

# BILL

No. 41 of 1927.

An Act respecting the Assignment of Book Debts.

(Assented to \_\_\_\_\_, 1927.)

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

## SHORT TITLE

**1.** This Act may be cited as "*The Assignment of Book Debts Act, 1927.*"

## INTERPRETATION

**2.** In this Act unless the context otherwise requires—

- (a) "Assignment" shall include, save as herein provided, every assignment by way of security and every mortgage or other charge upon book debts;
- (b) "Book debts" shall mean all such debts accruing in the ordinary course of trade or business as are usually entered in trade or business books of account, whether such books are kept or not, and whether such debts are accidentally or intentionally omitted from such books or not, but without affecting the generality of the preceding words, shall not include money payable under mortgages of or agreements for the sale of land except in so far as such money otherwise constitutes a book debt; nor to moneys payable under instruments required to be registered under the provisions of *The Conditional Sales Act* or *The Bills of Sale Act*;
- (c) "Creditors" shall mean creditors having executions against the goods and chattels of the assignor in the hands of the sheriff, and trustees in bankruptcy.

**3.—(1)** Every assignment, save as herein provided, made by any person engaged in any trade or business, of his existing or future book debts or any class or part thereof, shall be absolutely null and void as against the creditors of the assignor and as against subsequent purchasers or mortgagees of such debts or any part thereof in good faith for valuable consideration, unless such assignment is—

- (a) in writing;
- (b) accompanied by an affidavit of the attesting witness thereto of the due execution thereof, giving the date of the execution, and a further affidavit of the assignee or one of the several assignees or the agent

of the assignee or assignees, that the assignment is *bona fide* and for good consideration, and not for the purpose of holding or enabling the assignee or assignees to hold the said debts against the creditors of the assignor;

(c) registered together with the affidavits, within thirty days of the execution thereof, as hereinafter provided.

(2) An affidavit of *bona fides* made by an agent of the assignee or assignees shall state that the deponent is acquainted with the circumstances connected with the assignment and has a personal knowledge of the facts deposed to.

4. Nothing in section 3 shall apply to assignments of book debts due or accruing due at the date of the assignment from specified debtors, or of debts due or accruing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bona fide* and for value, or in any authorized assignment under *The Bankruptcy Act*.

5.—(1) The assignment shall be registered in the office of the clerk of the registration district in which the assignor resides, or where the assignor is a corporation, in the office of the clerk of the registration district of Edmonton.

(2) Such registration clerks shall file all instruments presented to them respectively for that purpose and shall indorse thereon the time of receiving the same in their respective offices, and the same shall be kept there for the inspection of the public subject to payment of the proper fees.

(3) Every registration clerk shall number each assignment filed in his office and shall enter in alphabetical order in a book, the names of all the parties to such assignment, with the number endorsed thereon, opposite to each name; and such entry shall be repeated alphabetically under the name of every party thereto.

(4) The assignment shall operate and take effect upon, from and after the date of registration.

6. Every assignment by way of security and every mortgage or other charge upon book debts registered under this Act shall cease to be valid as against the creditors and as against subsequent purchasers or mortgagees in good faith for valuable consideration, after the expiration of two years from the registration unless within thirty days next preceding the expiration of the said term of two years an affidavit of the assignee, mortgagee or chargee, or his agent, is filed in the office of the registration clerk of the district in which the assignment, mortgage or charge was filed, stating that such assignment, mortgage or charge is still of full force and effect and has not been kept on foot for any fraudulent purpose, and unless a similar affidavit is filed in the said office within the thirty days next preceding the expiration of each term of two years following the first mentioned term of two years.

**7.** An assignment registered under this Act may be discharged by registering in the office in which the assignment is registered a certificate that the assignment is discharged or to the like effect, signed by the assignee and proved by the affidavit of a subscribing witness.

**8.** Where a document has been executed by a corporation under the provisions of this Act, no affidavit of attestation or execution shall be required to accompany such document for the purposes of registration.

**9.** Subject to the rights of third persons accrued by reason of such omissions or misstatements as are hereinafter defined, a judge of the Supreme Court or the judge of the District Court of the judicial district in which an assignment of book debts is or should be registered, on being satisfied that the omission to register an instrument under this Act, within the time prescribed or the omission or misstatement of the name of any person, was accidental or due to inadvertence, or impossibility in fact, may in his discretion extend the time for registration or order the name or the true name to be inserted on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter, as he thinks fit to direct.

**10.** For services under this Act, each registration clerk shall be entitled to receive the following fees:

- (a) For filing an assignment, fifty cents;
- (b) For filing a certificate of discharge, fifty cents;
- (c) For a general search, fifty cents;
- (d) For each certificate or abstract of search, twenty-five cents;
- (e) For copies of any document filed under this Act, with a certificate thereof, every one hundred words, fifteen cents.

**11.** This Act shall come into force.....

No. 41.

---

---

FIRST SESSION  
SIXTH LEGISLATURE  
17 GEORGE V  
1927

---

---

**BILL**

An Act respecting the Assignment  
of Book Debts.

---

---

Received and read the

First time.....

Second time.....

Third time.....

---

---

HON. MR. LYMBURN

---

---

EDMONTON:  
W. D. McLEAN, ACTING KING'S PRINTER  
1927