

The Bills of Sale Act

being

Chapter B-1 of *The Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER B-1

An Act respecting Bills of Sale and Chattel Mortgages

Short title

1 This Act may be cited as *The Bills of Sale Act*.

R.S.S. 1978, c.B-1, s.1.

Interpretation

2 In this Act:

“bill of sale”

(a) “**bill of sale**” means a document in writing in conformity with this Act evidencing a sale or a mortgage, but does not include:

- (i) a bill of lading;
- (ii) a warehouse receipt;
- (iii) a warrant or order for the delivery of goods; or
- (iv) any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize the possessor of the document to transfer, either by endorsement or delivery, or receive goods thereby represented;

“change of possession”

(b) “**change of possession**” means such change of possession as is open and reasonably sufficient to afford public notice thereof;

“chattels”

(c) “**chattels**” means goods and chattels capable of complete transfer by delivery, and includes, when separately assigned or charged, fixtures and growing crops, but does not include:

- (i) chattel interest in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed;
- (ii) growing crops when assigned together with any interest in the land on which they grow;
- (iii) a ship or vessel registered under the *Canada Shipping Act* or the *Merchant Shipping Act, 1894* (Imperial), and amending Acts or any share in such ship or vessel;
- (iv) shares or interests in the stock, funds or securities of a Government, or in the capital of a corporation; or
- (v) book debts or other choses in action;

“creditors”

(d) **“creditors”** means creditors of the grantor, whether execution creditors or not, who become creditors before the registration of the bill of sale or of a renewal statement, as the case may be, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes:

- (i) a creditor suing on behalf of himself and other creditors;
- (ii) an assignee for the general benefit of creditors;
- (iii) a trustee under the *Bankruptcy Act* (Canada); and
- (iv) a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding up of companies;

without regard to the time when the creditor so suing becomes a creditor or when the assignee, trustee or liquidator is appointed;

“grantee”

(e) **“grantee”** includes the bargainee, assignee, transferee, mortgagee or other person to whom a bill of sale is made;

“grantor”

(f) **“grantor”** includes the bargainor, assignor, transferor, mortgagor or other person by whom a bill of sale is made;

“mortgage”

(g) **“mortgage”** includes an assignment, transfer, conveyance, declaration of trust without transfer, or other assurance of chattels, intended to operate as a mortgage or pledge of chattels, or a power or authority or licence to take possession of chattels as security, or an agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to a charge or security on any chattels is conferred, but does not include:

(i) a mortgage or charge, whether specific or floating, of chattels, created by a corporation, and contained:

(A) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or any other corporation;

(B) in any bonds, debentures or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing bonds, debentures or debenture stock of any other corporation; or

(C) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation or of any other corporation not secured by a separate instrument;

(ii) security taken by a bank under section 88 of the *Bank Act* (Canada);

(iii) a power of distress contained in a mortgage of real property;

“registered”

(h) **“registered”** means filed in accordance with this Act;

“registration clerk”

(i) **“registration clerk”** means the registration clerk for the Province of Saskatchewan at Regina;

“sale”

(j) **“sale”** includes a sale, assignment, transfer, conveyance, declaration of trust without transfer or other assurance not intended to operate as a mortgage, of chattels, or an agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to any chattels is conferred, but does not include:

(i) an assignment for the general benefit of the creditors of the person making the assignment;

(ii) a transfer or sale of goods in the ordinary course of any trade or calling;

(iii) a conditional sale within the meaning of *The Conditional Sales Act* or an assignment of a conditional sale;

“subsequent purchases or mortgages”

(k) **“subsequent purchasers or mortgagees”** means persons to whom chattels are conveyed or mortgaged:

(i) after the making of a sale or mortgage mentioned in section 3;

(ii) after the making of the mortgage mentioned in sections 12 and 13; as the case may be.

R.S.S. 1965, c.392, s.2; R.S.S. 1978, c.B-1, s.2.

Sale or mortgage to be evidenced by a registered bill of sale

3 Every sale or mortgage that is not accompanied by an immediate delivery and an actual and continued change of possession of the chattels sold or mortgaged shall be absolutely void as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice, whose conveyances or mortgages have been duly registered or are valid without registration, unless the sale or mortgage is evidenced by a bill of sale duly registered; and the sale or mortgage, and the bill of sale, if any, evidencing the sale or mortgage, shall, as against creditors and such subsequent purchasers or mortgagees, take effect only from the time of the registration of the bill of sale.

R.S.S. 1965, c.392, s.3; R.S.S. 1978, c.B-1, s.3.

Schedule, defeasance or trust to be part of bill of sale

4(1) Every schedule annexed to a bill of sale or referred to therein shall be deemed to be a part of the bill of sale, and shall be registered therewith.

(2) If a bill of sale is subject to a defeasance, condition or trust, the terms of the defeasance, condition or trust shall be set forth in the bill of sale or in a schedule annexed thereto or referred to therein.

R.S.S. 1965, c.392, s.4; R.S.S. 1978, c.B-1, s.4.

Description of chattels

5 Every bill of sale shall contain such sufficient and full description of the chattels comprised therein that they may be thereby readily and easily known and distinguished and the description of a motor vehicle within the meaning of *The Vehicles Act* or a machine designed for navigation of the air shall include the serial number of the vehicle or machine.

R.S.S. 1965, c.392, s.5; R.S.S. 1978, c.B-1, s.5.

Time and place of registration

6(1) Registration of a bill of sale under this Act shall be effected by filing the bill of sale, together with the affidavits required by this Act, within thirty days from the date of its execution, in the office of the registration clerk.

(2) Where there are two or more grantors, the date of execution of the bill of sale shall be deemed to be the date of the execution by the grantor who last executes it.

(3) The bill of sale, together with the affidavits required by this Act, may be filed with any person appointed for that purpose by the Lieutenant Governor in Council.

(4) On receipt of the bill of sale and affidavits and on payment of the prescribed fee for registration at Regina, the appointed person shall endorse on the bill of sale the time of filing and forward the endorsed bill of sale and affidavits to the registration clerk who shall register the bill of sale, and such registration if made within thirty days from the date of the execution of the bill of sale shall be deemed to be a sufficient compliance with subsection (1).

(5) The appointed person with whom the bill of sale is or may be filed shall not be considered the agent of the grantee or person filing or proposing to file the bill of sale, nor shall he be liable for any delay or for any failure to forward the bill of sale for registration.

(6) The registration clerk shall cause every bill of sale, or copy thereof, filed in his office, to be numbered and shall endorse thereon the time of registering the bill or copy and shall enter in alphabetical order in a register kept by him the name of the grantor of each such instrument with the number endorsed thereon opposite to each name.

R.S.S. 1965, c.392, s.6; R.S.S. 1978, c.B-1, s.6.

Search of records or abstract of search obtained upon requisition by appointed person

7 The appointed person with whom the bill of sale is or may be filed shall, when requested by any person to do so, and upon payment to him of the prescribed fee payable to the registration clerk for his services, requisition by telephone or telegraph message, or by mail, from the registration clerk a search for the purpose of ascertaining and certifying what, if any, instruments or documents, comprising the goods described in the bill of sale, are registered in the office of the registration clerk under this or any other Act, or an abstract of such search, or such a search and an abstract thereof, and the registration clerk shall forthwith make such search and by telephone or telegraph message, or by mail, advise the appointed person who requisitioned the search or abstract, or both, as to the results of the search and, when so requested, shall forward to him by mail forthwith an abstract of any search so requisitioned and made.

R.S.S. 1965, c.392, s.7; R.S.S. 1978, c.B-1, s.7.

Affidavit of execution

8 Except as provided by section 29, every bill of sale presented for registration shall be accompanied by an affidavit of an attesting witness, or affidavits of attesting witnesses, of the execution thereof by the grantor or by the grantors respectively, identifying the bill of sale and stating the date of execution by the grantor or the respective dates of execution by the grantors.

R.S.S. 1965, c.392, s.8; R.S.S. 1978, c.B-1, s.8.

Bill of sale to secure advances, etc.

9(1) Where a bill of sale is given to secure the grantee:

- (a) repayment of advances to he made by him under an agreement therefor;
- (b) against loss or damage by reason of the endorsement of a bill of exchange or promissory note;
- (c) against loss or damage by reason of any other liability incurred by the grantee for the grantor; or
- (d) against loss or damage by reason of any liability to be incurred under an agreement by the grantee for the grantor;

the bill of sale shall set forth clearly by recital or otherwise, and shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that it truly sets forth:

- (e) the terms or substance of the agreement entered into between the parties in respect of the advances;
- (f) a copy of the bill of exchange or promissory note endorsed and of the endorsements;
- (g) the nature and extent of such other liability incurred by the grantee for the grantor; or
- (h) the terms or substance of the agreement in respect of the liability to be incurred by the grantee for the grantor;

and in all cases the affidavit shall state that the bill of sale truly sets forth the extent or amount of the liability incurred or to be incurred and to be secured by the bill of sale.

(2) The affidavit shall also state that the bill of sale was executed in good faith and for the purpose of securing the grantee:

- (a) repayment of the advances;
- (b) against loss or damage by reason of the endorsement;
- (c) against loss or damage by reason of the liability incurred by the grantee for the grantor; or
- (d) against loss or damage by reason of the liability to be incurred by the grantee for the grantor, under the agreement therefor;

as the case may be, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, or for the purpose of preventing those creditors from recovering any claims that they have against the grantor.

R.S.S. 1965, c.392, s.9; R.S.S. 1978, c.B-1, s.9.

c. B-1**BILLS OF SALE****Bill of sale to secure a debt or a present loan**

10 Where a bill of sale, other than a bill of sale within the scope of section 9, is given to secure:

- (a) the payment of an ascertained amount due or accruing due from the grantor to the grantee; or
- (b) the payment of a present advance being made by the grantee to the grantor;

it shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating:

- (c) that the amount set forth in the bill of sale as being the consideration therefor is justly due or accruing due from the grantor to the grantee or is a present advance being made by the grantee to the grantor, as the case may be; and
- (d) that the bill of sale was executed in good faith and for the purpose of securing to the grantee the payment of that amount, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor or for the purpose of preventing such creditors from recovering the claims that they have against the grantor.

R.S.S. 1965, c.392, s.10; R.S.S. 1978, c.B-1, s.10.

Affidavit accompanying other bills of sale

11(1) Where a bill of sale is not a bill of sale within the scope of section 9 or section 10, it shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the bill of sale was executed in good faith and for good consideration, as set forth in the bill of sale, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, or for the purpose of preventing those creditors from recovering any claims that they have against the grantor.

(2) The affidavit shall further state that the goods or chattels covered by the bill of sale are not sold in bulk within the meaning of *The Bulk Sales Act*, or in case of a sale in bulk, the bill of sale shall be further accompanied by an affidavit of the grantor setting forth a complete list of his creditors, or by the written waiver referred to in subsection (1) of section 6 of the said Act.

R.S.S. 1965, c.392, s.11; R.S.S. 1978, c.B-1, s.11.

Renewal of bills of sale evidencing mortgages

12(1) A bill of sale duly registered on or after the first day of June, 1973 ceases to be valid after the expiration of three years from its registration as against a creditor and as against a subsequent purchaser or mortgagee claiming from or under the grantor in good faith for valuable consideration and without notice, whose conveyance or mortgage has been registered or is valid without registration, unless before the expiration of that period a renewal statement accompanied by the affidavit hereinafter mentioned is registered in accordance with subsections (2) and (3).

(2) The renewal statement shall set out the interest of the mortgagee, his executors, administrators or assigns, in the chattels comprised in the bill of sale, and the amount still owing for principal and interest or the extent or amount of the liability still secured thereby, and shall be accompanied by an affidavit of the mortgagee or one of the mortgagees, his executors, administrators or assigns, or his or their agent, or of some one of them, stating that the statement is true and that the bill of sale has not been kept in force for any fraudulent purpose. The renewal statement may be in form A in the schedule, with such variations as the circumstances may require.

(3) The renewal statement accompanied by the affidavit shall be registered in the office of the registration clerk and may be filed for such registration in the same manner as the bill of sale may be filed for registration under subsection (3) of section 6, and if so filed subsections (4) and (5) of section 6, excepting the mention in the said subsection (4) of registration within thirty days from the date of the execution of the bill of sale, shall apply *mutatis mutandis*.

(4) Unless a further renewal statement is registered in accordance with subsections (2) and (3) within the period of three years from the registration of the first renewal statement, and thereafter within each succeeding period of three years from the registration of the last preceding renewal statement, the bill of sale becomes void after the expiration of any such period, to the extent provided in subsection (1).

(5) If a mistake is made in the renewal statement, the mortgagee, his executors, administrators or assigns, may, after the discovery of the mistake, register an amended statement and affidavit referring to the former statement and clearly pointing out the mistake therein and correcting it.

(6) If before the registration of the amended statement and affidavit any person has in good faith made an advance of money or given any valuable consideration to the grantor, or has incurred any costs in proceedings taken relying on the accuracy of the renewal statement as first registered, the bill of sale as to the amount so advanced or the valuable consideration given or costs incurred by such person, shall, as against that creditor, purchaser or mortgagee, stand good only for the amount stated in the renewal statement as first registered, or to the extent or amount of the liability secured stated in the renewal statement as first registered.

R.S.S. 1965, c.392, s.12; 1973, c.9, s.1; R.S.S.
1978, c.B-1, s.12.

Removal of chattels into the province

13 Where chattels subject to a mortgage that was executed at a time when they were situated without the province are permanently removed into the province, the mortgage shall, within thirty days after the grantee has received notice of the place to which the chattels have been removed, be registered as a bill of sale, in the office of the registration clerk by filing therein a copy of the mortgage and of all affidavits and documents accompanying or relating to the mortgage proved to be a true copy by the affidavit of some person who has compared the same with the originals; otherwise the grantee shall not be permitted to set up any right of property or right or possession in or to the chattels so removed as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice.

R.S.S. 1965, c.392, s.13; R.S.S. 1978, c.B-1, s.13.

Subsequent taking of possession

14 A sale or mortgage or a bill of sale that under this Act is void, or has ceased to be valid, as against creditors, or purchasers or mortgagees, shall not, by reason of the fact that the grantee has subsequently taken possession of the chattels sold or mortgaged, be rendered valid as against persons who became creditors, purchasers or mortgagees before the grantee took possession.

R.S.S. 1965, c.392, s.14; R.S.S. 1978, c.B-1, s.14.

Registration of assignments

15(1) An assignment of a bill of sale need not be registered, but it may be registered by filing the assignment, accompanied by an affidavit of an attesting witness of the execution thereof, in the office of the registration clerk, and may be filed for such registration in the same manner as the bill of sale may be filed for registration under subsection (3) of section 6 and if so filed subsections (4) and (5) of section 6, excepting the mention in the said subsection (4) of registration within thirty days from the date of the execution of the bill of sale, shall apply *mutatis mutandis*.

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

R.S.S. 1965, c.392, s.15; R.S.S. 1978, c.B-1, s.15.

Discharge of bill of sale

16(1) Where a registered bill of sale evidences a mortgage of chattels, it may be discharged in whole or in part by the registration in the office of the registration clerk of a certificate of discharge (form 13) signed by the mortgagee, his executors, administrators or assigns, and accompanied by an affidavit of an attesting witness of the execution thereof; but no certificate of discharge by an assignee shall be registered unless the assignment has been registered in that office.

(2) The registration clerk shall note the fact of the discharge against each entry in the books of his office respecting the registration of the bill of sale, and shall make a like notation upon the bill of sale or copy filed in his office.

(3) The registration clerk shall on request furnish a certificate of the entry of the discharge in the records of his office.

R.S.S. 1965, c.392, s.16; R.S.S. 1978, c.B-1, s.16.

Discharge

17(1) Upon performance of all obligations of the grantor under a bill of sale, it shall be discharged, and upon written demand either delivered personally or sent by registered mail, postage prepaid, to him at his last known address by any person having an interest in the chattels comprised in the bill of sale, the grantee shall, within ten days of delivery of such demand on him, sign and either deliver personally or send by registered mail, postage prepaid, to the person demanding it, at the place set forth in the demand, a certificate of discharge (form 13) accompanied by an affidavit of an attesting witness to the execution thereof together with unregistered assignments, if any, of the bill of sale.

(2) Where it is agreed to release part of the chattels comprised in the bill of sale upon performance of certain obligations and upon written demand either delivered personally or sent by registered mail, postage prepaid, to him at his last known address by any person having an interest in the chattels comprised in the bill of sale, the grantee shall, within ten days of delivery of such demand on him, sign and deliver personally or send by registered mail, postage prepaid, to the person demanding it, at the place set forth in the demand, a certificate of discharge (form B) accompanied by an affidavit of an attesting witness to the execution thereof with respect to those chattels comprised in the bill of sale which are agreed to be released.

(3) Upon application to a judge of the Court of Queen's Bench or of the district court by originating notice to all persons concerned, the judge may order on any ground that he deems proper that the registration of the bill of sale, or any part thereof, be discharged.

(4) Where notice is, pursuant to this section, sent by registered mail, postage prepaid, it shall be deemed to be given to the person to whom it is addressed at the time when it should reach its destination in the ordinary course of mail.

(5) A grantee who fails without reasonable excuse to deliver a discharge pursuant to subsection (1) or (2) within the time limited by the appropriate subsection for such delivery shall make compensation to any person who has sustained damage thereby and such compensation with costs may be recovered by proceedings at law.

1973-74, c.6, s.1; R.S.S. 1978, c.B-1, s.17.

Bills of sale subsequently acquired chattels

18 This Act extends to bills of sale of chattels, notwithstanding that the chattels may not be the property of or may not be in the possession, custody or control of the grantor, or any one on his behalf at the time of the making of the bill of sale, and notwithstanding that the chattels may be intended to be delivered at some future time, or that they may not at the time of the making of the bill of sale be actually procured or provided, or fit or ready for delivery, and notwithstanding that some act may be required for the making or completion of the chattels, or rendering them fit for delivery.

R.S.S. 1965, c.392, s.17; R.S.S. 1978, c.B-1, s.18.

Where federal agricultural credit organization is grantee

19(1) Notwithstanding anything in this Act, in case of a bill of sale in which any federal agricultural credit organization is the grantee, a notice under the hand and seal of any person purporting to be an officer of the organization, showing the name, address and occupation of the grantor, the date of the execution of the bill of sale, the chattels mentioned therein and the amount advanced thereunder, may be filed in the office of the registration clerk.

(2) The notice when filed shall have the same effect as if the bill of sale had been filed and it shall not be necessary to file the affidavits of *bona fides* or renewal statements required by this Act.

R.S.S. 1965, c.392, s.18; R.S.S. 1978, c.B-1, s.19.

Securities on growing crops

20(1) No mortgage of chattels shall, insofar as it assumes to bind a growing crop or crop to be grown in future, in whole or in part, be valid unless executed as a security for the purchase price and interest thereon of seed grain or of meat, groceries, flour, clothing, coal or binder twine, hereinafter called necessities.

(2) Every such mortgage shall be held to be within the provisions of this Act, and the affidavit of *bona fides* shall contain, among the other necessary allegations, a statement that the mortgage is taken to secure the purchase price of seed grain or of necessities, specifying the nature of such necessities.

(3) No mortgage to secure the purchase price of seed grain shall be given upon any crop that is not sown within one year of the date of its execution.

(4) Mortgages upon growing crops or crops to be grown may be given to the extent of \$250 in the aggregate of all such mortgages upon the crops of a quarter section or \$350 in such aggregate upon the crops of a half section or of any greater quantity of land, as security for the purchase price and interest thereon of necessities.

(5) The registration clerk shall be entitled to receive the same fees for his services as are provided under section 34.

(6) No mortgage for the price of seed grain shall be affected by or subject to any bill of sale previously given by the debtor or by any writ of execution against the debtor in the hands of the sheriff at the time of the registration of the mortgage, but the mortgage shall be a first and preferential security for the amount therein mentioned. The date of the purchase of seed grain, the number of bushels purchased and the price thereof per bushel shall be stated in the mortgage as well as in the affidavit of *bona fides*.

(7) Mortgages given for necessities shall be postponed in operation to mortgages for the price of seed grain, to seed grain advances under any Act respecting advances to purchase seed grain, to threshers liens under *The Threshers' Lien Act* and to the right of distress given to a landlord under *The Landlord and Tenant Act*, but, subject to such priorities, mortgages for necessities shall not be affected by any encumbrance whenever created or by any writ of execution in the hands of the sheriff at the time of the registration of the mortgage, and such mortgage shall create a preferential lien next in priority to seed grain securities, advances, threshers' liens, and to the landlord's right of distress, as above mentioned.

R.S.S. 1965, c.392, s.19; R.S.S. 1978, c.B-1, s.20.

Assignment of proceeds

21 No assignment of the proceeds of the sale of a growing crop or crop to be grown in the future is valid.

R.S.S. 1965, c.392, s.20; R.S.S. 1978, c.B-1, s.21.

Execution of mortgages on grain

22 No mortgage of grain, if executed after the first day of May, 1927, is valid unless it is either executed by the mortgagor in person or, if executed under power of attorney, is accompanied by a sworn copy of the power and an affidavit of the attorney that the donor of the power was, at the date of execution of the said mortgage, absent from Saskatchewan.

R.S.S. 1965, c.392, s.21; R.S.S. 1978, c.B-1, s.22.

Assignments to certain co-operative companies

23 Notwithstanding anything in the preceding sections, any company or association, established for the purpose of carrying on the business of buying, selling and marketing grain upon the non-profit co-operative plan, may, on terms and conditions that it deems fit, accept an assignment of the proceeds of grain delivered or to be delivered to the company or association by a member, given while the grain was growing or was to be grown, as security for or in payment of membership fees or dues to a duly incorporated company or association having for its objects, or one of its main objects, the promotion of co-operative buying and selling among its members, and such assignment shall from the date of acceptance be valid and effectual.

R.S.S. 1965, c.392, s.22; R.S.S. 1978, c.B-1, s.23.

Registration office and officials

24(1) There shall be appointed a registration clerk for the Province of Saskatchewan at Regina and a deputy registration clerk.

(2) In the event of a vacancy in the office of the registration clerk or of his illness or absence, the deputy registration clerk shall perform all the duties required of the registration clerk by this or any other Act.

(3) The office of the registration clerk shall be at the city of Regina and shall be kept open on the days and during the hours that the offices of sheriffs are required to be kept open pursuant to *The Court Officials Act*.

(4) The office of a person appointed by the Lieutenant Governor in Council for the purpose of receiving bills of sale for filing with the registration clerk shall be kept open on the days and during the hours that the office of the local registrar at the judicial centre at which the office of the appointed person is situated is required to be kept open pursuant to *The Court Officials Act*.

(5) Where in any Act or regulation the time limited for the doing of a thing in the office of the registration clerk expires or falls on a day on which the office is closed pursuant to this section, the time so limited shall be extended to and the thing may be done on the day first following that is not a holiday and not a day on which the office is closed.

(6) Registration shall be made during office hours only.

(7) The registration clerk, deputy registration clerk or a clerk in the office of the registration clerk shall not draw or prepare any document or conveyance that may be filed or registered in such office under this or any other Act.

R.S.S. 1965, c.392, s.23; 1966, c.86, s.14; 1974-75, c.3, s.1; R.S.S. 1978, c.B-1, s.24.

Expiry of time when office closed

25 Where under this Act the time for the registration of a document expires on a day on which the office of the registration clerk is closed, the registration, so far as regards the time of registration, is valid if made on the next following day on which the office is open.

R.S.S. 1965, c.392, s.24; R.S.S. 1978, c.B-1, s.25.

c. B-1**BILLS OF SALE****Late registration**

26 Notwithstanding anything in this Act, a bill of sale or renewal statement not registered within the times prescribed elsewhere in this Act may be registered at a later date and such registration shall for the purposes of sections 3, 12 and 13 have the same effect as registration within the times so prescribed except that it shall not affect rights accrued prior to the late registration.

R.S.S. 1965, c.392, s.25; R.S.S. 1978, c.B-1, s.26.

Proof of execution where witness not available

27(1) Where the attesting witness to a document to which this Act applies:

- (a) dies or leaves the province before making the affidavit of execution required by this Act; or
- (b) becomes incapable of making or refuses to make the affidavit;

a judge of the district court upon being satisfied as to the execution and attestation of the document may make an order permitting the registration of the document.

Filing of order

(2) The order or a copy thereof shall be filed with the document.

Effect

(3) Registration of the document under the order has the same effect as the registration thereof with the affidavit of execution otherwise required by this Act.

R.S.S. 1965, c.392, s.26; R.S.S. 1978, c.B-1, s.27.

Affidavits, power of registration clerk to take

28(1) In addition to any person authorized by law to take affidavits, the registration clerk or his deputy may take the affidavit of any person under this Act and the sum of twenty-five cents shall be payable for every oath administered by the clerk or deputy.

Solicitor, etc.

(2) No bill of sale or other document to which this Act applies shall be held to be defective or void on the ground that an affidavit required by this Act was taken and made before a solicitor for any of the parties to the bill of sale or other document, or before a partner of such solicitor, or before a clerk in the office of such solicitor.

Affidavit where grantee dies

(3) An affidavit required by this Act to be made by a grantee or assignee of a grantee may in the event of his death be made by his executor or administrator, or by any of his next of kin, or by an authorized agent of the executor or administrator.

Affidavit on behalf of corporation

(4) Where the grantee or assignee of a bill of sale or his agent is a corporation, any officer, employee or agent of the corporation may make any affidavit or statement under this Act on behalf of the corporation.

Affidavits or agents, etc.

- (5) Every affidavit made under this Act by:
- (a) an agent of a grantee or assignee;
 - (b) an executor or administrator or a next of kin;
 - (c) an authorized agent of an executor or administrator; or (d) an officer, employee or agent of a corporation;

shall state that the deponent is aware of all the circumstances connected with the bill of sale and that he has a personal knowledge of the facts deposed to.

R.S.S. 1965, c.392, s.27; R.S.S. 1978, c.B-1, s.28.

Execution by corporation

29 Where a document to which this Act applies is executed by a corporation under its corporate seal no affidavit of an attesting witness is required.

R.S.S. 1965, c.392, s.28; R.S.S. 1978, c.B-1, s.29.

Rectification of omissions, etc.

30(1) Any judge of the Court of Queen's Bench or of the district court, upon being satisfied that an omission or misstatement in a document registered under this Act was accidental or due to inadvertence or impossibility or other sufficient cause, may, subject to the rights of other persons accrued by reason of the omission or misstatement, order the omission or misstatement to be rectified, on any terms and conditions he directs.

(2) An order under this section, or a copy thereof, shall be filed with the registration clerk at Regina who shall attach it to the document registered or tendered for registration and shall make appropriate entries in the register.

(3) The rights of other persons accrued up to the time of the filing of the order or a copy thereof with the registration clerk, by reason of the omission or misstatement referred to in subsection (1), are not affected by the order.

R.S.S. 1965, c.392, s.29; R.S.S. 1978, c.B-1, s.30.

Effect of defects, irregularities and omissions

31 A document to which this Act applies shall not be invalidated or its effect destroyed by reason only of a defect, irregularity, omission or error therein or in the execution or attestation thereof unless, in the opinion of the court or judge before whom a question relating thereto is tried, the defect, irregularity, omission or error has actually misled some person whose interests are affected by the document.

R.S.S. 1965, c.392, s.30; R.S.S. 1978, c.B-1, s.31.

Evidence

32(1) A copy of a document registered or filed under this Act, certified as such by the registration clerk, is receivable in evidence as *prima facie*, proof for all purposes as if the original document were produced, and also as *prima facie* proof of the execution of the original document, according to the purport of the copy.

(2) The registration clerk's certificate is receivable in evidence as *prima facie* proof of the date, hour and minute of the registration of the document.

(3) No proof is required of the signature or official position of the registration clerk in respect of a certificate produced as evidence under this section.

R.S.S. 1965, c.392, s.31; R.S.S. 1978, c.B-1, s.32.

Inspection of records, etc.

33 During the regular office hours of the registration clerk and upon payment of the prescribed fee, every person shall have access to and be entitled to inspect the books of the registration clerk containing records or entries of bills of sale or documents registered or filed under this or any other Act; and no person shall be required, as a condition of his right thereto, to disclose the name of the person in respect of whom such access or inspection is sought; and the registration clerk shall, upon request accompanied by payment of the prescribed fees, produce for inspection any bill of sale or document so registered or filed in his office.

R.S.S. 1965, c.392, s.32; R.S.S. 1978, c.B-1, s.33.

Fees

34 The fees payable for services under this Act shall be such as may be prescribed by the lieutenant Governor in Council.

R.S.S. 1965, c.392, s.33; R.S.S. 1978, c.B-1, s.34.

The Crown bound

35 The Crown is bound by this Act.

R.S.S. 1965, c.392, s.34; R.S.S. 1978, c.B-1, s.35.

SCHEDULE

Form A

(Section 12)

Renewal Statement or Chattel Mortgage

Statement setting out the interest of _____ in the chattels mentioned in the bill of sale dated the ____ day of _____ 19 ____, made between _____ of _____, of the one part, and _____, of _____, of the other part and registered on the ____ day of _____, 19 ____, and of the amount still owing for principal and interest, or the extent or amount of the liability still secured by the said bill of sale.

The said _____ is still the mortgagee of the said chattels, and has not assigned the said bill of sale (or the said _____ is the assignee of the said bill of sale by virtue of an assignment thereof, dated the ____ day of _____, 19 ____.) (or as the case may be).

The amount still owing for principal and interest on the said bill of sale is the sum of \$ ____ (or The extent or amount of the liability still secured by the said bill of sale is as follows): (here give particulars).

(Signature of Mortgagee or Assignee.)

I, _____, of the _____ of _____ in the _____ of _____, the mortgagee named in the bill of sale mentioned in the foregoing (or annexed) statement (or assignee of the mortgagee named in the mortgage mentioned in the foregoing (or annexed) statement (as the case may be), make oath and say:

- 1. That the foregoing (or annexed) statement is true.
2. That the bill of sale mentioned in the said statement has not been kept in force for any fraudulent purpose.

Sworn before me at _____
in the _____ of _____
this ____ day of _____
19 ____ . }

.....
A Commissioner, etc.

Form B

(Section 16)

Certificate of Discharge

I, _____, of _____, do certify that _____ has satisfied all his money due, or to grow due on a certain bill of sale made by _____ to _____, which bill of sale bears date the _____ day of _____ 19 _____, and was registered (*or in case the bill of sale has been renewed was last renewed*) on the _____ day of _____, 19 _____, as No. _____ (*here mention the date of registration of each assignment thereof, and the names of the parties, or mention that the bill of sale has not been assigned, as the fact may be*); and that I am the person entitled by law to receive the money, and that the bill of sale is therefore discharged.

Witness my hand, this _____ day of _____, 19 _____.

Witness:

.....

(*Signature of Mortgagee or Assignee.*)

(*Note.—An affidavit of execution is required by section 16 except as provided by section 28.*)