply to the Court for an order requiring the secured party to comply with the demand.
- (5) If a secured party fails to comply with an order granted under subsection (4), the Court, on application of the party who obtained the order, on notice to the secured party, may
- (a) declare the security interest of the secured party void and order registration of the secured interest removed from the Registry, or
 - (b) make any order that it considers necessary to ensure compliance with the order.
- (6) Where the person receiving a demand under subsection (1) no longer has an interest in the obligation or collateral, he shall, not later than 10 days after he receives the demand, disclose the name and address of the latest successor in interest if known to him, and, if without reasonable excuse he fails to do so or his reply is incomplete or incorrect, subsections (4) and (5) apply.
- (7) On application of the secured party or on an application under subsection (4), the Court may make any order that it considers reasonable and just, including an order

- (a) exempting the secured party in whole or in part from complying with the demand, or
 - (b) extending the time for answering the demand.
- (8) The secured party may require payment in advance of the charges prescribed for each reply to a demand under subsection (1), but the debtor is entitled to a reply without charge once every 6 months.
- (9) The secured party is not required to provide a copy of any financing statement registered in the Registry.

PART 3
PERFECTION AND PRIORITIES

Perfection
of security
agreement

18 A security interest is perfected when

- (a) it has attached, and
- (b) all steps required for perfection under this Act have been completed,

regardless of the order of occurrence.

Priority of
unperfected and
certain perfected
security interests

19(1) A security interest

- (a) in collateral is subordinate to the interest of
 - (i) a person who causes the collateral to be seized under legal process to enforce a judgment including execution, attachment or garnishment or who obtains a charging order or equitable execution affecting or relating to the collateral,
 - (ii) a person entitled by law to participate in the distribution of property or its proceeds seized under legal process,
 - (iii) a sheriff who has seized or has obtained a right to the collateral under the *Execution Creditors Act*, and
 - (iv) a representative of creditors, but only to the extent that such person represents persons mentioned in subclause (i),

if that security interest is unperfected at the time the interests of the persons mentioned in subclauses (i) to (iv) arise;

- (b) in collateral is not effective against a trustee in bankruptcy if the security interest is unperfected at the date the trustee's status has effect;

- (c) in chattel paper, a document of title, a security, an instrument or goods is subordinate to the interests of a transferee thereof if he

- (i) acquires the interest under a transaction that is not a security agreement,
- (ii) gives value for his interest,

- (iii) acquires the interest without notice of the security interest,
- (iv) receives delivery, and
- (v) acquires his interest before the security interest is perfected;
- (d) in intangibles other than accounts is subordinate to the interest of a transferee of them if he
 - (i) acquires the interest under a transaction that is not a security agreement;
 - (ii) gives value for his interest;
 - (iii) acquires the interest without notice of the security interest;
 - (iv) acquires the interest before the security interest is perfected.

(2) Collateral is seized through garnishment within the meaning of subsection (1)(a)(i) when a garnishee summons binds the collateral.

Priority of a purchase money security interest

20 A purchase money security interest in

- (a) collateral, other than an intangible, that is registered not later than 15 days after the day
 - (i) the debtor obtains possession of the collateral, or
 - (ii) a third party, at the request of the debtor, obtains possession of the collateral,
 whichever is the earlier, or
- (b) an intangible that is registered not later than 15 days after the day the security interest attaches

has priority over the interests of persons mentioned in section 19(1)(a).

Continuity of perfection

21(1) If a security interest is originally perfected under this Act and is again perfected under this Act without an intermediate period during which it is unperfected, the security interest is deemed to be continuously perfected for the purposes of this Act.

(2) An assignee of a security interest has the same priority with respect to perfection of the security interest as the assignor had at the time of the assignment.

Perfection by possession

22(1) Subject to section 18, possession of the collateral by the secured party, or on his behalf by a person other than the debtor or the debtor's agent, perfects a security interest in

- (a) chattel paper;
- (b) goods;
- (c) instruments;
- (d) securities;

(e) negotiable documents of title;

(f) money,

but, subject to section 21, only while it is actually held as collateral.

(2) For the purposes of subsection (1), a secured party is deemed not to have taken or retained possession of collateral that is in the apparent possession or control of the debtor or the debtor's agent.

Perfection by registration

23 Subject to section 18, registration of a financing statement perfects a security interest in any type or kind of collateral.

Temporary perfection

24(1) A security interest in instruments, securities or negotiable documents of title is a perfected security interest for the first 15 days after it attaches to the extent that it arises for new value given under a written security agreement.

(2) A security interest perfected under section 22 in

(a) instruments or securities that a secured party delivers to the debtor for the purpose of

(i) ultimate sale or exchange,

(ii) presentation, collection or renewal, or

(iii) registration or transfer, or

(b) a negotiable document of title or goods not covered by a negotiable document of title that are held by a bailee and made available to the debtor by the secured party for the purpose of

(i) ultimate sale or exchange,

(ii) loading, unloading, storing, shipping or trans-shipping, or

(iii) manufacturing, processing, packaging or otherwise dealing with goods in a manner preliminary to their sale or exchange,

remains perfected for the first 15 days after the collateral comes under the control of the debtor.

(3) After the expiration of the periods of time mentioned in subsection (1) or (2), a security interest under this section is subject to the provisions of this Act for perfecting a security interest.

Perfection of security goods in the possession of a bailee

25(1) A security interest in collateral in the possession of a person other than the debtor is perfected by

(a) the issuance of a document of title to goods by a bailee in the name of the secured party,

(b) the perfection of a security interest in the negotiable document of title to goods in a case where a bailee has issued one,

(c) a holding of the goods on behalf of the secured party pursuant to section 22, or

(d) registration under this Act.

(2) The issuance of a negotiable document of title covering goods does not preclude any other security interest in the goods from arising during the period that the negotiable document of title is outstanding.

(3) A security interest in the negotiable document of title covering goods takes priority over a security interest in the goods otherwise perfected after the goods become covered by a negotiable document of title.

(4) Notwithstanding subsection (3), a perfected security interest in goods takes priority over the security interest in a negotiable document of title covering goods, where the security interest in the goods was registered at the time the security interest in the negotiable document of title was perfected.

Perfection
re proceeds

26(1) Subject to this Act, where collateral is dealt with or otherwise gives rise to proceeds, the security interest in the collateral

(a) continues with respect to the collateral, unless the secured party expressly or impliedly authorized those dealings, and

(b) extends to the proceeds.

(2) A security interest in proceeds is a continuously perfected security interest, if the interest in the original collateral is perfected

(a) by the registration of a financing statement that covers the original collateral and proceeds and contains a description of the proceeds that would be sufficient to perfect a security interest in original collateral of the same type,

(b) by the registration of a financing statement that covers the original collateral and proceeds, if the proceeds are of a type that are within the description of the original collateral, or

(c) by the registration of a financing statement that covers the original collateral and proceeds, if the proceeds consist of money, cheques or deposit accounts in banks or similar financial institutions.

(3) If the interest in the original collateral was perfected other than in a manner mentioned in subsection (2), the security interest in the proceeds is a continuously perfected security interest but becomes unperfected on the expiration of 15 days

(a) in the case of tangible property, after receipt of the proceeds by the debtor, or

(b) in the case of an intangible, after the debtor obtains rights in the intangible property,

unless the security interest in the proceeds is otherwise perfected by any of the methods and under the circumstances prescribed in this Act for original collateral of the same type or kind.

Goods returned
or repossessed:
attachment of
security interest

27(1) Where a debtor sells or leases goods that are subject to a security interest, the security interest in the goods reattaches to the goods, if

(a) the buyer or lessee has taken free of the security interest under section 26(1)(a) or 28(1),

- (b) the goods are returned to or repossessed by the debtor, and
- (c) the secured obligation remains unpaid or unperformed.

(2) Where a security interest in goods reattaches under subsection (1), any question as to

- (a) whether or not the security interest in the goods is perfected, and
- (b) the time of its perfection or registration

shall be determined as if the goods had not been sold or leased.

(3) If a sale or lease of goods creates an account or chattel paper, and

- (a) the account or chattel paper is transferred to a secured party, and
- (b) the goods are returned to, or repossessed by, the seller or lessor,

the transferee has a security interest in the goods.

(4) A security interest in goods arising under subsection (3) is perfected if the security interest in the account or chattel paper was also perfected, but the security interest becomes unperfected on the expiration of 15 days after the return or repossession of the goods unless the transferee registers his security interest in or takes possession of the goods before the expiry of that period.

(5) Where a transferee of an account has a perfected security interest in goods under subsection (3) or (4), he is, for the purpose of determining his priority as to the goods, deemed to have perfected his security interest in the goods at the time his security interest in the account was perfected.

(6) Where a transferee of chattel paper has a perfected security interest in goods under subsection (3) or (4),

- (a) as between the transferee and the holder of a perfected security interest that reattached under subsection (1), the person who had priority as to the chattel paper also has priority as to the goods, and
- (b) as between the transferee and a person other than the holder of a perfected security interest that reattached under subsection (1), the transferee is, for the purpose of determining the transferee's priority as to the goods, deemed to have perfected his security interest in the goods at the time his security interest in the chattel paper was perfected.

Buyer or lessee
in the ordinary
course of
business takes
free of security
interest

28(1) A buyer or lessee of goods sold or leased in the ordinary course of business of the seller or lessor takes free of any perfected or unperfected security interest in the goods given by the seller or lessor or arising under section 27, notwithstanding that the buyer or lessee knew of it, unless the buyer or lessee also knew that the sale or lease constituted a breach of the security agreement.

(2) A buyer or lessee of goods bought or leased primarily for personal, family, household or farming uses takes free of a perfected security interest in the goods if

- (a) he gives new value for his interest,
 - (b) he bought or leased the goods without notice of the security interest, and
 - (c) he receives delivery of the goods.
- (3) Subsection (2) does not apply to a security interest in
- (a) a motor vehicle as defined in the regulations,
 - (b) fixtures, or
 - (c) goods whose purchase price exceeds \$750 or, in the case of a lease, whose retail market value exceeds \$750.
- (4) Where serial numbered goods are sold or leased other than in the ordinary course of business of the seller or lessor and the goods were equipment of the seller or lessor, the buyer or lessee takes free from any security interest in the goods given by the seller or lessor and perfected under section 23 if
- (a) the buyer or lessee did not know that the goods were subject to the security interest, and
 - (b) the goods were not described by serial number in the financing statement.
- (5) A buyer or lessee of goods takes free of a security interest that is temporarily perfected under section 24(2), 26(3) or 27(4) or a security interest the perfection of which is continued under section 55(1) or (2) during any of the 15-day periods mentioned in those subsections, if
- (a) he gives new value for his interest,
 - (b) he buys or leases the goods without notice of the security interest, and
 - (c) he receives delivery of the goods.
- (6) A sale or lease under subsections (1), (2), (4) and (5) may be
- (a) for cash,
 - (b) by exchange for other property, or
 - (c) on credit,

and includes delivering goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a monetary obligation.

Priority of
holder of money

29(1) A holder of money has priority over any security interest in it perfected under section 23 or temporarily perfected under section 26(3) if the holder

- (a) acquired the money without notice that it was subject to a security interest, or
- (b) was a holder for value, whether or not he acquired the money without notice that it was subject to a security interest.

(2) Notwithstanding subsections (1) and (3), a creditor who receives money or an instrument drawn or made by a debtor and delivered in payment of a debt owing to him by that debtor takes free from a security interest in the money or instrument drawn or made by the debtor whether or not the creditor has notice of the security interest.

(3) A purchaser of an instrument or a security has priority over any security interest in the instrument or security perfected under section 23 or 76 or temporarily perfected under section 24 or section 26(3) if the purchaser

- (a) gave value for his interest,
- (b) acquired the instrument or security without notice that it was subject to a security interest, and
- (c) took possession of the instrument or security.

(4) A holder to whom a negotiable document of title has been negotiated has priority over any interest in the negotiable document of title that is perfected under section 23 or temporarily perfected under section 24 or 26(3) if the holder

- (a) gave value for the document of title, and
- (b) took the negotiable document of title without notice that it was subject to a security interest.

(5) A purchaser of chattel paper who took possession of it in the ordinary course of business and who gave new value for it has priority over

- (a) any security interest that, in the case of chattel paper claimed as original collateral, was perfected under section 23 or any security interest in it as proceeds of equipment or consumer goods, if the purchaser acquired the chattel paper without notice that it was subject to a security interest, and
- (b) any security interest in it as proceeds of inventory, whether or not the purchaser has notice of the security interest.

Priority of liens **30** Where a person in the ordinary course of business furnishes materials or services with respect to goods that are subject to a security interest, any lien that he has in respect of those materials or services has priority over a perfected security interest unless an Act in force in the Province provides that the lien does not have priority.

Alienation of rights of debtor **31** The rights of a debtor in collateral may be transferred consensually or by operation of law notwithstanding a provision in the security agreement prohibiting transfer or declaring a transfer to be a default, but a transfer does not prejudice the rights of the secured party under the security agreement or otherwise, including the right to treat a prohibited transfer as an act of default.

Priority of purchase money security interests **32(1)** A purchase money security interest in inventory or, subject to section 26, its proceeds, has priority over a security interest in the same collateral given by the same debtor, if

- (a) the purchase money security interest in the inventory was perfected at the time
 - (i) the debtor received possession of it, or

(ii) a third party at the request of the debtor received possession of it,

whichever is the earlier,

(b) the purchase money secured party gives notice in writing to any other secured party who has registered a financing statement covering the same type of inventory before the date of registration by the purchase money secured party,

(c) the other secured party received the notice mentioned in clause (b) not later than 2 years before the debtor, or third party at the request of the debtor, received possession of the inventory, and

(d) the notice mentioned in clause (b) states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing the inventory by type or kind.

(2) A purchase money security interest in collateral or, subject to section 26, its proceeds, other than a purchase money security interest in inventory, held by a seller, lessor or consignor of the collateral and which

(a) in the case of collateral other than an intangible, is perfected not later than 15 days after the day

(i) the debtor received possession of the collateral, or

(ii) a third party at the request of the debtor received possession of the collateral,

whichever is the earlier, or

(b) in the case of an intangible, is perfected not later than 15 days after the day the security interest in the intangible attaches,

has priority over any other purchase money security interest in the same collateral.

(3) A non-proceeds purchase money security interest has priority over a purchase money security interest in proceeds under subsections (1) and (2) in the same collateral if the non-proceeds purchase money security interest is perfected at the time the debtor, or a third party at the request of the debtor, obtains possession of the collateral or not later than 15 days thereafter.

(4) A perfected security interest in crops or their proceeds given for value to enable the debtor to produce the crops during the production season and given not later than 6 months before the crops become growing crops by planting or otherwise has priority over an earlier perfected security interest to the extent that the earlier interest secures obligations that were contracted more than 6 months before the crops become growing crops by planting or otherwise, notwithstanding that the person giving the value knew of the earlier security interest.

(5) Where there is more than 1 perfected security interest given priority by subsection (4), each shall rank equally according to the

Priority of perfected security interests in the same collateral

ratio that the amount advanced by each bears to the total amount advanced.

33(1) If no other provision of this Act is applicable,

(a) priority between perfected security interests in the same collateral shall be determined by

(i) registration,

(ii) possession of the collateral under section 22, or

(iii) perfection under section 5, 7, 24 or 76,

whichever is the earliest,

(b) a perfected security interest has priority over an unperfected security interest, and

(c) priority between unperfected security interests shall be by the order of attachment.

(2) For the purposes of subsection (1), a continuously perfected security interest

(a) shall be treated at all times as if perfected by registration, if it was originally so perfected, and

(b) shall be treated at all times as if perfected otherwise than by registration, if it was originally perfected otherwise than by registration.

(3) If future advances are made at a time during which a security interest is perfected, the security interest has the same priority for the purposes of this section with respect to the future advances as it has with respect to the first advance.

(4) A perfected security interest has priority over the interests of persons mentioned in section 19(1)(a) only to the extent of

(a) advances made before the interests of those persons arise or made before the sheriff seizes the collateral or obtains a right to it,

(b) advances made before the secured party receives notice of the interests of those persons or before notice of seizure by a sheriff or an order giving to the sheriff rights to the collateral, and

(c) reasonable costs incurred and expenditures made by the secured party for the protection, maintenance, preservation or repair of the collateral.

(5) For the purposes of subsection (1), a date of registration, possession or perfection as to collateral is also the date of registration, possession or perfection as to its proceeds.

(6) Where the registration of a security interest lapses as a result of the secured party's failure to renew the registration or where the registration of a security interest has been discharged fraudulently, in error or without authorization, the secured party may re-register his security interest not later than 30 days after the lapse or discharge, and where he re-registers, the prior lapse or discharge does not affect

the priority status of the security interest in relation to competing interests in the collateral which arose prior to the lapse or discharge, except insofar as subsequent advances are made or contracted for following the lapse or discharge and prior to the re-registration.

Fixtures

34(1) This section does not apply to building materials.

(2) Subject to subsection (3),

(a) a security interest in goods that attached before they became fixtures has priority with respect to the goods over the claim of any person who has an interest in the real property, and

(b) a security interest in goods that attached after they became fixtures has priority over the claim of any person who subsequently acquired an interest in the real property, but not over any person

(i) who had a registered interest in the real property at the time the security interest in the goods attached, and

(ii) who has not consented in writing to the security interest or disclaimed an interest in the goods as fixtures.

(3) A security interest mentioned in subsection (2)

(a) is subordinate to the interest of

(i) a creditor with a prior registered encumbrance on the real property with respect to subsequent advances made by the creditor, and

(ii) a subsequent purchaser for value of an interest in the real property,

if the subsequent advances under the prior registered encumbrance or the subsequent purchase is made or contracted for after the goods are affixed, without fraud and before the security interest is registered in accordance with section 49, and

(b) is subordinate to the interest of a creditor of the debtor who

(i) has acquired through legal process a lien or charge against the real property to enforce a judgment, or

(ii) has caused to be transmitted to the Registrar of Land Titles a writ of execution if the lien or charge arises or the writ is transmitted before the security interest is registered in accordance with section 49.

(4) No lien or charge mentioned in subsection (3)(b) takes priority over a purchase money security interest in the goods notice of which is registered in accordance with section 49 not later than 15 days after the day the debtor, or a third party at the request of the debtor, obtains possession of the goods.

(5) A secured party who, under this Act, has the right to remove goods from real property shall exercise his right of removal in a manner that causes no greater damage or injury to the land or to the other property situated thereon, or that puts the owner, lessee or

occupier of the land to no greater inconvenience, than is necessarily incidental to the work of removing the goods.

(6) A person, other than the debtor, who has an interest in real property at the time goods subject to a security interest are affixed to the real property is entitled to reimbursement for any damage to his interest in the real property resulting from the removal of the goods, but is not entitled to reimbursement for diminution in the value of the real property caused by the absence of the goods removed or by the necessity for replacement.

(7) Persons entitled to reimbursement as provided in subsection (6) may refuse permission to remove the goods until the secured party has given adequate security for the reimbursement.

(8) The secured party may apply to a court for any one or more of the following orders:

- (a) determining the persons entitled to reimbursement under this section;
- (b) determining the amount and kind of security to be provided by the secured party;
- (c) prescribing the depository for the security;
- (d) dispensing with the consent of any or all of the persons mentioned in clause (a).

(9) A person having an interest in real property that is subordinate to a security interest by virtue of subsection (1) may, before the goods have been removed from the real property by the secured party, retain the goods on payment to the secured party of the amount secured by the security interest having priority over his interest.

(10) The secured party who has the right to remove goods from real property shall serve, on each person who appears by the records of the land titles office to have an interest in the land, a notice in writing of his intention to remove the goods, which shall contain

- (a) the name and address of the secured party,
- (b) a description of the goods to be removed sufficient to enable them to be identified,
- (c) the amount required to satisfy the obligation secured by his security interest,
- (d) a description of the land to which the goods are affixed, and
- (e) a statement of intention to remove the goods unless the amount secured is paid on or before a specified day that is not less than 12 days after service of the notice in accordance with subsection (11).

(11) A notice mentioned in subsection (10) shall be served at least 15 days before removal of the goods and may be served in accordance with section 70 or by registered mail addressed to the address of the person to be served as it appears in the records of the land titles office.

(12) Any person entitled to receive a notice under subsection (10) may apply to a judge for an order postponing removal of the goods from the real property, and the judge may make any order that he considers just and reasonable.

Security interests
re: accessions

35(1) In this section,

(a) “other goods” means goods to which accessions are affixed or attached;

(b) “the whole” means accessions and the other goods.

(2) Subject to subsections (3) and (4) and section 36,

(a) a security interest in goods that attached before they became accessions has priority with respect to the goods over the claim of any person who has an interest in respect of the whole, and

(b) a security interest in goods that attached after they became accessions has priority over the claim of any person who subsequently acquired an interest in the whole, but not over any person

(i) who had an interest in the whole at the time the security interest in the whole attached, and

(ii) who has not consented in writing to the security interest or disclaimed an interest in the accession as part of the whole.

(3) A security interest mentioned in subsection (2)

(a) is subordinate to the interest of

(i) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances, and

(ii) a subsequent purchaser for value of an interest in the whole,

if the subsequent advances under the prior perfected security interest or subsequent purchase is made or contracted for without notice, after the goods become accessions and before the security interest is registered or perfected, and

(b) is subordinate to the interest of

(i) a creditor of the debtor, and

(ii) a sheriff

who have caused the whole to be seized under judicial process to enforce a judgment, if the seizure occurs under circumstances referred to in section 19(1)(a)(i) or (ii) before the security interest is perfected.

(4) No interest of a creditor or of the sheriff mentioned in subsection (2)(b) takes priority over a purchase money security interest in the accession goods that is registered or perfected not later than 15 days after the day the debtor, or third party at the request of the debtor, obtains possession of the collateral.

(5) A secured party who has the right to remove accession goods from the whole shall exercise his right of removal in a manner that causes no greater damage or injury to the other goods, or that puts the person who is in possession of the whole to no greater inconvenience, than is necessarily incidental to the work of removing the accession goods from the other goods.

(6) Any person, other than the debtor, who has an interest in the other goods at the time the goods subject to a security interest become an accession to the other goods is entitled to reimbursement for any damage to his interest in the other goods resulting from the removal of the accession goods, but is not entitled to reimbursement for diminution in the value of the other goods resulting from the removal of the accession goods caused by the absence of the accession goods removed or by the necessity for replacement.

(7) The persons entitled to reimbursement as provided in subsection (6) may refuse permission to remove the accession goods until the secured party has given adequate security for the reimbursement.

(8) The secured party may apply to a court for any one or more of the following orders:

- (a) determining the persons entitled to reimbursement under this section;
- (b) determining the amount and kind of security to be provided by the secured party;
- (c) prescribing the depository for the security;
- (d) dispensing with the consent of any or all of the persons mentioned in clause (a).

(9) A person having an interest in the other goods that is subordinate to a security interest by virtue of subsection (2) may, before the accession goods have been removed from the other goods, retain the whole on payment to the secured party of the amount secured by the security interest having priority over his interest.

(10) The secured party who has the right to remove accession goods from the whole shall serve, on each person known to him as having an interest in the other goods and on any person who has registered a financing statement indexed in the name of the debtor and referring to the other goods or according to the serial number where such is required, a notice in writing of his intention to remove the accession goods, which shall contain

- (a) the name and address of the secured party,
- (b) a description of the accession goods to be removed sufficient to enable them to be identified,
- (c) the amount required to satisfy the obligations secured by his security interest,
- (d) a description of the other goods sufficient to enable them to be identified, and
- (e) a statement of intention to remove the accession goods from the whole unless the amount secured is paid on or before a spec-

ified day that is not less than 12 days after service of the notice in accordance with subsection (11).

(11) A notice mentioned in subsection (10) shall be served at least 15 days before removal of the accession goods and may be served in accordance with section 70 or, in the case of a person who has registered a financing statement, by registered mail addressed to the address of the person to be served as it appears on the security agreement or financing statement.

(12) Any person entitled to receive a notice under subsection (10) may apply to a judge for an order postponing removal of the accession goods from the whole, and the judge may make any order that he considers just and reasonable.

Continuity of perfected security interests

36(1) A perfected security interest in goods that subsequently become part of a product or mass continues in the product or mass if the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass.

(2) If more than 1 perfected security interest attaches to the product or mass, the security interests in the product or mass rank equally, according to the ratio that the obligation secured by each security interest entitled to share bears to the sum of the obligation secured by all the security interests.

Subordination of interest

37 A secured party may, in a security agreement or otherwise, subordinate his security interest to any other security interest.

Rights of an assignee

38(1) Unless a debtor with respect to an intangible has made an enforceable agreement not to assert defences or claims arising out of a contract, the rights of an assignee of the intangible paper are subject to

(a) the terms of the contract between that debtor and the assignor and any defence or claim arising therefrom, and

(b) any other defence or claim of that debtor against the assignor that accrued before the debtor received notice of the assignment.

(2) To the extent that the right to payment or part payment under an assigned contract right has not been earned by performance, and notwithstanding notice of the assignment, any modification of, or substitution for, the contract made in good faith and in accordance with reasonable commercial standards and without material adverse effect on the assignee's right under the contract or the assignor's ability to perform the contract is effective against an assignee unless the debtor with respect to an account or chattel paper has otherwise agreed, but the assignee acquires corresponding rights under the modified or substituted contract.

(3) Nothing in subsection (2) affects the validity of a term in an assignment agreement that provides that a modification or substitution mentioned in that subsection is a breach by the assignor.

(4) The debtor with respect to an intangible may pay the assignor until he receives notice that the amount due or to become due under an identified transaction has been assigned and that payment is to be made to the assignee.

(5) A debtor with respect to an intangible may pay the assignor, if the assignee, when requested to do so by the debtor, fails to furnish to the debtor proof within reasonable time that the assignment has been made.

(6) A term in a contract relating to an account that prohibits assignment of the whole of an account is ineffective.

PART 4 REGISTRATION

Personal Property Registry	<p>39(1) There shall be a registry to be known as the Personal Property Registry for the purposes of registrations under this Act and for registrations that are permitted or required under any other Act to be made in the Registry.</p> <p>(2) The Registrar of Personal Property shall have a seal of office in the form prescribed by the Minister.</p>
Appointments	<p>40(1) The Minister may designate in writing an employee under his administration as the Registrar of Personal Property.</p> <p>(2) The Registrar of Personal Property may designate in writing employees under the administration of the Minister as deputy registrars and may specify their powers and duties.</p> <p>(3) The Registrar shall, under the direction of the Minister, direct and supervise the operation of the Registry.</p>
Registration of documents	<p>41(1) A financing statement required or permitted to be registered under this Act may be submitted for registration at any office of the Registry that is specified by the Minister as an office where such statements may be submitted for registration.</p> <p>(2) Registration of a financing statement in a registry is effective only from the time assigned to the statement in the office of the Registry designated by the Minister as the central office of the Registry and where 2 or more documents are assigned the same effective time, the order of registration shall be determined by the registration numbers.</p> <p>(3) The Registrar may refuse to register a financing statement submitted for registration if it does not, in his opinion, comply with this Act or the regulations.</p> <p>(4) The Registrar shall not register a financing statement or make a search under section 44 until the fees payable in respect of the registration or search, as the case may be, have been paid or, pursuant to an agreement entered into under the regulations, charged to the account of the person who is submitting the statement for registration or requesting that the search be made.</p>
Maintenance of records	<p>42 When a financing statement is registered in the Registry, the Registrar may have the statement photographed on microfilm and a statement on microfilm is for all purposes deemed to be a statement registered in the Registry.</p>
No constructive notice	<p>43 Registration of a financing statement in the Registry does not constitute knowledge of its contents or constructive notice to third parties.</p>

Requisitions
from Registry

44(1) A person may, in accordance with the regulations, request at the Registry

- (a) that a search be made against the name of a debtor,
- (b) that a search be made according to a serial number for collateral prescribed for registration by serial number,
- (c) that a certificate as to the results of a search mentioned in clause (a) or (b) be issued to him, or
- (d) that a certified copy of any registered financing statement be provided to him.

(2) If approved by the Minister, searches may be requested and provided in a manner other than that described in subsection (1).

(3) A printed search result issued under subsection (1)(c) and certified by the Registrar is receivable in evidence as prima facie proof of its contents without proof of the signature or official position of the Registrar.

(4) A copy of a registered financing statement certified by the Registrar shall, without proof of the signature or official position of the Registrar, be admitted in evidence as prima facie proof for all purposes as if the registered statement were produced.

(5) The date and time of the registration of a financing statement as shown on a certificate issued under subsection (3) or (4) is prima facie proof as to the date and time of the registration of the statement.

Personal
Property Security
Assurance Fund

45(1) The Chattel Security Registries Fund is continued as the Personal Property Security Assurance Fund, into which shall be paid the fees prescribed to be paid into the Fund.

(2) The Fund shall be held and administered by the Provincial Treasurer and the fees prescribed to be paid into the Fund shall be paid over to the Provincial Treasurer at the times and in the manner that he may direct.

(3) The whole or a part of the Fund in excess of the prescribed amount may, at the direction of the Provincial Treasurer, be invested in any class of investments or securities enumerated in section 50(1) of the *Financial Administration Act*.

(4) An amount of the Fund in excess of the prescribed amount may, at the direction of the Provincial Treasurer, be transferred to the General Revenue Fund.

Claims for
damages

46(1) Subject to this section, any person who suffers loss or damage as a result of his reliance on a certified copy of a registered financing statement or a certificate as to the results of a search that is incorrect because of an act or omission in the operation of the Registry may bring an action against the Registrar in the Court for recovery of damages, but no award of damages to any single claimant shall exceed the prescribed amount.

(2) No action for damages under this section lies against the Registrar unless it is commenced not later than 1 year after the time of the loss or damage.

(3) An action for recovery of damages under this section brought by a trustee under a trust indenture or any person with an interest in a trust indenture shall be brought as an action on behalf of all persons with interests in the same trust indenture, and the judgment in the action, except to the extent that it provides for subsequent determination of the amount of damages suffered by each person, constitutes a judgment between each person and the Registrar in respect of the act or omission.

(4) In an action brought by a trustee under a trust indenture or by any person with an interest in a trust indenture, proof that each person relied on the registered financing statement or printed search result is not necessary if it is established that the trustee relied on the registered financing statement or printed search result, but no person is entitled to recover damages under this section if he knew at the time he acquired his interest that the registered financing statement or printed search result relied on by the trustee was incorrect.

(5) No action under this section may be brought by a person who relied on the certified copy of a registered financing statement or certificate as to the results of a search unless that person or his agent requested the certified copy or certificate.

(6) Notwithstanding the *Proceedings Against the Crown Act*, no action shall be brought against the Crown in right of the Province, the Registrar or any officer or employee of the Registry for any act or omission of the Registrar or an officer or employee of the Registry in respect of the discharge or purported discharge of any duty or function under this or any other Act or under the regulations under any Act other than as provided in this section.

Payment of
claims

47(1) The total of all claims for compensation paid under section 46(3) and (4) in any single action shall not exceed the prescribed amount.

(2) In proceedings under section 46(3) and (4), the Court may make any order that it considers appropriate in order to give notice to the persons with interests in the same trust indenture.

(3) Subject to subsection (1), the Court may order payment of all or a portion of the damages awarded to identified persons with interests in the same trust indenture at any time after judgment, and the obligation of the Registrar to satisfy the judgment is satisfied to the extent that payment is made.

(4) The Provincial Treasurer may, without an action being brought, pay the amount of a claim against the Registrar from the Fund when authorized to do so by the Minister on the report of the Registrar setting forth the facts and on receipt of a certificate of the Registrar that in his opinion the claim is just and reasonable.

(5) When an award of damages has been made in favour of the claimant and the time for appeal has expired, or when an appeal is taken and it is disposed of in favour of the plaintiff, the Provincial Treasurer shall authorize payment out of the Fund in the manner and in the amount specified in the judgment, including any costs awarded to the claimant.

(6) When damages are paid to a claimant under section 46 or this section, the Crown is subrogated to the rights of the claimant against any person indebted to the claimant whose debt to the claimant was the basis of the loss or damage in respect of which the claim was paid.

Registration of statements

48 Subject to this Act, a financing statement or a financing change statement may be registered before the security agreement is made or before the security interest attaches.

Notice in land titles office

49(1) In order to take priority over interest in real property in accordance with section 34, a person shall register a notice in the prescribed form in the land titles office and on its being so registered, the registrar of the land titles office shall make a memorandum of the notice on the certificate of title or the condominium plan, as the case may be, in respect of the parcel of land to which the notice relates.

(2) If a notice has been registered in the land titles office under subsection (1) and the registration of the notice has not expired, notice of a financing statement renewing, amending, assigning or discharging the security interest to which the original notice relates, or of a financing statement subordinating the security interest to another security interest, may be registered in the land titles office in the prescribed form, and, on its being so registered, the registrar of the land titles office shall make a memorandum of it on the proper certificate of title.

(3) Section 51 applies, with all necessary modifications, to a notice registered under this section.

(4) A security interest in fixtures may be perfected as a security interest in goods without a notice's being registered under subsection (1).

(5) If the registering of a notice of a security interest in fixtures expires, the registrar of the land titles office may vacate the registering of the notice and any other notice that relates to the same security interest and may strike out any memorandum of the notice that is made on the certificate of title.

(6) A notice registered under subsection (1) or (2) may be discharged by registering a certificate in the prescribed form in the land titles office.

(7) If a notice is registered under subsection (1) and

(a) all the obligations under the security agreement are performed,

(b) it is agreed to release part of the collateral in which a security interest is taken on payment or performance of certain of the obligations under the security agreement, then on payments or performance of those obligations, or

(c) the notice purports that the secured party has a security interest in property of the debtor in which the secured party does not have, or is not entitled to claim, a security interest,

any person having an interest in the collateral, the registered owner of the real property or any other person claiming an interest in the

real property may contest the registration of the notice according to the procedure established in the *Land Titles Act* for contesting the registration of a caveat.

Amendment to
registered
financing
statement

50 An amendment in the prescribed form to a financing statement registered under this Act may be registered at any time during the period that the registration of the statement is effective, and the amendment is effectively registered as to the change from the time of registration of the amendment.

Renewal of
registration

51(1) If a financing statement has been registered with respect to a security interest, the registration may be renewed by registering a financing change statement at any time before the financing statement to which it refers expires.

(2) Subject to the regulations, registration under this Act of

- (a) a financing statement is effective for the length of time indicated on the financing statement, and
- (b) a financing change statement renewing the registration is effective for the length of time indicated on the financing change statement.

(3) Financing statements and financing change statements referring to a financing statement, or information provided on a financing statement or financing change statement, as the case may require, may be removed from the records of the Registry

- (a) when the financing statement is no longer effective,
- (b) on the receipt of a financing change statement discharging or partially discharging the financing statement,
- (c) if the secured party fails to register an order of the Court maintaining the financing statement under section 52(3), or
- (d) on receipt of an order of the Court compelling the discharge or partial discharge of a financing statement or a financing change statement.

Financing change
statement as
discharge

52(1) Where a financing statement relating to a security interest in consumer goods is registered, the secured party shall register, not later than 1 month after all obligations under the security agreement creating the security interest are performed, a financing change statement discharging the financing statement unless prior to the expiry of 1 month the registration of the financing statement ceases to be effective.

(2) Where a financing statement is registered under this Act and

- (a) all the obligations under the security agreement to which it relates are performed,
- (b) it is agreed to release part of the collateral in which a security interest is taken on payment or performance of certain of the obligations under the security agreement, then on payment or performance of such obligations, or

(c) the description of the collateral contained in it includes a type or item of property that is not collateral under a security agreement between the secured party and the debtor,

any person with an interest in property of the debtor falling within the collateral description contained in the financing statement may serve a written demand on the secured party demanding a financing change statement, which, when registered,

(d) in a case falling within clause (a) discharges the registration,

(e) in a case falling within clause (b) amends the collateral description to include only the types or items of property not released, and

(f) in a case falling within clause (c) amends the collateral description to exclude the types or items of personal property that are not described as collateral under a security agreement between the secured party and the debtor,

and the secured party shall sign and deliver or send to the Registry the financing change statement not later than 15 days after service of the demand.

(3) If the secured party fails to deliver the required financing change statements not later than the time provided by subsection (2), the person who has made the demand may require the Registrar to serve a notice in writing on the secured party stating that registration of the financing statement will be discharged or that a part of the collateral will be released, as the case may be, on the expiration of 40 days after the day the Registrar served the notice on the secured party, unless in the meantime the secured party registers an order of the Court accompanied by a financing change statement maintaining the registration of the interest of the secured party.

(4) The demand mentioned in subsection (2) and the notice mentioned in subsection (3) may be served in accordance with section 70 or by registered mail addressed to the address of the secured party as it appears on the security agreement or financing statement.

(5) On application to the Court by a secured party, the Court may order that the registration of a financing statement

(a) be maintained on any conditions and, subject to section 51, for any period of time that it considers just, or

(b) be discharged or that a financing change statement releasing the collateral or part of the collateral be registered, as the case may be.

(6) Subsection (3) does not apply to a financing statement or a financing change statement registered with respect to a security interest taken under a trust indenture if the financing statement indicates that the security agreement with respect to which the financing statement was registered is a trust indenture.

(7) If the secured party fails to deliver the financing change statement demanded under subsection (2), the person making the demand may apply to the Court, on notice to all persons concerned, for an order directing that the financing statement or financing change statement be removed from the Registry.

(8) No fee or expense shall be charged and no amount shall be accepted by a secured party for the preparation or registration of a financing change statement under this section.

Assignment
of interest

53(1) If a financing statement is registered and the secured party has assigned his interest, a financing change statement in the prescribed form may be registered.

(2) If a part of the collateral is assigned, the financing change statement shall so indicate and shall contain a description of the assigned collateral in the prescribed manner.

(3) If no financing statement has been registered with respect to a security interest and the secured party has assigned his interest, a financing statement may be registered in which the assignee is disclosed as the secured party.

(4) After disclosure of an assignment or registration of a financing change statement under this section, the assignee is the secured party.

(5) A financing statement disclosing an assignment may be registered before or after an agreement to assign the security interest has been completed.

Subordinated
interest

54 If a secured party has subordinated his interest to the interest of another person, a financing change statement may be registered at any time during the period that the registration of the subordinated interest is effective.

If debtor
transfers interest
in collateral

55(1) If a security interest has been perfected by registration and the debtor transfers his interest in collateral or part of the collateral with the consent of the secured party, the security interest is unperfected as against any interest in the transferred collateral arising subsequent to the transfer unless the secured party registers a financing change statement amending the original financing statement not later than 15 days after the date of the transfer or otherwise perfects the security interest.

(2) Where a security interest is perfected by registration and the secured party learns that

(a) the debtor has transferred all or part of the debtor's interest in all or part of the collateral, or

(b) the name of the debtor has changed,

the security interest in the collateral transferred, where clause (a) applies, or in the collateral, where clause (b) applies, becomes unperfected 15 days after the secured party learns of

(c) the transfer and the information required to register a financing change statement, or

(d) the change of name and the new name of the debtor,

with respect to interests arising subsequent to the transfer or the change of name, as the case may be, unless the secured party registers a financing change statement or takes possession of the collateral within the 15 days or otherwise perfects the security interest.

- (3) This section does not have the effect of unperfected
- (a) a security interest in collateral that is described by serial number in accordance with the regulations and is described by its serial number in a registered financing statement, or
 - (b) a prior security interest registered under a prior registration law and deemed to be registered under section 76.
- (4) Where the debtor's interest in all or part of the collateral is transferred by the debtor without the consent of the secured party and there are 1 or more subsequent transfers of the collateral without the consent of the secured party before the secured party learns of the name of the transferee who has possession of the collateral, the secured party shall be deemed to have complied with subsection (2) if the secured party registers a financing change statement not later than 15 days after learning of the name of the transferee who has possession of the collateral and the information required to register a financing change statement, and the secured party need not register financing change statements with respect to any intermediate transferee.
- (5) A security interest that becomes unperfected under subsection (1) or (2) may be perfected again as against subsequent interests arising after perfection under this subsection by the registering of a financing change statement or as may otherwise be provided in this Act.

**PART 5
RIGHTS AND REMEDIES ON DEFAULT**

Application
of Part

- 56(1)** Unless otherwise provided in this Part, this Part applies only to a security interest that secures payment or performance of an obligation.
- (2) The rights and remedies mentioned in this Part are cumulative.
- (3) Subject to any other Act or rule of law to the contrary, where a security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both real and personal property, in which case this Part applies as to the personal property only to the extent that is not inconsistent with laws applicable to proceedings against real and personal property in a single action.
- (4) A security interest does not merge merely because a secured party has reduced his claim to judgment.
- (5) Where the debtor is in default under a security agreement, the secured party has, in addition to any other rights and remedies, the rights and remedies provided in the security agreement except as limited by section 57(5), the rights and remedies provided in this Part and, when in possession, the rights, remedies and duties provided in section 16.

Receiver or
receiver-manager

- 57(1)** A security agreement may provide for the appointment of a receiver or a receiver-manager and, except as provided in this Act, prescribe his rights and duties.

(2) On the application of any person entitled to make an application under section 64 and after notice has been given to any person that the court directs, a court may

- (a) appoint a receiver or receiver-manager;
- (b) remove, replace or discharge a receiver or receiver-manager whether appointed by a court or pursuant to a security agreement;
- (c) give directions on any matter relating to the duties of a receiver or receiver-manager;
- (d) approve the accounts and fix the remuneration of a receiver or receiver-manager;
- (e) make any order it thinks fit in the exercise of the jurisdiction of the court over receivers or receiver-managers;
- (f) make an order requiring a receiver or receiver-manager, or a person by or on behalf of whom he is appointed, to make good any default in connection with the receiver's or receiver-manager's custody, management or disposition of the collateral of the debtor or to relieve such person from any default on such terms as the court thinks fit, and to confirm any act of the receiver or receiver-manager.

(3) Unless a court orders otherwise

- (a) a receiver-manager is required to comply with sections 16, 60 and 61 only when he disposes of collateral other than in the course of carrying on the business of the debtor, and
- (b) sections 59(2), 62 and 63(1)(b) do not apply when a receiver or receiver-manager has been appointed.

(4) Where the debtor is in default under a security agreement, he has, in addition to the rights and remedies provided in the security agreement and any other rights and remedies, the rights and remedies provided in this Part and in section 16.

(5) Except as provided in sections 16, 62 and 63, no provision of section 16 or sections 59(2) and 60 to 64, to the extent that it gives rights to the debtor or imposes duties on the secured party, shall be waived or varied.

Collection rights
of secured party

58(1) Where so agreed and in any event on default under a security agreement, a secured party is entitled

- (a) to notify any debtor on an intangible or chattel paper or any obligor on an instrument to make payment to him whether or not the assignor was making collections on the collateral before the notification, and
- (b) to take control of any proceeds to which he is entitled under section 26.

(2) A secured party who by agreement is entitled to charge back the uncollected collateral or otherwise entitled to full or limited recourse against the debtor and who undertakes to collect from the debtors

on intangibles or chattel paper or obligors on instruments may deduct his reasonable expenses of realization from the collections.

Right of secured party to enforce, etc., on default

59(1) Subject to sections 34 and 35, on default under a security agreement,

(a) the secured party has, unless otherwise agreed, the right to enforce the security agreement by any method permitted by law,

(b) if the collateral is equipment and the security interest has been perfected by registration, the equipment may be rendered unusable by the sheriff without removal of it from the debtor's premises, and the sheriff is thereupon deemed to have seized the equipment,

(c) if the collateral is or includes documents of title, the secured party may proceed either as to the documents of title or as to the goods covered by them, and any method of enforcement that is available with respect to the documents of title is also available, with all the necessary modifications, with respect to the goods covered by them, and

(d) collateral may be disposed of under section 60 on the debtor's premises.

(2) For the purposes of enforcing a security agreement, sections 16, 17, 18, 22, 23, 24, 25 except with respect to the notice of objection, 26(1), 38, 40, 43 and 47 of the *Seizures Act* apply, except that in those sections

(a) a reference to "goods", "chattels" or "property" is deemed to be a reference to "collateral",

(b) a reference to "creditor" is deemed to be a reference to "secured party", and

(c) a reference to "power of distress" or "distress" is deemed to be a reference to the right of a secured party to enforce a security agreement under this Part.

(3) Nothing in the sections of the *Seizures Act* referred to in subsection (2) affects the rights of persons who under this Act or other law are given priority over interests of secured parties who authorized seizures of the collateral.

Disposal of collateral on default

60(1) Collateral may be disposed of in its condition in accordance with this Part either before or after any repair, processing or preparation for disposition, and the proceeds of the disposition shall be applied in the following order to

(a) the reasonable expenses of enforcing the security agreement, holding, repairing, processing or preparing for disposition and disposing of the collateral and any other reasonable expenses incurred by the secured party, and

(b) the satisfaction of the obligations secured by the security interest of the party requesting the disposition,

and the surplus, if any, shall be dealt with in accordance with section 61.

- (2) Collateral may be disposed of
 - (a) by public or private sale;
 - (b) at any commercially reasonable time of day or place;
 - (c) as a whole or in commercial units or parts;
 - (d) if the security agreement so provides, by lease or by deferred payment.
- (3) Disposition of the collateral in whole or in part may be delayed for any period of time that is commercially reasonable.
- (4) Not less than 20 days prior to disposition of the collateral, the secured party shall serve a notice on
 - (a) the debtor or any other person who is known by the secured party to be the owner of the collateral,
 - (b) any creditor or person with a security interest in the collateral
 - (i) whose interest is subordinate to that of the secured party,
 - (ii) who has registered a financing statement in the name of the debtor or according to the serial number of the collateral when it is required for registration, and
 - (iii) whose interest was perfected by possession at the time the collateral was seized,
 - (c) any other person with an interest in the collateral who has delivered a written notice to the secured party of his interest in the collateral prior to the date that the notice is served on the debtor, and
 - (d) the sheriff.
- (5) A receiver or receiver-manager appointed by a court or pursuant to a security agreement shall serve notice of his intention to dispose of the collateral on
 - (a) the debtor, and where the debtor is a corporation, on a director of the corporation,
 - (b) any other person who is known by the secured party to be the owner of the collateral,
 - (c) any person mentioned in subsection (4)(b), and
 - (d) any other person with an interest in the collateral who has delivered a written notice to the secured party of his interest in the collateral prior to its disposition.
- (6) The notice mentioned in subsection (4) shall contain
 - (a) a description by item of the collateral sufficient to enable it to be identified,
 - (b) the amount required to satisfy the obligations secured by the security interest,
 - (c) the sums actually in arrears, exclusive of the operation of any acceleration clause in the security agreement, and a brief descrip-

tion of any other provision of the security agreement for the breach of which the secured party intends to dispose of the collateral,

(d) the amount of the applicable expenses mentioned in subsection (1)(a) or, where the amount of such expenses has not been determined, a reasonable estimate,

(e) a statement that, on payment of the amounts due under clauses (b) and (d), any person entitled to receive the notice may redeem the collateral,

(f) a statement that, on payment of the sums actually in arrears or the curing of any other default, as the case may be, together with payment of the amounts due under subsection (1)(a), the debtor may reinstate the security agreement,

(g) a statement that, unless the collateral is redeemed or the security agreement is reinstated, the collateral will be disposed of and the debtor may be liable for any deficiency, and

(h) the date, time and place of any public sale or the date after which any private disposition of the collateral is to be made.

(7) The notice mentioned in subsection (5) shall contain

(a) a description of the collateral by type, and

(b) the date, time and place of any public sale or the date after which any private disposition of the collateral is to be made.

(8) Where the notice required in subsection (4) is served on any person other than the debtor, it need not contain the information specified in subsection (6)(c), (f) and (g), and, where the debtor is not entitled to reinstate the security agreement, the notice to the debtor need not contain the information specified in subsection (6)(c), (f) and (g).

(9) No statement mentioned in subsection (6)(g) shall make reference to any liability on the part of the debtor to pay a deficiency if under any Act or rule of law the secured party does not have the right to collect a deficiency from the debtor.

(10) The notice required in subsection (4) or (5) may be served in accordance with section 70 or, in the case of service on the person who has registered a financing statement, by registered mail addressed to the address of the person to be served as it appears on the financing statement.

(11) The secured party may purchase the collateral or any part of it only at a public sale and only for a price that bears a reasonable relationship to market value.

(12) When collateral is disposed of by sale to a bona fide purchaser for value who takes possession of it, the purchaser acquires the collateral free from the interests of the debtor and from any interest subordinate to that of the secured party, whether or not the requirements of this section and the sections of the *Seizures Act* referred to in section 59(2) have been complied with, and all obligations secured

by such subordinate interests are deemed to be performed for the purposes of section 52.

(13) Subsection (12) does not apply so as to affect the rights of a person with a security interest deemed to be registered under section 76 who has not been given a written notice under this section.

(14) A person who is liable to a secured party under a guarantee, endorsement, covenant, repurchase agreement or the like and who receives a transfer of collateral from the secured party or receiver or receiver-manager or is subrogated to the rights of the secured party has thereafter the rights and duties of the secured party, and such a transfer of collateral is not a disposition of the collateral.

(15) The notice mentioned in subsection (4) or (5) is not required where

- (a) the collateral is perishable;
- (b) the collateral will decline substantially in value if not disposed of immediately after default;
- (c) the cost of care and storage of the collateral is disproportionately large relative to its value;
- (d) for any other reason, a court, on an ex parte application, is satisfied that a notice is not required;
- (e) after default, every person entitled to receive a notice of disposition under subsection (4) consents in writing to the immediate disposition of the collateral.

Application
of surplus

61(1) Where a security agreement secures an indebtedness and the collateral has been dealt with under section 58 or has been disposed of in accordance with section 60 or otherwise, any surplus shall unless otherwise provided by law or by the agreement of all interested persons be accounted for and paid in the following order to

- (a) a person who has a subordinate security interest in the collateral
 - (i) who registers a financing statement indexed in the name of the debtor or according to the serial number of the collateral, when it is required for registration, prior to the distribution of the proceeds, or
 - (ii) whose interest was perfected by possession at the time the collateral was seized,
- (b) any other person who has an interest in the surplus, if that person has delivered a written demand therefor on the secured party prior to distribution of the proceeds, and
- (c) the debtor or any other person who is known by the secured party to be the owner of the collateral.

(2) The secured party may request a person who has a subordinate security interest or a person who has delivered a written demand to furnish him with proof of that person's interest, and, unless the person furnishes such proof not later than 10 days after the secured

party's demand, the secured party need not pay over any portion of the surplus to him.

(3) Unless otherwise agreed, or unless otherwise provided in any Act, the debtor is liable for any deficiency.

62(1) After default, the secured party may propose to retain the collateral in satisfaction of the obligations secured, and shall serve a notice of the proposal on

(a) the debtor or any other person who is known by the secured party to be the owner of the collateral,

(b) any creditor or person who has a security interest in the collateral

(i) whose interest is subordinate to that of the secured party,

(ii) who has registered a financing statement in the name of the debtor or according to the serial number of the collateral when it is required for registration, and

(iii) whose interest was perfected by possession at the time the collateral was seized,

(c) any other person with an interest in the collateral who has delivered a written notice to the secured party of an interest in the collateral prior to the date that notice is served on the debtor, and

(d) the sheriff.

(2) If any person who is entitled to notification under subsection (1) whose interest in the collateral would be adversely affected by the secured party's proposal delivers to the secured party and the sheriff a written objection not later than 15 days after service of the notice, the collateral shall be disposed of in accordance with section 60.

(3) If no objection is made, the secured party is, at the expiration of the 15-day period or periods mentioned in subsection (2), deemed to have irrevocably elected to retain the collateral in full satisfaction of the obligations secured, and thereafter is entitled to hold or dispose of the collateral free from all rights and interests in it of any person entitled to notification under subsection (1)(b) who has been served with such notice and any person entitled to notification under subsection (1)(a) and (c) whose interest is subordinate to that of the secured party and who has been served with such notice.

(4) The notice required under subsection (1) may be served in accordance with section 70 or, in the case of service on a person who has registered a financing statement, by registered mail addressed to the address of the person to be served as it appears on the security agreement or financing statement.

(5) The secured party may require any person who has made an objection to his proposal to furnish him with proof of that person's interest in the collateral and, unless the person furnishes proof not later than 10 days after the secured party's demand, the secured party may proceed as if he had received no objection from that person.

(6) On application by a secured party, and after notice to all persons entitled to notice under subsection (1), a court may determine that an objection to the proposal of a secured party is ineffective on the grounds that

(a) the person made the objection for a purpose other than the protection of his interest in the collateral or the proceeds of a disposition of the collateral, or

(b) the market value of the collateral is less than the total amount owing to the secured party and the costs of disposition.

(7) When collateral is disposed of by sale to a bona fide purchaser for value who takes possession of it, the purchaser acquires the collateral free from the interests of the debtor and from any interests subordinate to that of the secured party, whether or not the requirements of this section have been complied with, and all obligations secured by such subordinate interests are deemed to be performed for the purposes of section 52.

(8) Subsection (7) does not apply so as to affect the rights of a person with a security interest deemed to be registered under section 76 who has not been given a written notice under this section.

Redemption of collateral

63(1) At any time before the collateral has been disposed of or disposal has been contracted for under section 60 or before the secured party is deemed to have irrevocably elected to retain the collateral under section 62,

(a) any person entitled to receive a notice of disposition under section 60(4) or (5) may, unless he has otherwise agreed in writing after default, redeem the collateral by tendering fulfilment of all obligations secured by the collateral, or

(b) the debtor other than a guarantor may, unless he has otherwise agreed in writing after default, reinstate the security agreement by paying the sums actually in arrears, exclusive of the operation of any acceleration clause, and by curing any other default by reason whereof the secured party intends to dispose of the collateral,

together with payment of a sum equal to the reasonable expenses of retaking, holding, repairing, processing and preparing for disposition and any other reasonable expenses incurred by the secured party.

(2) Unless otherwise agreed, the debtor is not entitled to reinstate a security agreement

(a) more than twice, if the security agreement or any agreement modifying the security agreement provides for payment in full by the debtor not later than 12 months after the day value was given by the secured party;

(b) more than twice in each year, if the security agreement or any agreement modifying the security agreement provides for payment by the debtor during a period of time in excess of 1 year after the day value was given by the secured party.

Application to court

64 On application by a debtor, a creditor of a debtor, a secured party or a sheriff, any person who has an interest in collateral which

may be affected by an order under this section or a receiver or a receiver-manager, whether appointed by a court or pursuant to a security agreement and after notice has been given to any person that the court directs, a court may

(a) make any order, including binding declarations of right and injunctive relief, that is necessary to ensure compliance with this Part or sections 16, 34 and 35,

(b) give directions to any person regarding the exercise of his rights or discharge of his obligations under this Part or sections 16, 34 and 35,

(c) relieve any person from compliance with the requirements of this Part or sections 16, 34 and 35 but only on terms that are just and reasonable for all parties concerned,

(d) stay enforcement of rights provided in this Part or sections 16, 34 and 35 under any terms and conditions that the judge, in his discretion, considers just and reasonable, or

(e) make any order necessary to ensure protection of the interests of any person in the collateral.

PART 6

MISCELLANEOUS

Proper exercise
of rights, duties
and obligations

65(1) All rights, duties or obligations arising under a security agreement under this Act or under any other applicable law shall be exercised or discharged in good faith and in a commercially reasonable manner.

(2) If a person fails to discharge any duties or obligations imposed upon him by this Act, any person has a right to recover loss or damage that he suffered and that was reasonably foreseeable as likely to result from the failure.

(3) Except as otherwise provided in this Act, any provision of any agreement which purports to exclude any duty imposed or to limit the liability of a person for failure to discharge duties imposed upon him by this Act is void.

(4) In assessing damages under this Act, the Court may consider as a mitigating factor evidence that the defendant employed reasonable diligence and took all reasonable precautions to discharge the duties and obligations imposed on him by this Act.

(5) The principles of the common law, equity and the law merchant, except insofar as they are inconsistent with the express provisions of this Act, supplement this Act and continue to apply.

Deemed damages

66(1) In any case where a secured party, without reasonable excuse, fails to comply with obligations

(a) in section 52, or

(b) in sections 16, 17, 60 or 62 and the collateral is consumer goods,

the debtor shall be deemed to have suffered damages not less than the amount prescribed.

(2) The onus of establishing reasonable excuse is on the secured party.

Order of
the Court

67 On application of any interested person referred to in section 64, and after notice has been given to any person that the Court directs, the Court may

(a) make any order necessary to determine questions of priority or entitlement in or to collateral,

(b) direct an action to be brought or an issue to be tried, or

(c) make an order as to the costs of the proceedings as it considers just.

Extension of time

68 Where in this Act, other than in sections 5, 6, 7 and 12, Parts 3 and 4 and this Part, a time is prescribed not later than which or before which any act or thing must be done, the Court, on application before or after the time has expired, may extend or abridge the time for compliance on any terms that it considers just and reasonable.

Errors and
omissions

69(1) The validity or effectiveness of a financing statement or notice registered under section 49 is not affected by reason of a defect, irregularity, omission or error in the statement or notice or in the execution or registration of the statement or notice unless the defect, irregularity, omission or error is seriously misleading.

(2) Failure to provide a description in a financing statement or a notice under section 49 or the regulations in relation to any type or item of collateral does not affect the validity or effectiveness of the financing statement in respect of any other collateral.

Service of notices

70(1) If under this Act a notice or any writing may be or is required to be served, it may be served on

(a) an individual, by delivery or by registered mail addressed to him at his residence or place of business and, if he has more than 1 place of business, at any one of his places of business;

(b) a partnership,

(i) by delivery to

(A) any one or more of the general partners, or

(B) any person having, at the time of service, control or management of the partnership business at the principal place of business of the partnership within the Province, or

(ii) by registered mail addressed to

(A) the partnership,

(B) any one or more of the partners,

(C) any person having, at the time of delivery, control or management of the partnership business

at the address of a place of business of the partnership;

(c) a corporation

(i) by delivery to an officer or director of the corporation or the manager or person in charge of a place where the corporation carries on business,

(ii) by registered mail addressed to the registered or head office of the corporation or to any place where it carries on business, or

(iii) where the corporation has its registered or head office outside Alberta and it carries on business in Alberta, by registered mail addressed to the attorney for the corporation appointed under Part 21 of the *Business Corporations Act*.

(2) Service by registered mail is effected when the addressee actually receives the notice or writing or on the expiry of 4 days after the day of registration, whichever is earlier.

(3) If a notice or writing may be served by registered mail to the address as it appears on a registered financing statement or security agreement and

(a) no financing statement was required to be registered and no sufficient address appears on the security agreement, or

(b) no writing is registered and the security interest is deemed to be perfected under section 76(5),

the notice or writing shall be served in accordance with subsection (1).

Deemed notice **71** For the purposes of this Act, a person knows or has notice when

(a) in the case of an individual, information comes to his attention under circumstances in which a reasonable person would take cognizance of it,

(b) in the case of a partnership, information has come to the attention of one or more of the general partners or of a person having control or management of the partnership business under circumstances in which a reasonable person would take cognizance of it, and

(c) in the case of a corporation, information has come to the attention of

(i) a managing director or officer of the corporation, or

(ii) a senior employee of the corporation with responsibility for matters to which the information relates,

under circumstances in which a reasonable person would take cognizance of it, or when the information in writing has been delivered to the registered office of the corporation or attorney

for an extra-provincial corporation appointed under Part 21 of the *Business Corporations Act*.

Appeals **72** An appeal lies to the Court of Appeal from an order, judgment or decision of the Court.

Conflict between Act and other legislation **73(1)** If there is a conflict between a provision of this Act and a provision of any Act for the protection of consumers, the provision of that Act prevails.

(2) Except as otherwise provided in this or any other Act, if there is a conflict between a provision of this Act and a provision of any general or special Act other than those mentioned in subsection (1), the provision of this Act prevails.

References **74(1)** *A reference in an Act, regulation, writing or other thing to the Assignment of Book Debts Act, the Bills of Sale Act, the Business Corporations Act, the Chattel Security Registries Act or the Conditional Sales Act that relates to a security interest in personal property or fixtures is deemed to be a reference to this Act or to the corresponding provisions of this Act.*

(2) *A reference in any Act to a chattel mortgage, lien note, conditional sales contract, floating charge, pledge or assignment of book debts, or any derivative of those terms, or to any transaction which under this Act is a security agreement, is deemed to be a reference to the corresponding kind of security agreement under this Act.*

Transitional application of Act **75(1)** *In this section and section 76, "prior law" means the law in force immediately before the coming into force of this Act.*

(2) *This Act applies*

(a) *to every security agreement made after this Act comes into force, and*

(b) *subject to subsections (3), (4) and (5), to every prior security interest as defined in section 76 that is not validly terminated, completed, consummated or enforced in accordance with the prior law before this Act comes into force.*

(3) *The validity of a prior security interest as defined in section 76 is governed by the prior law.*

(4) *The order of priorities*

(a) *between security interests is determined by the prior law, if all of the competing security interests arose under security agreements entered into before this Act comes into force, and*

(b) *between a security interest and the interest of a third party is determined by the prior law, if the third party interest arose before this Act comes into force and the security interest arose under a security agreement entered into before this Act comes into force.*

(5) *This Act applies to security interests created under*

(a) *renewal, extension, refinancing or consolidation agreements made after this Act comes into force, and*

(b) revolving credit transactions entered into before and continuing after this Act comes into force.

Security interest
prior to the
coming into force
of this Act

76(1) *In this section,*

(a) "prior security interest" means an interest created, reserved or provided for by a security agreement or other transaction validly created or entered into before this Act comes into force, that is a security interest within the meaning of this Act and to which this Act would have applied if it had been in force at the time the security agreement or other transaction was created or entered into;

(b) "prior registration law" means the Assignment of Book Debts Act, the Bills of Sale Act, the Business Corporations Act, the Conditional Sales Act, and the Chattel Security Registries Act as they existed immediately before the coming into force of this Act.

(2) A prior security interest that, when this Act comes into force, is covered by an unexpired filing or registration under a prior registration law is deemed to have been registered and perfected under this Act and, subject to this Act, the filing or registration continues for the unexpired portion of the filing or registration period and the filing or registration, as the case may be, may be further continued by registration of a renewal statement under this Act where the security interest could be perfected by registration if it were to arise after this Act comes into force.

(3) Subject to subsection (4), a prior security interest that, at the time this Act came into force, was covered by an unexpired registration under the Business Corporations Act shall be deemed to have been registered and perfected under this Act.

(4) A registration of a prior security interest referred to in subsection (3) expires 3 years from the date this section came into force, but may be further continued by the registration of a renewal statement under this Act if the security interest could have been perfected by registration if it arose after this Act came into force.

(5) A prior security interest validly created, reserved or provided for under any prior law that gave that interest the status of a perfected security interest without filing or registration under any prior registration law and without the secured party taking possession of the collateral is perfected within the meaning of this Act as of the date the security interest attached, and that perfection continues for 3 years from the day this Act comes into force, after which it becomes unperfected unless otherwise perfected under this Act.

(6) A prior security interest that, when this Act came into force, could have been, but was not

(a) covered by a filing or registration under a prior registration law, or

(b) perfected under prior law through possession of the collateral by the secured party,

may, if permitted by this Act, be perfected by registration or possession in accordance with this Act.

(7) A prior security interest that under this Act may be perfected by the secured party's taking possession of the collateral is perfected for the purposes of this Act by such possession, whether the possession occurred before, on or after the date this Act came into force and notwithstanding that the prior law did not permit the perfection of the security interest by such possession.

(8) The perfection of a prior interest that, when this Act came into force, was covered by an unexpired filing or registration under a prior registration law, and for the perfection of which under this Act no taking of possession by the secured party or registration of a financing statement is required in this Province continues under this Act.

(9) A prior security interest that, when this Act came into force, could have been, but was not, covered by a filing or registration under a prior registration law and that, under this Act, may be perfected without registration of a financing statement and without possession of the collateral by the secured party is perfected under this Act if all other conditions for the perfection of the security interest are satisfied.

Regulations

77 The Lieutenant Governor in Council may make regulations

- (a) prescribing a list of goods the lease of which is not covered by this Act by virtue of section 1(1)(l.1)(v);
- (b) prescribing the duties of the Registrar;
- (c) prescribing business hours for the offices of the Registry or any of them;
- (d) respecting the Registry, including the transition from any prior registry systems to the system established under this Act;
- (e) requiring the payment of fees and prescribing the amount of them and their manner of payment;
- (f) prescribing
 - (i) the form and contents of financing statements and financing change statements required or permitted to be registered in the Registry under this or any other Act, and the manner of their use, and requiring that those statements used, or any of them, must be those provided by the Registrar, and
 - (ii) the form and contents of notices required or permitted to be registered under section 49 in a land titles office and the manner of their use;
- (g) prescribing the form of any notices required or allowed to be given under this Act and providing for their use;
- (h) prescribing the maximum amounts of compensation payable under sections 46 and 47;
- (i) respecting the manner in which a search may be made;
- (j) requiring or permitting the use of a statement to confirm the registration of any financing statement or financing change statement and permitting the amendment of an error in registering on the part of the Registrar or the Registry and prescribing the limits of such amendments;

- (k) prescribing the portion of the registration fees to be paid into the Fund;
- (l) prescribing abbreviations, expansions or symbols that may be used in a financing statement, financing change statement or any other form authorized or required by this Act, or in the recording or production of information by the Registrar;
- (m) governing the right of a secured party to indicate the length of time during which a financing statement or a financing change statement renewing the financing statement shall be effective;
- (n) defining any word or expression used in this Act that is required to be defined in the regulations;
- (o) authorizing the Registrar to enter into agreements whereby fees may be charged on account;
- (p) governing agreements for charging fees under clause (o);
- (q) prescribing the amount of any charge to which the secured party is entitled under section 17(8);
- (r) governing the grounds on which the Registrar may refuse to register a financing statement;
- (s) prescribing the manner in which collateral that has been assigned must be described;
- (t) prescribing the type of goods to be serial numbered;
- (u) prescribing circumstances and methods for perfecting a security interest in proceeds;
- (v) prescribing any matter required or authorized by this Act to be prescribed by regulation.

Amends
RSA 1980 cA-10

78 *The Agricultural Relief Advances Act is amended*

(a) *in section 16 by striking out "Bills of Sale Act" and substituting "Personal Property Security Act";*

(b) *by repealing section 21(2) and substituting the following:*

(2) *The Personal Property Security Act applies to a mortgage referred to in subsection (1) except that no fee is payable on the registration of the mortgage.*

Amends
SA 1981 cB-15

79 *The Business Corporations Act is amended by repealing Division 2 of Part 7.*

Amends
RSA 1980 cC-24

80 *The Co-operative Associations Act is amended by repealing section 14.*

Amends
RSA 1980 cC-34

81 *The Crop Liens Priorities Act is amended by repealing section 1(b).*

Amends RSA
1980 cE-10.1

82 *The Employment Standards Act is amended in section 101*

(a) *by repealing subsection (1)(b) and substituting the following:*

(b) *in the Personal Property Registry under the Personal Property Security Act together with a financing statement pre-*

scribed under that Act against the personal property of the employer in respect of whom the order is made;

(b) *in subsection (4) by striking out “an order in a registry under the Chattel Security Registries Act” and substituting “a financing statement in the Personal Property Registry under the Personal Property Security Act”;*

(c) *in subsection (5) by striking out “an itinerant machine as defined in the Bills of Sale Act” and substituting “serial numbered goods required to be registered by serial number”;*

(d) *by repealing subsection (6).*

Amends
RSA 1980 cF-1

83 *The Factors Act is amended*

(a) *by adding the following after section 5:*

5.1 Sections 2 to 5 do not apply to a consignment to which the *Personal Property Security Act* applies.

(b) *in section 8 by renumbering it as section 8(1) and by adding the following after subsection (1):*

(2) Subsection (1) does not apply to a sale, pledge or other disposition of goods or of documents of title to goods that is out of the ordinary course of business of the person having sold the goods where, prior to the sale, pledge or disposition, the interest of the owner is registered in the Personal Property Registry in accordance with the regulations made under the *Personal Property Security Act*, and Part 4 of that Act applies, with all necessary modifications, to such registration.

(c) *by repealing section 9(2) and substituting the following:*

(2) Subsection (1) does not apply to a sale, pledge or other disposition of goods or of documents of title to goods by a person who has obtained possession of the goods pursuant to a security agreement under which the seller has a security interest as defined in the *Personal Property Security Act*.

Amends
RSA 1980 cG-1

84(1) *The Garagemen’s Lien Act is amended*

(a) *by repealing section 1(d) and substituting the following:*

(d) “prescribed” means prescribed in the regulations made under the *Personal Property Security Act*;

(e) “registrar” means the Registrar of the registry;

(f) “registry” means the Personal Property Registry under the *Personal Property Security Act*.

(b) *in section 3(1) by striking out all that portion following clause (c) and substituting the following:*

as the case may be, unless on or before the 21st day the garageman files a financing statement in the prescribed form in the registry, which filing is effective from the time assigned to the financing statement by the registrar until the expiry of the financing statement under section 6 or until a financing

change statement is filed in accordance with section 8(2) and 8.1.

(c) *in section 3(2) by striking out “claim” and substituting “financing statement”;*

(d) *by repealing section 4;*

(e) *by repealing section 5(b) and substituting the following:*

(b) that was created or arose before the filing of the financing statement referred to in section 3(1).

(f) *by repealing section 7 and substituting the following:*

7(1) On the filing of a financing statement pursuant to this Act, the lien continues for a further period of 6 months from the date of filing.

(2) A lien determines on the expiry of 6 months from the date of filing of the financing statement unless, within the period of 6 months,

(a) there is issued and delivered to the sheriff a copy of the financing statement, financing change statement or a certified printed search result and a warrant in the prescribed form addressed to the sheriff of the judicial district in which the motor vehicle or farm vehicle that is subject to the lien is for the time being and directing the sheriff to seize the motor vehicle or farm vehicle in accordance with the requirements of the *Seizures Act*, and

(b) seizure of the motor vehicle or farm vehicle that is subject to the lien has been effected.

(3) Notwithstanding subsection (2), when it appears that a seizure cannot be effected within the 6 months provided for in that subsection, the Court of Queen’s Bench may, on ex parte application made during those 6 months, extend the time within which the seizure may be made for a further period not exceeding 6 months from the date of the order, and in that case the lien does not determine until the date so specified, if a certified copy of the order and an accompanying financing change statement are filed with the registrar prior to the expiration of the 6-month period referred to in subsection (2).

(g) *by renumbering section 8 as section 8(1) and adding the following after subsection (1):*

(2) Where the garageman fails to discharge a financing statement pursuant to subsection (1), section 52(3) to (8) of the *Personal Property Security Act* apply, and any person has a right to recover loss or damage that he suffered and that was reasonably foreseeable as likely to result from the garageman’s failure to discharge the financing statement.

Amends
RSA 1980 cl-5

85 *The Insurance Act is amended in section 541(16)(b) by striking out “Chattel Security Registries Act” and substituting “Personal Property Security Act”.*

Amends
RSA 1980 cL-5

86 *The Land Titles Act is amended in section 107*

- (a) *by repealing subsection (1)(a) and substituting the following:*
- (a) contained in a purchase money security agreement that may be registered under the *Personal Property Security Act*, or
- (b) *by adding the following after subsection (3):*
- (4) In this section, “purchase money security agreement” means an agreement that contains a purchase money security interest as defined in the *Personal Property Security Act*.

Amends
RSA 1980 cL-8

87 *The Law of Property Act is amended by repealing Part 6 and substituting the following:*

PART 6

**ENFORCEMENT OF PURCHASE MONEY
SECURITY AGREEMENTS**

47 In this Part,

- (a) “consumer goods” means consumer goods as defined in the *Personal Property Security Act*;
- (b) “consumer services” means services acquired by an individual other than for the benefit of or use in a business, profession or calling and acquired from a person who is engaged in the business of providing those services;
- (c) “debtor” means a debtor under a purchase money security agreement;
- (d) “purchase money security interest” means
 - (i) a security interest taken or reserved in goods by a seller to secure payment of all or part of its purchase price, or
 - (ii) a sale made pursuant to a contract of bailment under which it is intended that the property in the goods will pass to the bailee on the payment of the purchase price in whole or in part or on the performance of a condition;
- (e) “secured party” means a secured party under a purchase money security agreement;
- (f) “security interest” means an interest in goods that secures payment or performance of an obligation.

48(1) The right of an assignee of a secured party under a purchase money security agreement made in respect of consumer goods or an assignment of rights under an agreement for the purchase of consumer services to have the whole or any part of the agreement performed by the debtor is no greater than that the secured party would have had in any action on the agreement and the assignee is subject to the same obligations, duties, liabilities and defences, other than counterclaim, as the seller would have been.

- (2) Any portion of a purchase money security agreement that
- (a) purports in any manner to limit or render inapplicable, or
 - (b) has the effect of in any manner limiting or rendering inapplicable

the application of subsection (1) is contrary to public policy and void.

49(1) A secured party may enforce his right to recover the purchase price owing to him under a purchase money security agreement either

- (a) by seizure of the goods pursuant to the agreement, in the manner provided by the *Personal Property Security Act*, or
- (b) by an action against the debtor for the money owing in respect of the goods.

(2) If the secured party elects to seize the goods and the goods are seized, his rights are restricted to his right of repossession and sale of the goods and no action is maintainable for the purchase price or any part of it, notwithstanding anything to the contrary in any Act or in any agreement between the secured party and the debtor.

(3) If the secured party elects to bring an action against the debtor and recovers a judgment for the money owing, then if the goods in respect of which that money is owing are seized under a writ of execution issued pursuant to that judgment,

- (a) the secured party's rights are restricted to the amount realized from the sale of those goods, and
- (b) the judgment, to the extent that it is based on the purchase price of those goods, and the taxed costs, shall be deemed to be fully paid and satisfied.

(4) When goods

- (a) are surrendered by the buyer to the secured party with the secured party's consent, or
- (b) are seized pursuant to the agreement or under execution and are
 - (i) sold in accordance with the *Seizures Act*,
 - (ii) disposed of in accordance with the *Personal Property Security Act*, or
 - (iii) ordered by a court to be delivered up to the secured party or execution creditor,

the indebtedness of the debtor under the agreement, or under a judgment for the money owing to the extent that it is based on the purchase price of the goods, is extinguished, and any money

thereafter paid in respect of the purchase price, or judgment therefor, is recoverable by action against the secured party.

(5) Any waiver or release of any or all of the rights, benefits or protection given to debtors by this section is against public policy and void, except when the waiver or release is given by a corporation.

50(1) Section 49 does not apply if, after seizure, the goods are destroyed or damaged to such an extent that the interest of the secured party's security is materially impaired either by the wilful act of the debtor or by his neglect or otherwise.

(2) Notwithstanding anything in section 49, if a secured party, in order to recover unpaid purchase money due, has seized the goods, and it is found that an accessory forming part of his security was removed from the goods before they were seized and was not replaced by another accessory of a like kind and value, the secured party may sue the debtor

(a) for the value of the accessory, or

(b) for the amount by which the sum realized on the sale of the goods falls short of the amount owing by the debtor and the amount of the proper fees, charges, claims and disbursements in connection with the seizure and the sale,

whichever is the less.

(3) Section 49 does not apply to a sale of

(a) machinery, equipment or material manufactured or made for use in the exploration for, or in the production of, petroleum or natural gas, or

(b) rolling stock or equipment for use on railways.

Amends
RSA 1980 cL-20

88 *The Livery Stable Keepers Act is amended in section 2(2) by striking out "chattel mortgage, bill of sale," and substituting "security interest as defined in the Personal Property Security Act".*

Amends
RSA 1980 cM-9

89 *The Matrimonial Property Act is amended*

(a) *in section 23 by striking out "at the Vehicle Registry under the Chattel Securities Registries Act" and substituting "by filing a financing statement in the Personal Property Registry under the Personal Property Security Act".*

(b) *by repealing section 26 and substituting the following:*

26 *If the Court makes an order with respect to household goods under section 25, the order may be registered by filing a financing statement in the Personal Property Registry under the Personal Property Security Act.*

(c) *in section 27(1)(b) by adding "of the financing statement" after "registration".*

Amends
§A 1982 cM-18.5

90 *The Mobile Home Sites Tenancies Act is amended in section 1*

(a) *by adding the following after subsection (1)(f):*

(f.1) “purchase money security agreement” means an agreement that contains a purchase money security interest;

(f.2) “purchase money security interest” means

(i) a security interest taken or reserved by a seller in a mobile home to secure payment of all or part of its purchase price, or

(ii) a security interest that is taken by a person who gives value for the purpose of enabling the debtor to acquire rights in or to a mobile home, to the extent that the value is applied to acquire those rights;

(b) *by repealing subsection (2) and substituting the following:*

(2) For the purposes of this Act, a debtor under a purchase money security agreement is deemed to own the mobile home.

(c) *in section 29(2)(b) by striking out “Central Registry or Vehicle Registry constituted under the Chattel Security Registries Act” and substituting “Personal Property Registry under the Personal Property Security Act”.*

Amends
§SA 1980 cM-22

91 *The Motor Vehicle Administration Act is amended in section 93(4) by striking out “Central Registry under the Chattel Security Registries Act” and substituting “Personal Property Registry under the Personal Property Security Act”.*

Amends
RSA 1980 cM-26

92 *The Municipal Government Act is amended*

(a) *in section 267(4) by striking out “Bills of Sale Act” and substituting “Personal Property Security Act”;*

(b) *in section 272*

(i) *by repealing subsection (2) and substituting the following:*

(2) The *Personal Property Security Act* applies to a mortgage mentioned in subsection (1) except that no fee is payable in the registration of the mortgage as a security interest under that Act.

(ii) *in subsection (3) by striking out “or encumbrance” wherever it occurs and substituting “, encumbrance or security interest”.*

Amends
RSA 1980 cP-2

93 *The Partnership Act is amended*

(a) *in section 1*

(i) *by repealing clause (b);*

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

(f) “Personal Property Registry” means the Personal Property Registry under the *Personal Property Security Act*.

(b) in section 51(3) and 70(2) by striking out “*Chattel Security Registries Act*” and substituting “*Personal Property Security Act*”;

(c) in the following provisions by striking out “*Central Registry*” wherever it occurs and substituting “*Personal Property Registry*”:

section 51(1) and (1.1);
section 71;
section 77(2);
section 81;
section 82(2);
section 85(1);
section 86;
section 91.

Amends
RSA 1980 cS-2

94 *The Sale of Goods Act is amended*

(a) by renumbering section 26 as 26(1) and by adding the following after subsection (1):

(2) Notwithstanding the *Personal Property Security Act*, the interest of a buyer under subsection (1) takes priority over any security interest in the grain, if the interest of the buyer is acquired under the circumstances described in subsection (1).

(b) in section 27

(i) by adding the following after subsection (1):

(1.1) Subsection (1) does not apply to a sale, pledge or other disposition of goods or of documents of title to goods that is out of the ordinary course of business of the person having sold the goods where, prior to the sale, pledge or disposition, the interest of the owner is registered in the *Personal Property Registry* in accordance with the regulations made under the *Personal Property Security Act*, and Part 4 of that Act applies, with the necessary modifications, to such registration.

(ii) by adding the following after subsection (2):

(2.1) Subsection (2) does not apply to a sale, pledge or other disposition of goods or documents of title to goods by a person who has obtained possession of the goods pursuant to a security agreement under which the seller has a security interest as defined in the *Personal Property Security Act*.

(iii) by repealing subsection (3).

Amends
SA 1981 cS-6.1

95 *The Securities Act is amended in section 66(f) by striking out “conditional sales contract” and substituting “security agreement as defined in the *Personal Property Security Act*”.*

Amends
RSA 1980 cS-11

96 *The Seizures Act is amended in section 8*

(a) in subsection (1) by adding “or security interest in” after “encumbrance on”;

	(b) in subsections (2), (3) and (4) by striking out “or encumbrance” and substituting “, encumbrance or security interest”.
Amends RSA 1980 cT-4	97 <i>The Threshers’ Lien Act is amended by repealing section 2(1)(b) and substituting the following:</i> (b) over all security agreements as defined in the <i>Personal Property Security Act</i> , or conveyances, made by the owner of the grain, and
Amends RSA 1980 cT-9	98 <i>The Trust Companies Act is amended in sections 148(15)(b) and 151(1)(d) by striking out “Chattel Security Registries Act” and substituting “Personal Property Security Act”.</i>
Amends RSA 1980 cW-3	99 <i>The Warehousemen’s Lien Act is amended</i> <i>(a) in section 1 by adding the following after clause (a):</i> (a.1) “security interest” means an interest in goods that secures payment or performance of an obligation; <i>(b) by repealing section 5(1) and substituting the following:</i> 5(1) Where the goods on which a lien exists were deposited not by the owner nor by his authority but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman shall, within 2 months after the date of the deposit, give notice of the lien to (a) the owner of the goods, and (b) any person who has a security interest in the goods where a financing statement is registered at the date of the deposit with respect to the security interest or where the security interest is perfected on that date according to the <i>Personal Property Security Act</i> without registration. <i>(c) by repealing section 6(2)(b) and (c) and substituting the following:</i> (b) to the owner of the goods and to any person who has a security interest in the goods where a financing statement is registered at the date of the deposit with respect to the security interest or where the security interest is perfected on that date according to the <i>Personal Property Security Act</i> without registration, and
Repeal	100 <i>The following are repealed:</i> (a) <i>Assignment of Book Debts Act;</i> (b) <i>Bills of Sale Act;</i> (c) <i>Chattel Security Registries Act;</i> (d) <i>Conditional Sales Act;</i> (e) <i>Harvesting Liens Act.</i>
Coming into force	101 <i>This Act comes into force on Proclamation.</i>