

# BILL

No. 63

An Act respecting Reviewable Transactions, repealing *The Fraudulent Preferences Act* and the *Statute of Fraudulent Conveyances* and making consequential amendments to certain Acts

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(Assented to \_\_\_\_\_)

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

PART 1  
**Preliminary Matters**

**Short title**

**1-1** This Act may be cited as *The Reviewable Transactions Act*.

**Definitions and interpretation**

**1-2(1)** In this Act:

**“applicant”** means a person who applies to the court for relief pursuant to this Act;

**“claim”** means the right to satisfaction of an obligation owed by a debtor, whether the obligation is:

- (a) liquidated or unliquidated;
- (b) absolute or contingent;
- (c) certain or disputed; or
- (d) payable immediately or at a future time;

**“confer”** includes to create, grant, provide or transfer;

**“creditor”** means, subject to section 4-2, a person who holds a claim;

**“creditor transaction”** means a transaction under which a debtor directly or indirectly confers a benefit on a creditor by satisfying a claim in whole or in part or by providing security for the satisfaction of a claim in whole or in part but does not include:

- (a) a transaction under which a debtor:
  - (i) satisfies an obligation that is secured by a security interest in property of the debtor to the extent that the security interest has priority over the rights of unsecured creditors of the debtor;
  - (ii) confers an interest in property as security for new value advanced by the creditor; or
  - (iii) gives a security interest in property in substitution for another security interest in property that is of equivalent value and that was given to secure the same obligation; or
- (b) a transaction effected:
  - (i) by obtaining or enforcing a court order; or
  - (ii) by operation of law;

**“Crown”** means the Crown in right of Saskatchewan;

**“debtor”** includes a person with respect to whom an application for relief pursuant to this Act has been made;

**“debtor entity”** includes:

- (a) a corporation created or continued pursuant to an Act relating to corporations; and
- (b) any prescribed entity or class of entities;

**“enforcement charge”** means:

- (a) with respect to personal property, a charge in the personal property registry created by registration of a judgment in the judgment registry as provided in *The Enforcement of Money Judgments Act*; and
- (b) with respect to land, a charge created by registration of an interest based on a judgment against a title or against another interest in the land titles registry as provided in *The Enforcement of Money Judgments Act* and *The Land Titles Act, 2000*;

**“exempt property”** means an identifiable amount, item or kind of property that is not subject to any action, step or measure at law to enforce a judgment, other than registration of the judgment against the property, to the extent of the exemption;

**“insolvent”**, with respect to a person, means that:

- (a) the person is for any reason unable to meet the person’s obligations as they generally become payable;
- (b) the person has ceased paying the person’s obligations in the ordinary course of business as they generally become payable; or
- (c) the aggregate of the person’s property, other than exempt property, at a fair valuation is not sufficient to enable payment of all of the person’s obligations, whether or not those obligations are currently payable;

**“judgment registry”** means the Judgment Registry established pursuant to section 18 of *The Enforcement of Money Judgments Act*;

**“land titles registry”** means the Land Titles Registry established pursuant to section 4 of *The Land Titles Act, 2000*;

**“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

**“personal property registry”** means the Personal Property Registry continued pursuant to section 42 of *The Personal Property Security Act, 1993*;

**“prescribed”** means prescribed in the regulations;

**“property”** includes an interest, benefit or a right and includes proceeds of property;

**“reviewable transaction security interest”** means a security interest ordered by the court as provided in clause 5-2(2)(g);

**“security interest”** means an interest in property, other than the registration of a judgment pursuant to Part IV of *The Enforcement of Money Judgments Act*, that secures payment or performance of an obligation, and in sections 2-1 and 2-2:

- (a) includes an interest to which Part VIII of *The Land Titles Act, 2000* applies; and
- (b) includes an interest referred to in subsection 3(2) of *The Personal Property Security Act, 1993* but does not include any interest referred to in section 4 of that Act;

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**“separation agreement”** means an agreement between a debtor and an individual who is or was the debtor’s spouse that:

- (a) results from or relates to the breakdown of the parties’ relationship; and
- (b) provides for the division of property and financial resources or for support for the individual who is or was the debtor’s spouse or for a member of the debtor’s family;

**“sheriff”** means a sheriff, a deputy sheriff or a sheriff’s bailiff appointed pursuant to clause 3(3)(b) of *The Court Officials Act, 2012*;

**“spousal transaction”** means a transaction in which the parties are or were spouses and that is effected by:

- (a) a separation agreement;
- (b) a court order for the division of property and financial resources or for support resulting from the breakdown of the parties’ relationship; or
- (c) an interspousal contract made pursuant to section 38 of *The Family Property Act*;

**“spouse”** means an individual who, at the time of a transaction:

- (a) is or was married to another individual;
- (b) has, in good faith, gone through a form of statutory marriage with another individual that is void, where the individuals are cohabiting or have cohabited within the 2 years preceding the making of an application pursuant to this Act; or
- (c) is cohabiting or has cohabited with another individual as a spouse continuously for a period of not less than 2 years;

**“transaction”** means the conferral of property and includes:

- (a) the conferral of an interest in existing property or property to be acquired in the future, whether or not the property is exempt property in the hands of the transferor, including a settlement on the transferor as a trustee under a trust;
- (b) the provision of services;
- (c) the payment of money;
- (d) the release or discharge of an interest or obligation;
- (e) the conferral of a security interest, charge, lien or encumbrance;
- (f) the conferral of a licence, quota, right to use or right to payment;
- (g) the designation of a beneficiary;
- (h) the voluntary purchase or redemption of a debtor entity’s shares, securities, subscriptions, memberships, membership interests or other prescribed interests by that debtor entity or the voluntary payment of a dividend by a debtor entity, other than a dividend in the form of its shares, securities, subscriptions, memberships, membership interests or other prescribed interests;
- (i) the refusal by a debtor to act under a power of appointment to confer an interest in property on the debtor;

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- (j) the disclaimer of an interest in property, whether before or after the interest has vested;
  - (k) the creation or augmentation of a security interest held by a creditor in property of a debtor as a result of the satisfaction of an obligation owed to another person that is secured by a security interest in the same property if:
    - (i) an unsecured claim of the creditor in that property becomes secured in whole or to a greater extent; or
    - (ii) a claim of the creditor in that property that was unsecured in part becomes secured in whole or to a greater extent;
  - (l) the satisfaction of an obligation owed by a person other than the debtor;
  - (m) the conferral of a benefit by a court order or by operation of law; and
  - (n) the assumption of an obligation to do or to bring about in the future any of the events or actions mentioned in clauses (a) to (m);

**“transfer”** includes to acquire property under a transaction;

**“transferee”** means a person who benefits under a transaction and includes a creditor who benefits under a creditor transaction.

- (2) A transaction may be a single event or may comprise a series of closely related events, including the provision of services over time.
- (3) The date of a transaction is the date on which property is conferred or, if the transaction comprises a series of closely related events, the date when the events are substantially completed.
- (4) For the purposes of this Act:
  - (a) an individual has knowledge when the relevant information is acquired by the individual under circumstances in which a reasonable person would take cognizance of it;
  - (b) a partnership has knowledge when the relevant information comes to the attention of one of the general partners or a person having control or management of the partnership business under circumstances in which a reasonable person would take cognizance of it;
  - (c) a corporation has knowledge when:
    - (i) the relevant information comes to the attention of:
      - (A) a managing director or officer of the corporation under circumstances in which a reasonable person would take cognizance of it; or
      - (B) a senior employee of the corporation with responsibility for the matter to which the information relates under circumstances in which a reasonable person would take cognizance of it; or
    - (ii) the relevant information in writing is delivered to the corporation’s registered office or attorney for service;

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- (d) the members of an association have knowledge when the relevant information comes to the attention of:
- (i) a managing director or officer of the association under circumstances in which a reasonable person would take cognizance of it;
  - (ii) a senior employee of the association with responsibility for matters to which the information relates under circumstances in which a reasonable person would take cognizance of it; or
  - (iii) all members under circumstances in which a reasonable person would take cognizance of it; and
- (e) a government has knowledge when the relevant information comes to the attention of a senior employee of the government with responsibility for the matter to which the information relates under circumstances in which a reasonable person would take cognizance of it.

**Application for an order**

**1-3** An application for an order pursuant to this Act must be made to the Court of Queen's Bench.

**PART 2****Application of Act****Rights of secured creditors**

**2-1(1)** A creditor whose claim is secured by a security interest in property of the debtor may apply for an order pursuant to this Act but only with respect to the amount of the claim that exceeds the value of the property against which the security interest may be enforced.

(2) If a debtor transfers property that is subject to a security interest and another Act provides that the security interest is subordinated to the interest of the transferee or that the transferee takes the property free of the security interest:

- (a) the property is deemed not to be property against which the security interest may be enforced for the purposes of subsection (1) in proceedings relating to that transfer or to another transaction; and
- (b) if an order is made pursuant to this Act in relation to the property transferred, whether in proceedings by the creditor or by another person, the creditor may not assert a claim to the property on the basis of the security interest.

**Relief if transaction involves property subject to a security interest or enforcement charge**

**2-2(1)** An application for an order may be made in relation to a transaction that involves property that is subject to a security interest or an enforcement charge even if pursuant to another Act:

- (a) the security interest or the enforcement charge is subordinated to the interest of the transferee; or
  - (b) the transferee takes the property free of the security interest or enforcement charge.
- (2) If a transaction involves property that is subject to a security interest at the date of the transaction, the court may make an order only if, and only to the extent that, the transaction reduces the amount or value of property that would have been available to unsecured creditors under judgment enforcement measures if the transaction had not occurred.

(3) In determining pursuant to subsection (2) whether or not property would have been available to unsecured creditors under judgment enforcement measures if the transaction had not occurred:

- (a) no regard is to be had to whether or not the property is or was exempt property; and
- (b) if the security interest is subordinated to the interest of the transferee or the transferee takes free of the security interest, the security interest is to be considered unenforceable against unsecured creditors.

### **Orders and establishing claims**

**2-3(1)** An application for an order pursuant to this Act or the regulations may be made whether or not the applicant has commenced proceedings or obtained a judgment against the debtor in relation to a claim.

(2) An applicant is entitled to an order only if the applicant has obtained a judgment against the debtor in relation to the applicant's claim.

(3) If an applicant does not have a judgment against the debtor in relation to a claim:

- (a) the applicant may make the debtor a defendant in an application made pursuant to this Act or the regulations and the court may:
  - (i) grant judgment against the debtor for the amount of the claim of the applicant that is established in the proceedings or that is not contested by the debtor; or
  - (ii) direct a separate trial to determine the validity and amount of the applicant's claim; and
- (b) the court may:
  - (i) stay the proceedings or suspend the operation of an order until a judgment is obtained either as part of the proceedings in relation to the application pursuant to this Act or the regulations or in another action; and
  - (ii) make any supplementary orders that the court considers appropriate.

## **PART 3**

### **Transactions at Undervalue and Transactions Intended to Hinder or Delay Creditors**

#### **Order pursuant to this Part**

**3-1(1)** An application for an order pursuant to this Part may be made by:

- (a) a person whose claim existed at the date of the transaction that is the subject of the application; and
  - (b) a person whose claim arose after the date of the transaction that is the subject of the application, in the case of a transaction mentioned in clause 3-2(1)(b) or (c).
- (2) For the purposes of permitting an application to be made pursuant to this section:
- (a) a person who has commenced legal proceedings claiming an interest in the property of a debtor or an order for the payment of money against a debtor is deemed to be a person who holds a claim; and
  - (b) a person who is a defendant in the legal proceedings mentioned in clause (a) is deemed to be a debtor whether or not a judgment has been granted against that person at the time the application is made.

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**Grounds for relief pursuant to this Part**

**3-2(1)** Except as otherwise provided in this Act or the regulations, the court may make an order pursuant to this Part in relation to:

- (a) a transaction in which the debtor receives no consideration or consideration worth conspicuously less than the value of property conferred by the debtor under the transaction, if the debtor:
    - (i) is insolvent at the time of the transaction;
    - (ii) becomes insolvent as a result of the transaction; or
    - (iii) enters into the transaction in circumstances in which the debtor is demonstrably at risk of insolvency and the debtor becomes insolvent within 6 months after the date of the transaction;
  - (b) a transaction in which the debtor's primary intention is to hinder or defeat the right of a creditor or creditors to recover in whole or in part claims that, at the time of the transaction, were existing or were reasonably foreseeable, if:
    - (i) the ability of the creditor or creditors to recover their claims is materially hindered as a result of the transaction; and
    - (ii) the debtor receives no consideration or consideration worth conspicuously less than the value of property conferred by the debtor under the transaction; or
  - (c) a transaction in which the debtor's primary intention is to hinder or defeat the right of a creditor or creditors to recover in whole or in part claims that, at the time of the transaction, were existing or were reasonably foreseeable, if:
    - (i) the ability of the creditor or creditors to recover their claims is materially hindered as a result of the transaction; and
    - (ii) the transferee knew of the debtor's intention and intended to assist the debtor by entering into the transaction.
- (2) For the purposes of subsection (1), if the transaction involves a debtor entity repurchasing or redeeming shares, securities, subscriptions, memberships, membership interests or other prescribed interests issued by the debtor entity, the receipt of the shares, securities, subscriptions, memberships, membership interests or other prescribed interests issued by the debtor entity and their surrender by the holder is deemed not to be consideration received by the debtor entity under the transaction.
- (3) In determining the intention of a debtor or transferee for the purposes of clause (1)(b) or (c), the court may consider factors including, but not limited to, the following:
- (a) in the case of the debtor, whether the debtor was insolvent at the date of the transaction or became insolvent as a result of the transaction;
  - (b) in the case of the transferee, whether the transferee knew that the debtor was insolvent at the date of the transaction or would likely become insolvent as a result of the transaction;
  - (c) whether the transaction occurred at a time when the debtor or the transferee, as the case may be, knew of the existence of a claim against the debtor or had reasonable grounds to anticipate that a claim would arise in the foreseeable future;

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- (d) if the transaction was effected by a court order:
    - (i) in the case of the debtor, whether the debtor failed to disclose to the court in the proceedings under which that court order was made:
      - (A) an existing or reasonably foreseeable claim that may be prejudiced by the order; or
      - (B) the extent of an existing or reasonably foreseeable claim; or
    - (ii) in the case of the transferee, whether the transferee failed to disclose to the court in the proceedings under which that court order was made:
      - (A) an existing or reasonably foreseeable claim that may be prejudiced by the order and that was known to the transferee; or
      - (B) the extent of an existing or reasonably foreseeable claim that was known to the transferee;
  - (e) whether the value of the consideration received by the debtor was less than the value of the property conferred on the transferee;
  - (f) whether the parties to the transaction were related, closely affiliated or otherwise not dealing with each other at arm's length as provided in subsections 4-2(3) to (6);
  - (g) whether the debtor retained the possession, use or benefit of the property transferred under the transaction;
  - (h) whether the transaction was entered into in haste;
  - (i) whether the debtor or the transferee attempted to keep knowledge of the transaction or circumstances material to the availability of relief pursuant to this Act or the regulations hidden from creditors or others;
  - (j) whether the transaction was documented in a manner that would not ordinarily be expected in relation to a transaction of that kind.

### Relief in certain cases

**3-3(1)** In this section, “**contingent obligation**” means an obligation to pay money, transfer property or otherwise give value, the performance of which is contingent on an event that may or may not occur, and includes an obligation under a guarantee or an agreement to indemnify against loss occasioned by the default or non-performance of another person.

(2) The court may make an order in relation to the following transactions only if the grounds for relief mentioned in clause 3-2(1)(c) are established:

- (a) a spousal transaction;
- (b) a transaction involving the refusal by a debtor to act under a power of appointment to confer an interest in property on the debtor or the disclaimer of an interest in property before the interest has vested;
- (c) a transaction involving the assumption of a contingent obligation by the debtor.

(3) The court may make an order in relation to a transaction effected by a court order or by operation of law, other than a spousal transaction, only if the grounds for relief mentioned in clause 3-2(1)(b) or (c) are established.

(4) If a transaction is effected by a court order, the court may make an order whether or not that court is the same court that made the order effecting the transaction.

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**Specific transactions**

**3-4(1)** In this section, “**individual**” includes a director, officer, shareholder, member, subscriber, security holder, trustee, receiver, receiver-manager, liquidator or other prescribed individual or class of individuals associated with a debtor entity.

(2) This section applies to a transaction that consists of:

- (a) the voluntary purchase or redemption of shares, securities, subscriptions, memberships, membership interests or other prescribed interests by a debtor entity;
- (b) the voluntary declaration of a dividend by a debtor entity; or
- (c) any other prescribed transaction or class of transactions.

(3) Subject to the regulations, if an order is made against an individual as a transferee who received value of property under a transaction, the court may make an order against the individuals directing, authorizing or consenting to the transaction, jointly and severally, or any of them, to take effect if and to the extent that the order against the transferee is not satisfied within 6 months after the date on which the order is made.

(4) Subject to the regulations, an order must not be made pursuant to this section against:

- (a) an individual directing, authorizing or consenting to a transaction who is not liable in relation to the actions constituting the transaction pursuant to any Act or other law governing the debtor entity that provides for a remedy against an individual directing, authorizing or consenting to the transaction in relation to a resolution or action authorizing the transaction; or
- (b) an individual directing, authorizing or consenting to a transaction who had reasonable grounds to believe that the circumstances of the transaction were such that the transaction did not give rise to a remedy pursuant to the Act or law mentioned in clause (a).

(5) In determining whether an individual directing, authorizing or consenting to a transaction had reasonable grounds within the meaning of clause (4)(b), the court must consider whether that individual in good faith relied on, and a reasonable person in the individual’s position could be expected to rely on:

- (a) financial statements of the debtor entity represented to the individual by another individual associated with the debtor entity or in a written report of an auditor appointed pursuant to law to reflect fairly the financial condition of the debtor entity; or
- (b) a report of a lawyer, accountant, engineer, appraiser or other advisor whose position or profession lends credibility to the individual’s reliance.

(6) Subject to the regulations, an order must not be granted against an individual as a transferee who, in proceedings taken pursuant to an Act or other law governing the debtor entity, has been ordered to restore to the debtor entity or to another individual any amount paid or the value of property distributed under the transaction.

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- (7) Subject to the regulations, an order must not be granted against an individual directing, authorizing or consenting to a transaction who, in proceedings taken pursuant to an Act or other law governing the debtor entity, has been ordered:
- (a) to restore to the debtor entity any amount paid or the value of property distributed under the transaction; or
  - (b) to make a payment to satisfy a right of contribution held by another individual:
    - (i) who directed, authorized or consented to the transaction; and
    - (ii) who has been ordered to restore to the debtor entity any amount paid or the value of property distributed under the transaction.
- (8) Subject to the regulations, if an order is made against an individual in relation to a transaction:
- (a) the order is not enforceable against that individual if the individual is subsequently ordered in proceedings pursuant to an Act or other law governing the debtor entity to:
    - (i) restore to the debtor entity an amount paid or the value of property distributed under the transaction; or
    - (ii) satisfy an order for contribution; and
  - (b) the court may suspend enforcement of the order until proceedings mentioned in clause (a) are concluded.
- (9) In an application made pursuant to this Act or the regulations, an individual may advance any defence available at law to the individual in relation to a transaction, including any defence arising from any Act or other law governing the debtor entity.
- (10) An order made pursuant to this section against an individual directing, authorizing or consenting to a transaction must require the individual to pay a sum of money equivalent to the amount paid by the debtor entity under the transaction.

#### **Orders respecting creditor and spousal transactions**

**3-5(1)** Subject to subsection (2), if a transaction is a creditor transaction, the court may make an order pursuant to this Part only to the extent that the value of the property conferred on the creditor exceeds the claim satisfied or secured by the creditor transaction.

(2) This Part applies to a spousal transaction, whether or not the spousal transaction is a creditor transaction in whole or in part.

#### **Persons against whom relief may be granted pursuant to this Part**

**3-6(1)** If grounds mentioned in section 3-2 are established, the court may make an order against either or both of the following:

- (a) a transferee who received property from the debtor under the transaction;
- (b) subject to subsection (2), a person who has received all or part of the property conferred under the transaction from a transferee mentioned in clause (a) or a subsequent transferee.

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(2) The court shall not make an order against a person mentioned in clause (1)(b) if the person gave consideration that, in the opinion of the court, is worth not conspicuously less than the value of the property received and:

(a) if the grounds for relief fall within clause 3-2(1)(a), the person did not know that the property was derived from a transaction that occurred in the circumstances mentioned in that clause; or

(b) if the grounds for relief fall within clause 3-2(1)(b) or (c), the person did not know that the property was derived from a transaction in which the debtor's primary intention was to hinder or defeat the enforcement of the rights of a creditor or creditors.

(3) If grounds for relief mentioned in section 3-4 are established, the court may make an order against an individual directing, authorizing or consenting to the transaction on behalf of a debtor entity.

#### PART 4

### Preferential Creditor Transactions

#### Order pursuant to this Part

4-1(1) Subject to subsection (2), an application for an order pursuant to this Part may be made by a person who holds a claim that existed at the date of the creditor transaction that is the subject of the application.

(2) If a claim is a right to satisfaction of an obligation that is contingent on a future event that may or may not occur, the person who holds the claim may apply for relief only if, at the date of the creditor transaction that is the subject of the application, it was reasonably foreseeable that the event would occur.

#### Grounds for relief pursuant to this Part

4-2(1) In this section:

**“clearing house”** means a body that acts as an intermediary for its clearing members in effecting securities transactions;

**“clearing member”** means a person engaged in the business of effecting securities transactions who uses a clearing house as an intermediary;

**“creditor”** includes a surety or guarantor for the debt due to the creditor;

**“eligible financial contract”** has the same meaning as in the *Bankruptcy and Insolvency Act* (Canada);

**“financial collateral”** has the same meaning as in the *Bankruptcy and Insolvency Act* (Canada);

**“margin deposit”** means a payment, deposit or transfer to a clearing house under the rules of the clearing house to assure the performance of the obligations of a clearing member in connection with security transactions, including, without limiting the generality of the foregoing, transactions respecting futures, options or other derivatives or to fulfil any of those obligations.

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- (2) Except as otherwise provided in this Act or the regulations, the court may make an order pursuant to this Part in relation to a creditor transaction if:
- (a) the creditor receiving the property conferred under the creditor transaction is not dealing at arm's length with the debtor; and
  - (b) the debtor:
    - (i) is insolvent at the time of the creditor transaction;
    - (ii) becomes insolvent as a result of the creditor transaction; or
    - (iii) enters into the creditor transaction in circumstances in which the debtor is demonstrably at risk of insolvency and the debtor becomes insolvent within 6 months after the date of the creditor transaction.
- (3) Persons who are related to each other are presumed not to deal with each other at arm's length while they are related, but this presumption may be rebutted by proof that the persons are dealing with each other at arm's length.
- (4) It is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.
- (5) Persons are related to each other when they are related to each other for the purposes of the *Bankruptcy and Insolvency Act* (Canada).
- (6) Persons are deemed to be dealing with each other at arm's length with respect to the following transactions:
- (a) a margin deposit made by a clearing member with a clearing house;
  - (b) a transfer, charge or payment made in connection with financial collateral and in accordance with the provisions of an eligible financial contract.

**Non-application of Part to spousal transactions**

**4-3** This Part does not apply to a spousal transaction, notwithstanding that the spousal transaction may be a creditor transaction in whole or in part.

**Persons against whom relief may be granted pursuant to this Part**

**4-4** If grounds for relief are established pursuant to this Part, the court may make an order against either or both of the following:

- (a) a creditor receiving the property conferred from a debtor under a creditor transaction;
- (b) a person who has received all or part of the property conferred under a creditor transaction:
  - (i) in a transaction with a creditor mentioned in clause (a) if the person was not dealing at arm's length with the creditor; or
  - (ii) in a transaction with a transferee who received all or part of the property from a creditor mentioned in clause (a) or a subsequent transferee, if the parties to each transaction leading to receipt of the property by the person against whom relief is claimed were not dealing at arm's length.

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PART 5  
**Orders and Remedies**

**Definitions for this Part and Part 6**

**5-1** In this Part and in Part 6:

**“proceeds”** means:

- (a) identifiable or traceable property that is derived directly or indirectly from any dealing with:
  - (i) the property that is the subject of a transaction; or
  - (ii) the proceeds of the property that is the subject of a transaction; and
- (b) the right to an insurance payment or any other payment as indemnity or compensation for the loss of or damage to:
  - (i) the property that is the subject of a transaction; or
  - (ii) the proceeds of property that is the subject of a transaction;

**“relevant amount”** means:

- (a) in an order made pursuant to clause 3-2(1)(a) or (b), the amount of the applicant’s judgment and all judgments against the debtor registered in the judgment registry at the date of the order or at the date the order was amended pursuant to section 5-2, as the case may be, not exceeding the value of property conferred by the debtor to the transferee under the transaction; and
- (b) in any other order, the total of:
  - (i) the amount of the applicant’s judgment and all judgments against the debtor registered in the judgment registry at the date of the order or at the date the order was amended pursuant to section 5-2, as the case may be, not exceeding the value of property conferred by the debtor on the transferee under the transaction; and
  - (ii) when ordered by the court:
    - (A) the amount referred to in subsection 110(1) of *The Enforcement of Money Judgments Act*; and
    - (B) the amount of the applicant’s judgment and costs and expenses as provided in clause 110(3)(a) of *The Enforcement of Money Judgments Act*.

**Orders**

**5-2(1)** In an application pursuant to Part 3 or Part 4, the court may:

- (a) make any order that it considers necessary to recover from the transferee the relevant amount or to restore the applicant’s ability to enforce the claim; or
  - (b) decline to grant an order.
- (2) An order made pursuant to clause (1)(a) may include, but is not limited to, one or more of the following:
- (a) an order requiring the transferee to deliver to the sheriff a sum equivalent to the relevant amount;

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- (b) except in the case of an order made pursuant to Part 4, an order requiring the transferee to deliver to the sheriff a sum equivalent to the relevant amount in consideration of income earned through the use or exploitation of property or of a licence, quota, right to use or right to payment received under the transaction;
- (c) an order directing that:
- (i) property of the transferee be seized and sold by the sheriff free from any enforcement charge affecting it; and
  - (ii) the sheriff retain from the net amount received an amount having a value up to the relevant amount;
- (d) an order directing the release or discharge of any obligation, interest, security interest, charge, lien or encumbrance incurred or conferred by the debtor under the transaction;
- (e) an order reviving any obligation, interest, security interest, charge, lien or encumbrance released or discharged by the debtor under the transaction;
- (f) an order setting aside or varying a court order if the order constitutes the transaction giving rise to the entitlement to relief;
- (g) an order that the following be subject to a reviewable transaction security interest securing the relevant amount:
- (i) an interest in an item or type of personal property or land conferred on the transferee under a transaction;
  - (ii) any or all of the present and after-acquired personal property of a transferee;
- (h) an order appointing a receiver to take possession of and deal with property in the manner directed;
- (i) an order setting aside a designation in favour of a beneficiary;
  - (j) an order granting an injunction against the debtor or another person.
- (3) An order made pursuant to clause (2)(a), (b) or (c) may be registered as a judgment in the judgment registry and enforced as an enforcement charge that names the transferee as the judgment debtor.
- (4) An order registered pursuant to subsection (3) has the same priority in relation to other interests in the affected property as an enforcement charge.
- (5) Section 15 of *The Enforcement of Money Judgments Act* applies with any necessary modification, including reading “judgment debtor” in *The Enforcement of Money Judgments Act* as the “transferee” in this Act, with respect to an order made pursuant to this section.
- (6) A transferee may not claim any property transferred under a transaction as exempt property.
- (7) Money received by a sheriff pursuant to this section is deemed to be:
- (a) money received by the sheriff pursuant to clause 107(2)(a) of *The Enforcement of Money Judgments Act*; and
  - (b) a fund within the meaning of section 107 of *The Enforcement of Money Judgments Act*, the proceeds of which were obtained through enforcement of a judgment against the debtor.

(8) If an order is made pursuant to subsection (2) in relation to a transaction in which the debtor transferred exempt property and the debtor continues to use the property in the manner that renders it exempt property, the court:

- (a) may suspend the enforcement of the order until the debtor ceases to use the property in the manner that renders it exempt property; and
- (b) if the enforcement of the order is suspended pursuant to clause (a), may order that the exempt property or other property of the transferee be subject to a reviewable transaction security interest as provided in clause (2)(g).

**Orders made pursuant to clause 5-2(2)(c)**

**5-3(1)** An order made pursuant to clause 5-2(2)(c) that relates to a security, security entitlement or futures contract seized by a sheriff pursuant to section 53 of *The Enforcement of Money Judgments Act* has the same priority in relation to other interests in the security, security entitlement or futures contract as an enforcement charge perfected by control pursuant to *The Enforcement of Money Judgments Act*.

(2) When executing an order made pursuant to clause 5-2(2)(c), unless the court orders otherwise, the following provisions of *The Enforcement of Money Judgments Act* apply, with any necessary modification, including reading “judgment debtor” in *The Enforcement of Money Judgments Act* as the “transferee” as defined in this Act:

- (a) section 2 as applicable and subsections 4(1), (2) and (4);
- (b) Parts VI and VII;
- (c) Part VIII, subsection 72(2), with the reference to “an application pursuant to subsection (1)” to be read as “an order made pursuant to clause 5-2(2)(c)” of this Act;
- (d) Part XI, other than section 104.

(3) When executing an order made pursuant to clause 5-2(2)(c), a sheriff may require the transferee to complete a questionnaire referred to in subsection 13(1) of *The Enforcement of Money Judgments Act* and attend for examination under oath as provided in section 14 of that Act without the sheriff having to first serve a voluntary questionnaire within the meaning of section 12 of that Act.

**Orders made pursuant to clause 5-2(2)(d) or (e)**

**5-4** The court may make an order pursuant to clause 5-2(2)(d) or (e), as applicable:

- (a) when the court determines that an order made pursuant to any one or more of clauses 5-2(2)(a) through (c) may be less effective than an order made pursuant to clause 5-2(2)(d) or (e); or
- (b) in conjunction with another order made pursuant to subsection 5-2(2).

**Orders made pursuant to clause 5-2(2)(f)**

**5-5** The court may make an order pursuant to clause 5-2(2)(f) whether or not that court is the same court that made the order effecting the transaction.

**Orders made pursuant to clause 5-2(2)(g)**

**5-6** The court may make an order pursuant to clause 5-2(2)(g):

- (a) when the court determines that an order made pursuant to any other clause of subsection 5-2(2) may be ineffective; or
- (b) in conjunction with another order made pursuant to subsection 5-2(2).

**Service of orders**

**5-7** Unless otherwise ordered by the court, the applicant shall serve a copy of an order made pursuant to section 5-2 on:

- (a) the debtor;
- (b) the transferee and any subsequent transferees, if applicable, of the property that is the subject of the application;
- (c) all judgment creditors who have registered judgments in the judgment registry against the debtor as at the date of the application for an order pursuant to this Part;
- (d) all persons with a registered interest in or against the property that is the subject of the application;
- (e) all persons who are known by the applicant to have claims against the property that is the subject of the application; and
- (f) any other prescribed person or class of persons.

**Adjustment of orders in Part 3**

**5-8(1)** When granting an order relating to a transaction mentioned in Part 3, subject to subsection (2), the court may adjust the order or make an order for the entry of a judgment for a specified sum against the debtor in favour of the transferee by considering the following:

- (a) the payments or other value given by the transferee with respect to the transaction;
- (b) expenditures and non-monetary investments made by the transferee that have enhanced the value of property received by the transferee under the transaction, or that have generated income through the use of property or of a licence, quota, right to use or right to payment conferred by the debtor, to the extent of the expenditures made or value invested;
- (c) actions taken by the transferee in reasonable reliance on the finality of the transaction under which the property was received.

(2) Unless the court orders otherwise, subsection (1) does not apply when the transferee knew that the debtor entered into the transaction with the primary intention of hindering or defeating the rights of a creditor or creditors to recover their claims.

**Adjustment of orders in Part 4**

**5-9** When granting an order relating to a transaction mentioned in Part 4, the court may consider expenditures and non-monetary investments made by the transferee that have enhanced the value of property received under the creditor transaction and may:

- (a) adjust the terms of an order; or
- (b) make an order for the entry of a judgment for a specified sum against the debtor in favour of the transferee receiving the enhanced value of property.

**Orders granting security interests**

**5-10(1)** If an order made pursuant to Part 3 or 4 requires that property received by the transferee under the transaction be vested in the debtor, the court may order that a security interest in all or part of the property be granted to the transferee to secure the amounts determined in favour of the transferee for the purposes of section 5-8 or 5-9.

(2) Subject to the regulations, a security interest granted pursuant to subsection (1) may be registered by the transferee in the personal property registry or the land titles registry, as the case may be.

(3) A perfected or registered security interest granted pursuant to subsection (1) has priority over the rights and interests of creditors of the debtor that exist in relation to property when the property vests in the debtor or that arise as a result of the vesting.

(4) A perfected or registered security interest granted pursuant to subsection (1) does not have priority over a perfected or registered security interest in the property that existed and had priority over the rights and interests of creditors of the debtor before the transaction occurred.

**Revival of discharged obligations**

**5-11(1)** If an order made pursuant to Part 4 in relation to a creditor transaction has the effect of discharging an obligation under a guarantee, indemnity or obligation secured by a guarantee or indemnity, the discharged obligation is revived to the extent that the transaction is set aside.

(2) An order mentioned in subsection (1) is subject to any defences that the person who owes the obligation under a guarantee, indemnity or obligation secured by a guarantee or indemnity may be entitled to assert at law.

**Family property orders**

**5-12** The court may not make an order pursuant to this Part in relation to a transaction if the transaction is the subject of an order made pursuant to clause 28(2)(b) or (c) of *The Family Property Act*.

**Appeal**

**5-13(1)** With leave of a judge of the Court of Appeal, an applicant, debtor, transferee or other person who is aggrieved by a decision or order made pursuant to this Act may appeal the decision or order made pursuant to this Act.

(2) Unless ordered otherwise by a judge of the Court of Appeal, the service and filing of a notice of appeal does not stay the registration of a reviewable transaction security interest ordered pursuant to clause 5-2(2)(g) in accordance with section 6-3.

**Injunctions**

**5-14(1)** Whether or not an application for an order has been made pursuant to this Act or the regulations, the court may grant an injunction in favour of a person who is, or who may become, entitled to apply for an order pursuant to this Act or the regulations if the court is satisfied that there is a reasonable likelihood that a transaction giving rise to a right to relief pursuant to this Act or the regulations has occurred or is about to occur.

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- (2) In granting an injunction pursuant to subsection (1), the court may make any orders against the debtor or another person that the court considers necessary to:
- (a) preserve the value of the property affected by any order that may be granted pursuant to this Act or the regulations;
  - (b) allow an appropriate order to be made pursuant to this Act or the regulations; or
  - (c) prevent a transaction from occurring if the court is satisfied that the transaction would, if the injunction were not granted, be likely to constitute a transaction that gives rise to a right to relief pursuant to this Act or the regulations.
- (3) Any interested person may apply to the court to extend, renew, vary, modify or terminate an order made pursuant to this section.

#### **Subsequent transferees**

**5-15** This Part applies, with any necessary modification, to an order made against a person mentioned in clause 3-6(1)(b) or 4-4(b).

### **PART 6**

#### **Reviewable Transaction Security Interest**

##### **Priority of reviewable transaction security interest**

**6-1(1)** In this section, “**control**” means control as defined in *The Securities Transfer Act* or within the meaning of *The Personal Property Security Act, 1993*, as applicable.

(2) Except as otherwise provided in this Act or the regulations, a reviewable transaction security interest in personal property that is registered in the personal property registry has the same priority as a perfected security interest, other than a purchase money security interest, to which *The Personal Property Security Act, 1993* applies.

(3) Property that is inventory or proceeds of inventory within the meaning of *The Personal Property Security Act, 1993* is deemed not to be inventory for the purposes of subsection (2).

(4) A reviewable transaction security interest has priority over an enforcement charge relating to a judgment against the transferee.

(5) A security interest created pursuant to *The Personal Property Security Act, 1993* has priority over a reviewable transaction security interest with respect to advances made after the reviewable transaction security interest is registered if:

- (a) a registration relating to the security interest was effected before the reviewable transaction security interest was registered; and
- (b) the advances were made without knowledge by the secured party of the registration of the reviewable transaction security interest.

(6) If the secured party has knowledge of a reviewable transaction security interest at the time an advance is made, the security interest mentioned in subsection (5) has priority with respect to:

- (a) advances made pursuant to a binding legal obligation owing to a person other than the transferee incurred by the secured party before the secured party acquired knowledge of the reviewable transaction security interest;
- (b) reasonable costs and expenditures made by the secured party for the protection, preservation or repair of the property subject to the security interest; and
- (c) any statutory obligation.

(7) A reviewable transaction security interest relating to a security, security entitlement or futures contract of a transferee credited to a securities account:

- (a) is deemed for priority purposes to be perfected by control when a copy of the order creating the security interest is delivered to the securities intermediary at which the securities account is held; and
- (b) has the same priority as a security interest perfected by control as provided by *The Personal Property Security Act, 1993*.

#### **Enforcement of reviewable transaction security interest**

**6-2(1)** Subject to subsection (2), a reviewable transaction security interest may be enforced:

- (a) only on an order of the court; and
  - (b) by a sheriff or person appointed by a sheriff.
- (2) Unless the court orders otherwise, a reviewable transaction security interest may be enforced in the same way as an enforcement charge and the following provisions of *The Enforcement of Money Judgments Act* apply, with any necessary modification, including reading “judgment debtor” in *The Enforcement of Money Judgments Act* as the “transferee” as defined in this Act:
- (a) section 2 as applicable and subsections 4(1), (2) and (4);
  - (b) Parts VI and VII;
  - (c) Part VIII, subsection 72(2), with the reference to “an application pursuant to subsection (1)” to be read as “an order made pursuant to clause 5-2(2)(g)” of this Act;
  - (d) Part XI, other than section 104.
- (3) If a reviewable transaction security interest is ordered against property conferred on a transferee under a transaction mentioned in subclause 5-2(2)(g)(i), the transferee may not assert that the property is exempt property against the person who holds the reviewable transaction security interest.
- (4) The proceeds of enforcement of a reviewable transaction security interest are deemed to be:
- (a) money received by the sheriff pursuant to clause 107(2)(a) of *The Enforcement of Money Judgments Act*; and
  - (b) a fund within the meaning of section 107 of *The Enforcement of Money Judgments Act*, the proceeds of which were obtained through enforcement of a judgment against the debtor.

#### **Registration of a reviewable transaction security interest**

**6-3(1)** When ordered by the court, the Registrar of Personal Property Security appointed pursuant to *The Personal Property Security Act, 1993* or the Registrar of Titles appointed pursuant to *The Land Titles Act, 2000*, as the case may be, shall effect, amend or discharge a reviewable transaction security interest in property of the transferee.

(2) Except as otherwise provided in this Act or the regulations, Part IV of *The Personal Property Security Act, 1993* applies, with any necessary modification, to registration of a reviewable transaction security interest in personal property.

(3) Subsections 43(2) to (5), 43(10) to (12) and sections 44, 45 and 49 to 54 of *The Personal Property Security Act, 1993* do not apply to registration of a reviewable transaction security interest in personal property.

(4) A reviewable transaction security interest in land is an interest to which, with any necessary modification, Part VIII and section 109 of *The Land Titles Act, 2000* apply.

(5) Except as otherwise provided in this Act, the regulations or in *The Land Titles Act, 2000*, an order of the court made pursuant to clause 5-2(2)(g) is to be treated as an application for registration of a reviewable transaction security interest for the purposes of sections 53, 58 and 59 of *The Land Titles Act, 2000*.

(6) Sections 55 to 57, 60, 61, 63 and 67 of *The Land Titles Act, 2000* do not apply to registration of a reviewable transaction security interest.

## PART 7

### Provisions of General Application

#### Limitation of actions

**7-1(1)** Subject to subsection (2), no application for an order may be commenced more than 2 years after the date of a transaction that is the subject of the application.

(2) If the transferee conceals or assists in the concealment of the transaction that is the subject of the application or of facts material to the grounds for relief pursuant to this Act or the regulations, the 2-year period mentioned in subsection (1) commences at the time that the transaction or the material facts first came to the knowledge of the person making the application.

(3) Notwithstanding subsection (2), no application is to be commenced more than 5 years from the date of the transaction that is the subject of the application.

#### General court jurisdiction

**7-2** On an application of a debtor, transferee, sheriff, receiver, secured or unsecured creditor of the debtor or a person with an interest in property affected by an order made pursuant to this Act or the regulations, the court may make one or more of the following orders:

(a) any order that is necessary to ensure compliance with this Act or the regulations, including a binding declaration of a right;

(b) an order giving directions to any person regarding the exercise of rights or the discharge of duties or functions pursuant to this Act or the regulations;

(c) an order temporarily staying the exercise of rights provided in this Act or the regulations;

(d) an order directing a police authority with jurisdiction in the locality where an order is or will be carried out to take appropriate steps to protect a sheriff, or a person executing functions delegated to that person by a sheriff, while enforcing the order;

(e) an order to ensure protection of the interest of any person in property.

#### Certain application of *The Enforcement of Money Judgments Act*

**7-3** Sections 115, 116 and 117 of *The Enforcement of Money Judgments Act* apply, with any necessary modification, to the exercise of rights or powers pursuant to this Act or the regulations.

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**Immunity**

**7-4** No action or proceeding lies or shall be commenced against the Crown, the minister, a sheriff, the Registrar of Titles appointed pursuant to *The Land Titles Act, 2000*, the Registrar of Personal Property Security appointed pursuant to *The Personal Property Security Act, 1993* or a delegate, employee, agent or officer of the Crown, the minister, a sheriff, the Registrar of Titles or the Registrar of Personal Property Security for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

**Service**

**7-5(1)** Subject to subsection (2) and except if otherwise provided in this Act or the regulations, any notice or other document that is required to be served pursuant to this Act or the regulations must be served:

- (a) by personal service made:
    - (i) in the case of an individual, on that individual;
    - (ii) in the case of a partnership, on any partner;
    - (iii) in the case of a corporation, other than a municipality, on any officer or director of the corporation or on a person who is in charge of any office or place of business of the corporation;
    - (iv) in the case of a municipality, on the mayor, reeve, clerk or administrator of the municipality or a deputy of any of those persons;
    - (v) in the case of an association, on any officer of that association;
    - (vi) in the case of the Crown, in the prescribed manner; or
    - (vii) in the prescribed manner;
  - (b) by registered mail addressed in the prescribed manner;
  - (c) by any other prescribed means; or
  - (d) in any case if, on application, the court is satisfied that it is not practicable to effect service by any of the means mentioned in clauses (a) to (c), by any method that the court may direct.
- (2) Subject to clause (1)(d), a notice or document required to be personally served pursuant to this Act or the regulations must be served in accordance with clause (1)(a).
- (3) A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing.
- (4) Service of a notice or document by any other prescribed means is to be proved in the prescribed manner.
- (5) A notice or other document required to be served on a sheriff may be served:
- (a) by leaving it at the office of the sheriff with any person appearing to have authority to accept the notice or document;
  - (b) by registered mail addressed to the address of the office of the sheriff; or
  - (c) by any other prescribed means.

(6) Any person entitled to be served with a notice or a document may at any time waive, in writing, service of the notice or document.

(7) Service of any notice or document may be proved by affidavit or oral evidence given under oath or affirmation by the person claiming to have served it.

## PART 8

### Regulations

#### Regulations

**8-1** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing an entity or class of entities for the purposes of the definition of “debtor entity”;
- (c) prescribing interests for the purposes of the definition of “transaction” and subsection 3-2(2) and section 3-4;
- (d) for the purposes of section 3-4, respecting specific transactions, including:
  - (i) prescribing an individual or class of individuals;
  - (ii) prescribing a transaction or class of transactions;
  - (iii) respecting any other restrictions, terms, conditions or requirements in relation to orders made pursuant to that section; and
  - (iv) respecting any other matters that arise with respect to a transaction involving a debtor entity;
- (e) prescribing the persons or class of persons who must be served with a court order pursuant to section 5-7;
- (f) authorizing the Registrar of Personal Property Security appointed pursuant to *The Personal Property Security Act, 1993* or the Registrar of Titles appointed pursuant to *The Land Titles Act, 2000* to take any steps deemed necessary with respect to:
  - (i) a registration of a reviewable transaction security interest; or
  - (ii) a registration of a security interest mentioned in subsection 5-10(2);
- (g) respecting priority or registration of a reviewable transaction security interest;
- (h) prescribing rules and forms required for the proper administration of this Act;
- (i) prescribing the form, format or contents of any notice or other document to be provided pursuant to this Act;
- (j) prescribing manners or methods for the service, sending, filing or posting of notices or other documents, including:
  - (i) the service, sending, filing or posting of notices or other documents by fax or other method of electronic transmission;
  - (ii) service, sending, filing or posting of notices or other documents on the Crown or a sheriff; or
  - (iii) service, sending, filing or posting of notice or other document by registered mail;

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- (k) prescribing any fees or charges payable to a sheriff or other person with respect to the administration of this Act;
  - (l) respecting orders that may be made pursuant to this Act;
  - (m) respecting when applications may be made pursuant to this Act;
  - (n) respecting the grounds for relief pursuant to this Act;
  - (o) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations; and
  - (p) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

## PART 9

**Repeal, Transitional, Consequential Amendments  
and References****Repeal**

**9-1(1)** The Act of Parliament of England commonly called the *Statute of Fraudulent Conveyances*, 1571 (UK), 13 Eliz. I, c 5, to the extent that it applies to subject-matter within the legislative jurisdiction of Saskatchewan, is repealed.

(2) *The Fraudulent Preferences Act* is repealed.

**Transitional**

**9-2(1)** This Act applies to any transaction occurring on or after the date on which this Act comes into force.

(2) The law as it existed on the day before the day on which this Act comes into force applies to transactions occurring before the day this Act comes into force.

**RSS 1978, c B-10, section 234 amended**

**9-3** The following subsection is added after subsection 234(2) of *The Business Corporations Act*:

“(2.1) A complainant may not apply pursuant to this section if a remedy is available pursuant to *The Reviewable Transactions Act*”.

**SS 2021, c 6, section 18-4 amended**

**9-4** The following subsection is added after subsection 18-4(2) of *The Business Corporations Act, 2021*:

“(2.1) A complainant may not apply pursuant to this section if a remedy is available pursuant to *The Reviewable Transactions Act*”.

**SS 1998, c C-45.2, section 321 amended**

**9-5** The following subsection is added after subsection 321(1) of *The Credit Union Act, 1998*:

“(1.1) A complainant may not apply pursuant to this section if a remedy is available pursuant to *The Reviewable Transactions Act*”.

**SS 2010, c E-9.22 amended**

**9-6(1)** *The Enforcement of Money Judgments Act* is amended in the manner set forth in this section.

**(2) Subsection 5(1) is repealed and the following substituted:**

“(1) In this Part:

(a) **‘action’** means a legal action that would, if successful, result in:

(i) a judgment;

(ii) an order made pursuant to *The Reviewable Transactions Act*; or

(iii) a judgment or order declaring a gift, conveyance, assignment, transfer, delivery over or payment of property void as a fraudulent conveyance or fraudulent preference or a transfer at undervalue;

(b) **‘defendant’** includes a person against whom an order or judgment is sought in an action mentioned in subclause (a)(ii) or (iii);

(c) **‘judgment creditor’** includes a person in whose favour an order or judgment in an action mentioned in clause (a) has been made;

(d) **‘plaintiff’** includes a person who has commenced an action mentioned in clause (a)”.

**(3) Subsection 5(5) is amended:**

(a) **by repealing subclause (a)(ii) and substituting the following:**

“(ii) a judgment or order described in subclause (1)(a)(ii) or (iii)”;

(b) **in clause (b) in the portion preceding subclause (i) by striking out “or transferee”; and**

(c) **in clause (c) by striking out “or transferee”.**

**(4) Subsection 5(6) is amended:**

(a) **by striking out “or transferee” wherever it appears; and**

(b) **in clause (i) in the portion preceding subclause (i) by striking out “, a transferee”.**

**(5) Clause 5(9)(c) is amended by striking out “or a transferee”.****(6) Section 6 is amended by striking out “, transferee” wherever it appears.****(7) Clause 7(1)(e) is amended by striking out “, transferee”.****(8) Clause 110(3)(a) is repealed and the following substituted:**

“(a) the amount of costs and expenses ordered by the court, other than fees and costs described in subsection (1), to the extent that the money in the fund can be attributed to property subject to an order of the court in an application pursuant to *The Reviewable Transactions Act*, which amount shall be paid to the judgment creditor who brought the application;

“(a.1) the amount of taxable court costs incurred in proceedings pursuant to Part II, other than fees and costs described in subsection (1), to the extent that the money in the fund can be attributed to property subject to an order pursuant to section 5, which amount shall be paid to the judgment creditor or other person who paid the costs”.

**SS 2000, c L-5.1 amended**

9-7(1) *The Land Titles Act, 2000* is amended in the manner set out in this section.

(2) **Section 85 is amended by adding the following clause after clause 85(f.1):**

“(f.2) occasioned by an error in the registration of a reviewable transaction security interest after the coming into force of *The Reviewable Transactions Act*”.

(3) **Subsection 173.3(6) is repealed and the following substituted:**

“(6) When land that is exempt from judgment enforcement pursuant to *The Enforcement of Money Judgments Act* or any other Act is sold to a purchaser for value pursuant to a transaction that is not subject to an application or order pursuant to *The Reviewable Transactions Act* or that is not a fraudulent conveyance, the sheriff shall procure the discharge of an enforcement charge affecting the land on receipt of the net proceeds of purchase money”.

**SS 1999, c N-4.001, section 291 amended**

9-8 **The following subsection is added after subsection 291(1) of *The New Generation Co-operatives Act*:**

“(1.1) A complainant may not apply pursuant to this section if a remedy is available pursuant to *The Reviewable Transactions Act*”.

**SS 1988-89, c S-17.1, new section 65**

9-9 **Section 65 of *The Saskatchewan Farm Security Act* is repealed and the following substituted:**

**“Interpretation of Part**

65(1) Subject to subsection (2), in this Part, ‘**farmer**’ means a producer who:

- (a) owes payment or other performance of the obligation secured whether or not the producer owns or has rights in the goods; or
- (b) is an execution debtor.

(2) A producer who is a ‘transferee’ within the meaning of *The Reviewable Transactions Act* is not a farmer for the purposes of this Part with respect to any property that is the subject of an order made pursuant to that Act”.

**References**

9-10 When applying another enactment to a matter governed by this Act, a reference in that other enactment to *The Fraudulent Preferences Act*, or to the *Statute of Fraudulent Conveyances*, 1571 (UK), 13 Eliz. I, c 5, is deemed to be a reference to this Act.

## PART 10

**Coming into Force****Coming into force**

10-1 This Act comes into force by order of the Lieutenant Governor in Council.



SECOND SESSION

# Twenty-ninth Legislature

SASKATCHEWAN

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## B I L L

No. 63

An Act respecting Reviewable Transactions,  
repealing *The Fraudulent Preferences Act* and the  
*Statute of Fraudulent Conveyances* and making  
consequential amendments to certain Acts

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Received and read the

First time

Second time

Third time

And passed

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Honourable Gordon Wyant

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