

1996

CHAPTER 18

An Act to amend *The Personal Property Security Act, 1993*
and to make a consequential amendment

(Assented to April 30, 1996)

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

Short title

1 This Act may be cited as *The Personal Property Security Amendment Act, 1996*.

S.S. 1993, c.P-6.2 amended

2 *The Personal Property Security Act, 1993* is amended in the manner set forth in this Act.

Section 2 amended

3 Subsection 2(1) is amended:

(a) in subclause (f)(ii) by adding “, or lease of,” after “in”;

(b) in clause (r):

(i) by striking out “or” after subclause (i);

(ii) in paragraph (ii)(A) by striking out “an office of”;

(iii) by adding “or” after subclause (ii); and

(iv) by adding the following subclause after subclause (ii):

“(iii) a financing statement that was registered pursuant to *The Personal Property Security Act* where the registration relating to that financing statement has not expired”;

(c) by repealing subclause (x)(ii) and substituting the following:

“(ii) to be furnished by or on behalf of a person, or that have been furnished by or on behalf of that person, under a contract of service”;

(d) by repealing clause (pp) and substituting the following:

“(pp) ‘security agreement’ means an agreement that creates or provides for a security interest and, where the context permits, includes:

(i) an agreement that creates or provides for a prior security interest as defined in clause 73(1)(c); and

(ii) a document that evidences a security agreement"; and

(e) in clause (qq):

(i) in subclause (i) by striking out "pursuant to" and substituting "under"; and

(ii) in subclause (ii) by striking out "whether or not the interest secures" and substituting "that does not secure".

Section 12 amended

4 Clause 12(3)(c) is amended by striking out "oil" and substituting "petroleum".

Section 13 amended

5 Subsection 13(2) is repealed and the following substituted:

"(2) Subject to subsection (3), a security interest in after-acquired property that is the crop of a grower, or grains, fruits, vegetables or other produce resulting from or that may result from harvesting the crop of a grower, does not attach if the crop is planted more than one year after the security agreement has been entered into.

"(3) Notwithstanding subsection (2), a security interest in a crop, or grains, fruits, vegetables or other produce resulting from or that may result from harvesting the crop, given in conjunction with a lease, agreement for sale or mortgage of land on which the crop is to be grown may, if the parties so agree, attach to the crop to be grown on that land and grains, fruits, vegetables or other produce resulting from or that may result from harvesting the crop during the term of the lease, agreement for sale or mortgage.

"(4) Subsection (2) does not apply to a crop that consists of trees".

Section 20 amended

6 Section 20 is amended:

(a) in clause (1)(c) by striking out "judgement" and substituting "judgment"; and

(b) by repealing subsection (4) and substituting the following:

"(4) For the purposes of subsection (3), a purchaser of an instrument or a security, or the holder of negotiable document of title, who acquired the instrument, security or negotiable document of title in a transaction that was in the ordinary course of the transferor's business has knowledge of the security interest only if the purchaser or holder acquired his or her interest with knowledge of the existence of a prior security interest and with knowledge that the transaction violates the terms of the security agreement creating or providing for that interest".

Section 29 amended

7 Subsection 29(4) is amended by striking out "A security interest" and substituting "Notwithstanding subsection 24(1), a security interest".

Section 34 amended

8 Section 34 is amended:

(a) in subsection (8) in the portion preceding clause (a) by striking out “or” and substituting “as”; and

(b) in subsection (11):

(i) in clause (a) by striking out “growing crops” and substituting “growing”; and

(ii) in clause (b) by striking out “become growing crops” and substituting “are planted”.

Section 35 amended

9 Clause 35(1)(a) is amended:

(a) by striking out the portion preceding subclause (i) and substituting the following:

“(a) priority between conflicting perfected security interests in the same collateral is determined by the earliest of the following occurrences.”; and

(b) in subclause (iii) by striking out “, whichever is earliest”.

Section 36 amended

10 Section 36 is amended:

(a) in clause (4)(a) by adding “, without fraud and before the security interest is registered in accordance with section 49,” after “a person who”;

(b) in clause (7)(a) by striking out “real property” and substituting “land”; and

(c) in subsection (18) by striking out “subsection (4)” and substituting “subsections (4) and (6)”.

Section 37 amended

11 Section 37 is amended:

(a) in subsection (3) by striking out “growing”;

(b) in subsection (4):**(i) by repealing clause (a) and substituting the following:**

“(a) a person who, without fraud and before the security interest is registered in accordance with section 49, acquires for value an interest in the land on which the crops are growing, including an assignee for value of a person with an interest in the land”;

(ii) in clause (b) by striking out the portion preceding subclause (i) and substituting the following:

“(b) a person with a registered mortgage on the land on which the crops are growing who:”;
and

(iii) by repealing clause (c) and substituting the following:

“(c) a person who, without fraud and before the security interest is registered in accordance with section 49, obtains a vesting order respecting the land on which the crops are growing”;
and

(c) in subsection (7) by striking out “growing”.**Section 38 amended****12 Subsection 38(14) is repealed and the following substituted:**

“(14) A notice mentioned in subsection (12) is to be given at least 15 days before removal of the accession and may be given in accordance with section 68 or by registered mail addressed to the address of the person to be notified as it appears on the financing statement”.

Section 41 amended**13 Section 41 is amended:**

(a) in subsection (3) by striking out “pursuant to” and substituting “under”; and

(b) in subsection (5) by striking out “pursuant to” and substituting “under”.

Section 43 amended**14 Section 43 is amended:**

(a) in clause (7)(a) by adding “described in the financing statement” after “collateral”; and

(b) in subsection (9) by adding “described in the financing statement” after “other collateral”.

Section 44 amended**15 Subsection 44(3) is amended by adding “, whether that registration is valid or invalid,” after “a registration”.****Section 49 amended****16 Section 49 is amended:**

(a) in subsection (5) by striking out “and sections 44 and 45” and substituting “and subsection 44(1) and section 45”;

(b) in clause (7)(c) by adding “, or that is not affixed to the land” after “debtor”; and

(c) in clause (8)(c) by adding “, or that are not affixed to the land” after “debtor”.

Section 58 amended

17 Subsection 58(2) is amended by striking out “and 56”.

Section 65 amended

18 Subsection 65(7) is repealed and the following substituted:

“(7) Where a debtor or other person with an interest in land or collateral mentioned in section 49 or 50, without reasonable excuse, causes the registrar of the land titles office to act pursuant to subsection 49(9) or registers a financing change statement pursuant to subsection 50(5), the secured party mentioned in those subsections is deemed to have suffered damages not less than the prescribed amount”.

Section 73 amended

19 Section 73 is amended:

(a) in subsection (7):

(i) by repealing clause (a) and substituting the following:

“(a) between prior security interests is determined by prereform law if all the competing security interests arose pursuant to security agreements entered into before prior law came into force”; and

(ii) in clause (b) by striking out “before this Act comes into force” and substituting “before prior law came into force”; and

(b) by adding the following subsection after subsection (8):

“(8.1) To the extent that clause 34(3)(b) of *The Personal Property Security Act* continues to apply as provided in this section, it is deemed to require only that the relevant notice is to be given at any time before the debtor receives possession of the collateral”.

Section 74 amended

20 Clause 74(8)(b) is repealed and the following substituted:

“(b) is deemed to be perfected for all other purposes as of the day on which the interest was perfected pursuant to the law applicable at the time of its creation;

and the perfection continues for one year from the day on which this Act comes into force, and on the expiration of that year, it becomes unperfected unless it is otherwise perfected pursuant to this Act”.

CONSEQUENTIAL AMENDMENT

R.S.S. 1978, c.L-5 amended

21 Subclause 124.3(1)(e)(i) of *The Land Titles Act* is repealed and the following substituted:

“(i) amounts payable or to be paid pursuant to a lease, including a lease mentioned in section 134, and a lease to which *The Residential Tenancies Act* applies”.

Coming into force

22(1) Subject to subsection (2), this Act comes into force on assent.

(2) Subclause 3(b)(iv) comes into force on assent, but is retroactive and is deemed to have been in force on and from April 1, 1995.