

1983 BILL 27

First Session, 20th Legislature, 32 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 27

CHATTEL SECURITY REGISTRIES ACT

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 27

1983

CHattel Security Registries Act

(Assented to . . . , 1983)

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

Definitions

1 In this Act,

- (a) “amending financial interest statement” means an amending financial interest statement referred to in section 9;
- (b) “authorizing Act” means an Act designated as an authorizing Act in the regulations;
- (c) “financial interest statement” means a financial interest statement referred to in section 9;
- (d) “Fund” means the Chattel Security Registries Assurance Fund;
- (e) “register” includes “file”;

(f) “Registrar” means the Registrar of Personal Property designated under section 3(1) and includes a deputy registrar designated under section 3(2);

(g) “registry” means

(i) the Central Registry, or

(ii) the Vehicle Registry.

Central Registry
and Vehicle
Registry
continued

2(1) The Central Registry and Vehicle Registry are continued under the direction and supervision of the Registrar of Personal Property.

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

Registrar and
deputy registrars

3(1) The Attorney General may designate in writing an employee under his administration as the Registrar of Personal Property.

(2) The Registrar of Personal Property may designate in writing employees under the administration of the Attorney General as deputy registrars and may specify their powers and duties.

Registration

4(1) A document that is authorized under an authorizing Act or this Act to be registered in a registry may be submitted for registration at any office of the registry that is specified by the Attorney General as an office where such a document may be submitted for registration.

(2) Registration of a document in a registry is effective only from the time it is recorded in the office designated by the Attorney General as the central office of the registries and assigned an appropriate registration number.

(3) When a document is recorded in the central office and assigned a registration number, the Registrar shall endorse the document with its registration number and a memorandum of the date, hour and minute of its registration.

Refusal to
register

5 The Registrar may refuse to register a document submitted for registration in a registry if it does not, in his opinion, comply with this or an authorizing Act or the regulations under this or an authorizing Act.

Payment of fees

6 The Registrar shall not register a document in a registry or make a search under section 8 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 made under section 17(k) and (l), charged to the account of the person who is submitting the document for registration or requesting that the search be made.

Microfilm

7 When a document is registered in a registry, the Registrar may have the document photographed on microfilm and returned to the person who submitted it for registration and a document on micro-

film is for all purposes deemed to be a document registered in the registry.

Searches

8(1) A person may, in accordance with the regulations, request at a registry

(a) that a search of the Central Registry be made against the name of a debtor,

(b) that a search of the Vehicle Registry be made

(i) according to a serial number, or

(ii) in the case of a search relating to oil well drilling equipment or rolling railway stock, against the name of a debtor,

(c) that a certificate as to the results of a search mentioned in clause (a) or (b) be issued, or

(d) that a certified copy of any registered document be provided.

(2) If approved by the Attorney General, 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 document 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 document were produced.

(5) The date and time of the registration of a document 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 document.

Financial interest
statements

9 Notwithstanding any other Act, the Lieutenant Governor in Council may by regulation require that a document submitted for registration in a registry be accompanied by a financial interest statement or an amending financial interest statement in the form prescribed by the regulations.

Effect of financial
interest statement

10(1) The effective time of registration of a document that is accompanied by a financial interest statement or amending financial interest statement shall be based on the effective time of registration of the financial interest statement or amending financial interest statement and not of the document to which the statement relates.

(2) If the information contained in a document is different or varies from the information contained in the financial interest statement or amending financial interest statement registered in respect of that document, the information contained in the financial interest state-

ment or amending financial interest statement prevails as against the information contained in the document.

(3) Information contained in a certificate issued under section 8 shall be based on the information contained in the financial interest statement or amending financial interest statement and not on the information contained in the document to which the statement relates.

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

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

Chattel Security
Registries
Assurance Fund

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

(2) The Fund shall be held and administered by the Provincial Treasurer and the portion of the registration fee prescribed by the regulations for each document that is to be registered in a registry under this or an authorizing Act shall be paid over to the Provincial Treasurer at the times and in the manner he directs.

(3) When the Fund exceeds \$25 000, any part of the Fund in excess of that figure may, at the direction of the Provincial Treasurer, be invested in

(a) bonds or debentures issued by the Government of Canada, or

(b) bonds or debentures guaranteed as to the payment of principal and interest by the Government of Canada or the Government of Alberta.

(4) When the Fund exceeds \$100 000, any amount in the Fund in excess of that figure may, at the direction of the Lieutenant Governor in Council, be transferred to the General Revenue Fund.

Claim against
Assurance Fund

12(1) Any person sustaining loss or damage through an omission, mistake or misfeasance of the Registrar or a registration clerk of a registry in the execution of his duties under this Act or an authorizing Act may bring an action against the Crown in right of Alberta for the recovery of damages.

(2) No action for damages under this Act shall be brought against the Crown unless it is commenced within 3 years from the date when the cause of action arose.

(3) No payment shall be made pursuant to section 14 of an amount greater than \$100 000 in respect of any omission, mistake or mis-

feasance of the Registrar or a registration clerk of a registry, as the case may be.

Payment of claim **13** If the Attorney General is satisfied that a claim that is or might be the subject of an action for damages against the Crown under this Act is well founded

(a) in the case of a claim for \$5000 or less, the Attorney General may direct the payment of the claim together with a reasonable sum for costs incurred in the making of the claim, and

(b) in the case of a claim for more than \$5000, the Lieutenant Governor in Council, on the recommendation of the Attorney General, may direct the payment of the claim together with a reasonable sum for costs incurred in the making of the claim.

Payment of judgment **14** The Provincial Treasurer shall pay the amount of any judgment recovered against the Crown under section 12 and of any claim and costs directed to be paid under section 13

(a) out of the Fund, and

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

Assignment of judgment to Provincial Treasurer **15** On payment of the amount of a judgment, the Provincial Treasurer is entitled to assignment of the judgment as against any other defendant found liable by the court for the loss sustained and is subrogated to all the rights of the person entitled to the judgment.

Limitation on liability **16** The Crown is not under any circumstances liable for compensation for loss or damage

(a) occasioned by the plaintiff's breach of trust, whether express, implied or constructive,

(b) by reason of the improper use of the seal of a corporation or the want of capacity in a corporation to deal with the property or interest involved or to execute or take the benefit of the document registered,

(c) by reason of the registration of a document executed by a person under legal disability, unless the fact of the disability is disclosed on the face of the document, or

(d) sustained through an omission, mistake or misfeasance of the Registrar or an official of the Central Registry in respect of any document deemed to be registered in the Central Registry by virtue of section 19 of chapter 12 of the Statutes of Alberta, 1966.

Regulations **17** The Lieutenant Governor in Council may make regulations

(a) designating authorizing Acts for the purpose of section 1(b);

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

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

(i) shall be accompanied by a financial interest statement or an amending financial interest statement, or

(ii) may be accompanied by a financial interest statement or an amending financial interest statement;

(d) prescribing the form of and the information to be contained in documents, financial interest statements and amending financial interest statements submitted for registration in a registry and in certificates issued by a Registrar;

(e) governing the grounds on which the Registrar may refuse to register a document, financial interest statement or amending financial interest statement;

(f) prescribing the manner of indexing documents, financial interest statements and amending financial interest statements in a registry;

(g) providing for the manner of registration of documents, financial interest statements and amending financial interest statements in a registry;

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

(i) governing registration fees and service fees payable under this or an authorizing Act;

(j) prescribing the portion of the registration fees that is to be paid into the Fund;

(k) authorizing the Registrar to enter into agreements whereby any fees payable by a person under this or an authorizing Act may be charged on a continuing basis to that person's account;

(l) governing agreements for charging fees under clause (k).

Consequential Amendments

Amends RSA
1980 cA-47

18(1) *The Assignment of Book Debts Act is amended by this section.*

(2) *Section 1 is amended*

(a) in clause (f) by striking out "constituted";

(b) in clause (i) by striking out "the registrar of the Central Registry" and substituting "the Registrar of Personal Property designated under the Chattel Security Registries Act and includes a deputy registrar designated under that Act".

Amends RSA
1980 cB-5

(3) *Section 14 is repealed.*

19(1) *The Bills of Sale Act is amended by this section.*

(2) *Section 1 is amended*

(a) *in clauses (b) and (p) by striking out “constituted”;*

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

(c) *by adding the following after clause (l):*

(l.1) “registrar” means the Registrar of Personal Property designated under the *Chattel Security Registries Act* and includes a deputy registrar designated under that Act;

(3) *Sections 5(3), 15(2), 16(5), 28, 29 and 32(a) are repealed.*

(4) *Section 9(3) is amended by striking out “registration clerk in the Vehicle Registry” and substituting “registrar”.*

(5) *Section 19(1) is amended by striking out “proper officer, a registration clerk of the Central Registry” and substituting “registrar or a registration clerk of a registry”.*

Amends RSA
1980 cC-21

20(1) *The Conditional Sales Act is amended by this section.*

(2) *Section 1 is amended*

(a) *in clauses (a) and (e) by striking out “constituted”;*

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

(c.1) “registrar” means the Registrar of Personal Property designated under the *Chattel Security Registries Act* and includes a deputy registrar designated under that Act;

(3) *Section 4(4) is amended by striking out “registration clerk of the Vehicle Registry” and substituting “registrar”.*

(4) *Sections 8(2), 10, 19 and 21(b) are repealed.*

(5) *Section 20 is amended by striking out “of the Central Registry, the registration clerk in the Vehicle Registry” and substituting “of a registry”.*

Amends RSA
1980 cG-1

21(1) *This section amends the Garagemen’s Lien Act.*

(2) *Section 1(d) is amended by striking out “constituted”.*

(3) *Section 4 is amended*

(a) *by striking out “the Vehicle Registry” and substituting “Personal Property designated under the *Chattel Security Registries Act*”;*

(b) *by striking out “Registry” and substituting “Vehicle Registry”.*

(4) Section 12(b) is repealed.

Amends RSA
1980 cH-2

22(1) *This section amends the Harvesting Liens Act.*

(2) Section 7 is amended

(a) by striking out “registrar of the Central Registry” and substituting “Registrar of Personal Property designated under the Chattel Security Registries Act”;

(b) by repealing clause (c).

Amends RSA
1980 cI-5

23(1) *This section amends the Insurance Act.*

(2) Section 541(16)(b) is amended by striking out “registrar of the Central Registry” and substituting “Registrar of Personal Property designated under the Chattel Security Registries Act”.

Amends RSA
1980 cL-10

24(1) *The Legislative Assembly Act is amended by this section.*

(2) Section 10(v)(iii) is amended by striking out “Central Registry” and substituting “Chattel Security Registries”.

Amends RSA
1980 cM-9

25(1) *The Matrimonial Property Act is amended by this section.*

(2) Sections 23 and 26(a) and (b) are amended by striking out “constituted”.

Amends RSA
1980 cM-22

26(1) *The Motor Vehicle Administration Act is amended by this section.*

(2) Section 93(4) is amended by striking out “of the Department of the Attorney General” and substituting “under the Chattel Security Registries Act”.

Amends RSA
1980 cP-2

27(1) *The Partnership Act is amended by this section.*

(2) Section 1(b) is amended by striking out “established”.

(3) Sections 51(3) and 70(2) are amended by striking out “the Central Registry” and substituting “Personal Property designated under the Chattel Security Registries Act”.

Amends RSA
1980 cS-11

28(1) *The Seizures Act is amended by this section.*

(2) Section 8(3) is amended by striking out “book” and substituting “record”.

Amends RSA
1980 cT-9

29(1) *The Trust Companies Act is amended by this section.*

(2) Sections 148(15)(b) and 151(1)(d) are amended by striking out “registrar of the Central Registry” and substituting “Registrar of Personal Property designated under the Chattel Security Registries Act”.

Repeal and Commencement

Repeals RSA
1980 cC-7 and
c4(Supp.)

30(1) *The Chattel Security Registries Act, being chapter C-7 of the Revised Statutes of Alberta 1980, is repealed on Proclamation.*

(2) *The Chattel Security Statutes Amendment Act, being chapter 4(Supp.) of the Revised Statutes of Alberta 1980, is repealed.*

Coming into
force

31 This Act comes into force on Proclamation.