

BILL

No. 162

An Act to amend *The Enforcement of Money Judgments Act*

(Assented to _____)

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 Enforcement of Money Judgments Amendment Act, 2014*.

S.S. 2010, c.E-9.22 amended

2 *The Enforcement of Money Judgments Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **The following clause is added after clause 2(1)(k):**

“(k.1) ‘**Director of Sheriffs**’ means the Director of Sheriffs appointed pursuant to section 124.1”.

Section 7 amended

4 **Subsection 7(1) is amended:**

(a) **in clause (a) by striking out “*ex parte*” and substituting “on an application without notice”; and**

(b) **in clause (b) by striking out “notice of motion” and substituting “an application with notice”.**

Section 22 amended

5 **Subsection 22(3) is amended by adding “or *The Personal Property Security Act, 1993*, as is appropriate” after “*The Securities Transfer Act*”.**

Section 23 amended

6(1) **Subsection 23(4) is repealed and the following substituted:**

“(4) A security interest has priority over an enforcement charge with respect to advances made after a judgment relating to the charge is registered if:

(a) a registration relating to the security interest was effected before the judgment was registered; and

(b) the advances were made without knowledge by the secured creditor of registration of the judgment”.

(2) The following subsections are added after subsection 23(5):

“(6) Whether or not the sheriff has knowledge of the security interest at the time of the payment, a sheriff who receives payment of a debt owing by a judgment debtor through a debtor-initiated payment has priority over a security interest in:

- (a) the funds paid;
- (b) the intangible that was the source of the payment; and
- (c) any instrument used to effect the payment.

“(7) In subsection (6), **‘debtor-initiated payment’** means a payment made by the judgment debtor through the use of:

- (a) an instrument or an electronic funds transfer; or
- (b) a debit, a transfer order, an authorization or a similar written payment mechanism executed by the judgment debtor when the payment is made”.

Section 25 amended

7 Clause 25(1)(a) is repealed and the following substituted:

“(a) **‘buyer of goods’** includes a person who obtains rights in goods pursuant to a contract to which the person is a party as a consequence of the goods becoming a fixture or an accession to property in which the person has an interest”.

Section 28 amended

8 Subsection 28(3) is repealed and the following substituted:

“(3) In the circumstances mentioned in subsection (2), the following may serve a written demand on the judgment creditor requiring discharge or amendment of the registration:

- (a) the judgment debtor;
- (b) any person with an interest in property affected by the enforcement charge;
- (c) a lawyer acting on behalf of a person mentioned in clause (a) or (b)”.

Section 29 amended

9 Clauses 29(1)(a) and (b) are repealed and the following substituted:

“(a) sections 42 to 42.4;

“(b) subsections 43(1) to (3), (6) and (8) to (12), section 43.1 and subsections 44(1) to (3), 45(1) and (2), 45(5) and (6) and 49(1), (2) and (4)”.

Section 31 amended

10 Subsection 31(1) is amended:

(a) in clause (a) in the portion preceding subclause (i) by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”;

(b) in clause (c) in the portion preceding subclause (i) by adding “or personal property registry” after “registry”;

(c) in clause (e) in the portion preceding subclause (i) by adding “or personal property registry” after “registry”; and

(d) in clause (f) in the portion preceding subclause (i) by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

Section 32 amended

11 Clause 32(1)(a) is amended in the portion preceding subclause (i) by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

Section 41 amended

12 The following clause is added after clause 41(2)(b):

“(b.1) if the property is an interest in land, in addition to the other methods of seizure that may apply, by registering a sheriff’s notice of seizure on the title at the land titles registry”.

Section 54 amended

13 Subsection 54(10) is amended:

(a) in clause (b) by striking out “issuer” and substituting “securities intermediary or futures intermediary”; and

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

“(d) if the substance of a duty imposed on a securities intermediary or futures intermediary by any other Act or law is the subject of this section, compliance with this section by the intermediary satisfies the duty imposed by that other Act or law”.

Section 58 amended

14 Subsection 58(1) is amended by striking out “section 64” and substituting “sections 60 and 64”.

Section 60 amended

15 The following subsection is added after subsection 60(2):

“(3) A sheriff may seize a deposit account by serving a notice of seizure on the branch of a deposit-taking institution where the account is held”.

Section 64 amended

16(1) Subsection 64(5) is amended by striking out “12 months” and substituting “24 months”.

(2) Subsection 64(6) is amended by striking out “12 months” and substituting “24 months”.

Section 73 amended

17 Subsection 73(1) is amended:

(a) in clause (a) by striking out “*ex parte* application” and substituting “application without notice”; and

(b) in clause (b) by striking out “made by notice of motion” and substituting “with notice”.

Section 79 amended

18 Subsection 79(2) is amended by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

Section 83 amended

19 The following subsection is added after subsection 83(7):

“(7.1) Subsection (7) applies to personal property that is not serial numbered goods only if the registration would be disclosed in a search using the name of the judgment debtor”.

Section 93 amended

20 Subsection 93(6) is amended by adding “to which the exemption applies” after “motor vehicle of the judgment debtor”.

Section 94 amended

21 Subsection 94(5) is amended in the portion preceding clause (a) by striking out “subsection (10)” and substituting “subsection (12)”.

Section 100 amended

22 Subsection 100(1) is amended by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

Section 101 amended

23 Clause 101(e) is amended by striking out “*ex parte* application of” and substituting “application without notice by”.

Section 105 amended

24(1) Subsection 105(4) is amended by striking out “On registration” and substituting “Subject to the regulations, on registration”.

(2) Subsection 105(5) is amended by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

(3) Subsection 105(6) is amended by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

Section 106 amended

25(1) Subsection 106(2) is amended by striking out “subsection (1)” and substituting “this section”.

(2) The following subsection is added after subsection 106(2):

“(3) If funds are distributed in accordance with a statement of distribution that shows all amounts recovered with respect to a judgment of an enforcing judgment creditor as being fully satisfied, the sheriff may discharge the registration to which that judgment relates without further notice to the enforcing judgment creditor”.

Section 107 amended

26(1) Clause 107(5)(a) is amended:

(a) in subclause (i) by adding “or a trustee on the recipient’s behalf” after “recipient”; and

(b) in subclause (ii) by adding “or a trustee on its behalf” after “Crown”.

(2) The following subsections are added after subsection 107(5):

“(6) A sheriff who receives money as a result of a disposition of tangible property of a judgment debtor pursuant to this section or section 107.1 is not an account debtor of the judgment debtor with respect to the money except as provided in clause 110(3)(h).

“(7) Nothing in subsection (6) affects the rights of a person in money that is proceeds of the disposition of tangible property in which the person held an interest before the disposition”.

New section 107.1

27 The following section is added after section 107:

“Sheriff may discharge registration affecting specific title to land

107.1(1) Subject to the regulations, the sheriff may decide to discharge all registrations creating an enforcement charge affecting title to land if:

(a) the judgment debtor respecting whom the enforcement charges relate is selling the land; and

(b) the sheriff will receive from or on behalf of the judgment debtor an amount of money that, in the sheriff’s opinion:

(i) is sufficient to discharge the amount recoverable with respect to all judgments relating to the enforcement charges registered against the title; or

(ii) is the maximum net proceeds that would reasonably be recoverable from disposition of the title.

(2) A sheriff who proceeds pursuant to subsection (1) shall register an interest against the title in the land titles registry giving notice of the following:

(a) that subsequent registrations creating enforcement charges with respect to the judgment debtor mentioned in subsection (1) and that title will not be eligible to participate in the distribution of amounts received by the sheriff pursuant to this section;

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- (b) that a registration of judgments against the judgment debtor mentioned in subsection (1) after the date and time the notice is registered will have no legal effect with respect to that title.
- (3) On registration of the interest pursuant to subsection (2):
- (a) the title to the land is deemed to have been disposed of by the sheriff in accordance with subsection 98(1); and
- (b) the title to the land shall not, after the date and time on which the interest is registered, be affected by any judgments registered against the judgment debtor mentioned in subsection (1).
- (4) Subject to the regulations, an amount received by the sheriff pursuant to subsection (1) is deemed to be seized property for the purposes of this Part.
- (5) Sections 103 to 106 do not apply to a deemed disposition pursuant to this section”.

Section 110 amended

28(1) Clause 110(3)(f) is amended by adding “, in satisfaction or partial satisfaction of that judgment creditor’s judgment” after “fund”.

(2) Subsection 110(4) is amended by striking out “bears to the total of all entitlements” and substituting “at the time of distribution bears to the total of all entitlements at the time of distribution”.

(3) Subsection 110(5) is amended in the portion preceding clause (a) by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

Section 111 amended

29 Subsection 111(11) is amended by striking out “a notice of motion” and substituting “an application with notice”.

New section 124.1

30 The following section is added after section 124:

“Director of Sheriffs

124.1(1) The minister may, by order, appoint a Director of Sheriffs.

(2) The Director of Sheriffs is responsible for:

(a) establishing the forms to be used for the purposes of this Act and the regulations; and

(b) performing any additional functions or responsibilities assigned to the Director of Sheriffs by this Act, the regulations or the minister.

(3) The Director of Sheriffs is an employee and agent of the Crown, and all actions of the Director of Sheriffs pursuant to this Act and the regulations are taken on behalf of the Crown.

(4) If the Director of Sheriffs considers it appropriate or necessary, the Director of Sheriffs may:

- (a) waive, in whole or in part, the payment of any fees, charges or taxes payable pursuant to this Act; or
- (b) refund, in whole or in part, any fees, charges or taxes payable pursuant to this Act.

(5) The Director of Sheriffs may impose any terms and conditions that the Director of Sheriffs considers appropriate on any waiver or refund granted pursuant to subsection (4)".

Section 125 amended

31 Section 125 is amended:

(a) **by repealing clause (h) and substituting the following:**

“(h) prescribing additional functions and responsibilities for the Director of Sheriffs”; **and**

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

“(r.1) for the purposes of section 107.1:

- (i) respecting the exercise of decision making by the sheriff for the purposes of that section and prescribing the procedures the sheriff and the judgment debtor shall follow in discharging registrations; and
- (ii) respecting the effect of an amount received by the sheriff as seized property and respecting how that amount is to be dealt with”.

Section 128 amended

32 Clause 128(3)(a) is amended by striking out “prescribed form” and substituting “form required by the Director of Sheriffs”.

Coming into force

33 This Act comes into force on proclamation.

FOURTH SESSION

**Twenty-seventh
Legislature**

SASKATCHEWAN

B I L L

No. 162

An Act to amend *The Enforcement of
Money Judgments Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Gordon Wyant
