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c 18 The Bills of Sale and Chattel Mortgages Amendment Act, 1970

Ontario

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CHAPTER 18

**An Act to amend
The Bills of Sale and Chattel Mortgages Act**

*Assented to June 26th, 1970
Session Prorogued November 13th, 1970*

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

1.—(1) Section 1 of *The Bills of Sale and Chattel Mortgages Act* is amended by adding thereto the following clauses: R.S.O. 1960,
c. 34, s. 1,
amended

(da) "prescribed form" means a form provided or approved under this Act by the registrar;

(db) "registrar" means the registrar of personal property security appointed under *The Personal Property Security Act, 1967*; 1967, c. 73

(2) The said section 1 is further amended by adding thereto the following subsection: R.S.O. 1960,
c. 34, s. 1,
amended

(2) Any reference in this Act to the Provincial Secretary shall be deemed to be a reference to the Minister of Financial and Commercial Affairs. Reference to
Provincial
Secretary

2. *The Bills of Sale and Chattel Mortgages Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 34,
amended

5a.—(1) Where a mortgage has been made out of Ontario with reference to goods and chattels not then in Ontario which if made in Ontario with reference to goods and chattels in Ontario would come within this Act and the goods and chattels are brought into Ontario, the mortgage is subject to this Act, but the period for registering in the office of the clerk of the county or district court of the county or district to which the property mortgaged is brought is within sixty days after the date on which the goods and chattels are brought into Ontario, and a true copy of the mortgage may be registered in lieu of the original thereof. Mortgage
made out of
Ontario and
goods sub-
sequently
brought into
Ontario

Idem

(2) A mortgage may be registered under subsection 1 notwithstanding it does not comply with the provisions of,

(a) section 4, relating to affidavits of execution and *bona fides*; or

(b) section 13, relating to the contents of the mortgage.

R.S.O. 1960,
c. 34, s. 9,
amended

3. Section 9 of *The Bills of Sale and Chattel Mortgages Act* is amended by inserting after "therein" in the second line "or in any prescribed form relating thereto", so that the section shall read as follows:

When
defects not
to invalidate

9. A mortgage or conveyance is not invalidated by reason only of clerical errors or omissions therein or in any prescribed form relating thereto or in the affidavits of execution and *bona fides* unless such errors or omissions are calculated to mislead or deceive or have the effect of misleading or deceiving.

R.S.O. 1960,
c. 34, s. 13
(1967, c. 8,
s. 1),
amended

4.—(1) Section 13 of *The Bills of Sale and Chattel Mortgages Act*, as re-enacted by section 1 of *The Bills of Sale and Chattel Mortgages Amendment and Repeal Act, 1967*, is amended by striking out "agreement or renewal statement" in the first and second lines and inserting in lieu thereof "or agreement" so that the section, exclusive of the clauses, shall read as follows:

Contents
of
documents
required to
be
registered

13. Every mortgage, conveyance or agreement required to be registered under this Act on or after the 1st day of January, 1968, shall, in addition to the other requirements of this Act, contain and legibly set forth at least,

.

R.S.O. 1960,
c. 34, s. 13
(1967, c. 8,
s. 1), cl. a,
amended

(2) Clause *a* of the said section 13 is amended by striking out "full" in the first line, so that the clause shall read as follows:

(a) the name and address of the mortgagor or bargainor.

R.S.O. 1960,
c. 34, s. 13
(1967, c. 8,
s. 1), cl. b,
amended

(3) Clause *b* of the said section 13 is amended by striking out "full" in the first line, so that the clause shall read as follows:

(b) the name and address of the mortgagee or bargainee and of his assignee, if any.

Names not
set forth in
full, etc.

(4) A mortgage, conveyance, agreement or renewal statement registered on or after the 1st day of January, 1968, and before the day this section comes into force, is not invalidated

nor is its effect destroyed by reason only of a failure to set forth therein in full the name and address of the mortgagor or bargainor or of the mortgagee or bargainee or of his assignee, nor is any such renewal statement invalidated or its effect destroyed by reason only of a failure to set forth therein a description of the goods and chattels mortgaged or sold sufficient to identify them or to set forth the terms and conditions of the mortgage, conveyance or agreement, unless in the opinion of a judge or court such failure is shown to have actually misled some person whose interests are affected by the mortgage, conveyance, agreement or renewal statement and in such case the judge or court may make such order as the judge or court considers appropriate.

5. Section 35 of *The Bills of Sale and Chattel Mortgages Act*, as re-enacted by section 2 of *The Bills of Sale and Chattel Mortgages Amendment and Repeal Act, 1967*, is amended by adding at the end thereof "and, in connection with conveyances, to the fees prescribed by the regulations made under this Act", so that the section shall read as follows:

R.S.O. 1960,
c. 34, s. 35
(1967, c. 8,
s. 2)
amended

35. The clerk is entitled for services under this Act in connection with chattel mortgages to the fees prescribed by the regulations made under *The Personal Property Security Act, 1967*, and, in connection with conveyances, to the fees prescribed by the regulations made under this Act.

Fees
1967, c. 73

6. Section 36 of *The Bills of Sale and Chattel Mortgages Act*, as enacted by section 3 of *The Bills of Sale and Chattel Mortgages Amendment and Repeal Act, 1967*, is repealed and the following substituted therefor:

R.S.O. 1960,
c. 34, s. 36
(1967, c. 8,
s. 3),
re-enacted

36. Notwithstanding anything in this Act, the registration of a chattel mortgage or a renewal statement that at the time the instrument was tendered for registration was accompanied by a statement in the prescribed form, has effect for three years after the date of registration instead of one year as provided by section 24.

Registra-
tions are for
3 years when
accompanied
by
prescribed
form of
statement

7. *The Bills of Sale and Chattel Mortgages Act* is amended by adding thereto the following sections:

R.S.O. 1960,
c. 34,
amended

37. Where required by the regulations made under this Act,

(a) a mortgage or conveyance; or

(b) an assignment, renewal or discharge of a mortgage,

When
instrument
tendered for
registration
to be accom-
panied by
statement

shall

shall, when tendered for registration as provided by this Act, be accompanied by a statement that sets forth on the prescribed form the information prescribed by the regulations.

Regulations

38. The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional duties of the clerks of the county and district courts in connection with the registration of documents under this Act;
- (b) requiring or permitting a statement to accompany any instrument tendered for registration under this Act, prescribing the information to be contained in such statement and the manner of recording such information, and for requiring that the forms of statements to be used shall be those provided or approved by the registrar;
- (c) providing for the approval by the registrar of the forms of statements to accompany documents tendered for registration under this Act, and for the withdrawal by the registrar of any such approval;
- (d) requiring the payment of fees and prescribing the amounts thereof;
- (e) providing that clause *d* of section 27 of *The Interpretation Act* does not apply to a prescribed form;
- (f) defining any expression used in the regulations;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

R.S.O. 1960,
c. 191

1967, c. 8,
s. 5, subs. 3,
repealed

8. Subsection 3 of section 5 of *The Bills of Sale and Chattel Mortgages Amendment and Repeal Act, 1967*, is repealed.

Commence-
ment

9.—(1) This Act, except section 5, comes into force on the day it receives Royal Assent.

Idem

(2) Section 5 comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

10. This Act may be cited as *The Bills of Sale and Chattel Mortgages Amendment Act, 1970*.