

BELIZE:

MOVABLE PROPERTY SECURITY RIGHTS BILL, 2024

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BILL

For

AN ACT to facilitate the use of movable property as collateral for credit facilities; to establish the office of the Registrar of Security Rights and to provide for the registration of security rights in movable property and for related purposes; and to provide for matters connected therewith or incidental thereto.

(Gazetted, 2024)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the Short title.

MOVABLE PROPERTY SECURITY RIGHTS ACT, 2024.

2. In this Act, unless the context otherwise requires— Interpretation.

“acquisition secured creditor” means a secured creditor that has an acquisition security right;

“acquisition security right” means—

- (a) a security right in a tangible asset;
- (b) a security right in intellectual property; or
- (c) a security right in the rights of a licensee under a licence of intellectual property,

which secures an obligation to pay an unpaid portion of the purchase price of the asset or other credit extended to enable the grantor to acquire rights in the asset to the extent the credit is used for that purpose;

“amendment notice” means a notice submitted to the Registry in the prescribed registry notice form to modify information contained in a related registered notice;

“attachment to immovable property” means a tangible asset that, notwithstanding the fact that it is physically affixed to immovable property, it is treated as movable property;

CAP. 263. “bank” means any body corporate duly licensed under the Domestic Banks and Financial Institutions Act to conduct banking business and all offices and branches of a bank in Belize shall be deemed to be one bank, except as otherwise expressly provided;

“cancellation notice” means a notice submitted to the Registry in the prescribed registry notice form to cancel the effectiveness of the registration of all related registered notices;

CAP. 262. “Central Bank” means the Central Bank of Belize established under the Central Bank of Belize Act;

Act No. 8 of 2023. “Commission” means the Financial Services Commission established under section 3 of the Financial Services Commission Act

“collateral” means—

- (a) a movable asset that is subject to a security right; or
- (b) a receivable that is the subject of an outright transfer;

“commingled assets” means funds credited to a deposit account or money mixed with other money so that they ceased to be identifiable;

“commingled goods” means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass;

“competing claimant” means a creditor of a grantor or other person with rights in the collateral that may be in competition with the rights of a secured creditor in the same collateral, including—

- (a) another secured creditor of the grantor that has a security right in the same collateral;
- (b) another creditor of the grantor that has a right in the same collateral;
- (c) the insolvency representative in insolvency proceedings under the national enactments governing insolvency and bankruptcy and the

Belize Companies Act, in respect of the grantor; or

- (d) a buyer or other transferee, lessee or licensee of the collateral;

Act No. 11 of 2022.

“consumer goods” means goods primarily used or intended to be used by the grantor for personal, family or household purposes;

“creditor” means the person granting a facility relating to a security right created under this Act;

“credit purchase transaction” means a hire-purchase agreement, a conditional sale agreement, a chattel leasing agreement or a retention of title agreement;

“credit sale agreement” means an agreement for the sale of goods under which payment of the whole or a part of the purchase price is deferred and a security right in the goods is created or provided for in order to secure the payment of the whole or a part of the purchase price;

“debtor” means a person that owes payment or other performance of a secured obligation, whether or not that person is the grantor of the security right securing payment or other performance of that obligation, including a secondary obligor such as a guarantor of a secured obligation;

“debtor of the receivable” means a person that owes payment of a receivable, including a guarantor or other person secondarily liable for payment of the receivable;

“default”, in relation to a security agreement, means—

- (a) the failure to pay or to otherwise perform the obligation secured under the security agreement when due; or
- (b) an event that gives the secured creditor the right to enforce the security right under the security agreement;

“deposit account” means an account maintained—

- (a) by a credit union where deposits are made; or
- (b) by a bank or financial institution licensed under the Domestic Banks and Financial Institutions Act to which funds may be credited or debited;

CAP. 263.

“Director General” means the person appointed under section 7 of the Financial Services Commission Act to be the Registrar under section 19;

Act No. 8 of 2023.

Act No. 25 of
2021.

“document” means a document in any form, including in an electronic form;

“electronic form” means any information that is generated, sent, received or stored in media, magnetic form, optical form, computer memory, microfilm, computer generated microfiche or similar device;

“electronic security” means a security not represented by a certificate;

“encumbered asset” means—

- (a) movable asset that is subject to a security right; and
- (b) a receivable that is the subject of a transfer;

“equipment” means a tangible asset other than inventory or consumer goods that is primarily used or intended to be used by the grantor in the operation of its business;

“financial institution” means a bank, a credit institution or other licensed financial institution;

“financial instrument” means securities or negotiable instruments;

“financial lease” means a lease under which at the end—

- (a) the lessee automatically becomes the owner of the asset that is the object of the lease;
- (b) the lessee may acquire ownership of the asset by paying no more than a nominal price; or
- (c) the asset has no more than a nominal residual value;

“former security right” means a right created by an agreement entered into before the commencement date of this Act that is a security right within the meaning of this Act and to which this Act would have applied if it had been in force when the right was created;

“future asset” means a movable asset which does not exist or which the grantor does not have rights in or the power to encumber at the time the security agreement is concluded;

“goods” means tangible personal assets, crops and the unborn young of animals, but does not include a negotiable instrument, a financial instrument or money;

“grantor” means—

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- (a) a person that creates a security right to secure either its own obligation or that of another person;
 - (b) a buyer or other transferee, lessee, or licensee of the collateral that acquires its rights subject to a security right; and
 - (c) a transferor in an outright transfer of a receivable;

“habitual residence” means a situation where a person has lived in Belize for at least twelve months, immediately preceding an application for registration of a relevant notice under this Act;

“initial notice” means a notice submitted to the Registry in the prescribed form to achieve the third-party effectiveness of the security right to which the notice relates;

“intangible asset”–

- (a) means all types of movable asset other than tangible asset; and
- (b) includes a receivable, chose in action, deposit account, electronic security and intellectual property right;

“intellectual property” means–

- (a) copyright as defined in section 3(1) of the Copyright Act; CAP. 252.
- (b) industrial designs rights as defined in section 2 of the Industrial Designs Act; CAP. 254.
- (c) trade mark as defined in section 2(1) of the Trade Marks Act; CAP. 257.
- (d) patents as defined in section 2 of the Patents Act; CAP. 253.

CAP. 253.

- (e) utility models as described in section 50 of the Patents Act;
- (f) protected variety as defined in section 2 of the Protection of New Plant Varieties Act; CAP. 255.
- (g) layout-designs as defined in section 2 of the Layout-Designs of (Topographies) of Integrated Circuits Act; and CAP. 256.
- (h) another right related to a right under paragraphs (a) to (g);

“inventory” means tangible assets held by the grantor for sale or lease in the ordinary course of the grantor’s business, including raw and semi-processed materials;

“knowledge” means actual knowledge;

“lien” includes a right in property created by an enactment or a judgement;

“mass” means a tangible asset which results when a tangible asset is so commingled with one or more other tangible assets of the same kind that they have lost their separate identities;

“Minister” means the Minister for the time being responsible for finance;

“money” means bank notes and coins issued by the Central Bank of Belize or notes and coins authorized as legal tender by another country;

“movable asset” means any tangible or intangible asset;

“negotiable document” means a document, such as a warehouse receipt or bill of lading, that embodies a right to delivery of tangible assets and satisfies the requirements for negotiability;

“negotiable instrument” means—

- (a) a bill of exchange or promissory note;
- (b) a letter of credit, if the letter of credit states that it must be presented on claiming payment;
- (c) a cheque or any other writing that evidences a right to payment of money and is of a kind that, in the ordinary course of business, is transferred by delivery with any necessary endorsement or assignment;

“non-consensual creditor” means a creditor that has obtained a right in the collateral by operation of any law, including under an execution process or as a result of owed taxes and similar fees;

“notice” when not used as part of “initial notice,” “amendment notice,” and “cancellation notice”, means a communication in writing;

“notification of a security right in a receivable” means a communication by the grantor or the secured creditor under section 60 informing the debtor of the receivable that a security right has been created in the receivable;

"outright transfer of a receivable" means the transfer by agreement from one person to another person of ownership to transferor's contractual right to payment of a monetary sum from a third person;

"perish", in relation to collateral, means susceptibility to decay or expiry of food products, agricultural products, pharmaceutical products, and other collaterals;

"person" means an individual, corporate or unincorporated body;

"possession" means the actual possession by a person or its representative, or by an independent person that acknowledges holding it for that person;

"priority" means the right of a person in encumbered property in preference to the right of a competing claimant;

"proceeds" means whatever is received in respect of the collateral, including what is received as a result of sale or other disposition or collection, lease or license of the collateral, insurance proceeds, claims arising from defects in, damage to or loss of the collateral, and proceeds of proceeds;

"product" means tangible asset which results when—

- (a) a tangible property is so physically associated or united with one or more other tangible properties of a different kind, that they have lost their separate identities; or
- (b) one or more tangible properties are so manufactured, assembled or processed, that they have lost their separate identities;

"receivable" means a right to payment of a monetary obligation, excluding a right to payment evidenced by a negotiable instrument, a right to payment of funds credited to a deposit account and a right to payment under security;

"register", in relation to notices submitted to the Registrar by a secured creditor, means to register in the Registry under Part IV;

"registration number" means a unique number caused to be assigned to a registered initial notice by the Registrar;

"Registrar" means the person appointed under section 19 to supervise and administer the operations of the Registry;

"Registry" means the Collateral Security Registry established under section 20;

“Registry records” means the information in all registered notices caused to be stored by the Registrar, consisting of the records that are publicly accessible and the records that have been archived;

Act No. 46 of
2021.

“securities” has the meaning assigned to it under section 3 of the Securities Industry Act;

“security agreement” means—

- (a) an agreement, regardless of whether the parties have denominated it as a security agreement, between a grantor and a secured creditor that provides for the creation of a security right; and
- (b) an agreement that provides for the outright transfer of a receivable;

“security certificate” means a certificate—

- (a) representing that the person entitled to the security is the person in possession of the certificate; or
- (b) identifying the person entitled to the security;

“secured creditor” means—

- (a) a person that has a security right; and
- (b) a transferee in an outright transfer of a receivable;

“secured obligation” means an obligation secured by a security right, excluding an outright transfer of a receivable;

“security interest” means right, title, encumbrance or interest of any kind upon movable property created or provided for by a security agreement in relation to a transaction that in substance secures the payment or performance of a customer’s obligation under a finance transaction without regard to the form of the transaction or the terminology used by the parties or the identity of the person who has title to the movable property;

“security right” means—

- (a) a property right in a movable asset that is created by an agreement to secure payment or other performance of an obligation, regardless of whether the parties have denominated it as a security right, and regardless of the type of asset, subject to section 4, the status of the grantor or secured creditor, or the nature of the secured obligation; and

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- (b) the right of the transferee in an outright transfer of a receivable;

“serial number” means–

- (a) the serial number located on the chassis or body frame of a motor vehicle or trailer; or
- (b) any other unique identifier on any asset;

“serial-numbered collateral” means–

- (a) a motor vehicle or a trailer as defined in section 2 of the Motor Vehicle and Road Traffic Act; or CAP. 230.
- (b) any other asset used as collateral

“signed”–

- (a) means to affix a person’s signature manually, by facsimile or electronically;
- (b) includes data in electronic form in, affixed to or logically associated with, an electronic communication, which may be used to identify the signatory in relation to the electronic communication and to indicate the approval of the signatory of the information contained in the electronic communication;

“tangible asset” means all types of goods and includes motor vehicles, crops, machineries livestock;

“time stamp” has the same meaning as section 3 of the Electronic Transactions Act; Act No. 25 of 2021.

“transfer of a receivable” means the absolute or outright transfer by agreement from one person to another person of ownership of a receivable;

“trust indenture” means any deed or document, however designated, by the terms of which a person issues or guarantees, or provides for the issue or guarantee of debt obligations secured by a security right and in which a person is appointed as trustee for the holder of the debt obligations issued, guaranteed or provided for under it;

“trust receipt” includes an acknowledgment of the grantor in writing to deal with the collateral for the benefit of the secured creditor;

“working day” means any day from Monday to Friday, but does not include a public holiday; and

“writing” includes an electronic communication if it contains information that is accessible so as to be usable for subsequent reference.

Objects.

3. The objects of this Act are to—

- (a) promote consistency and certainty in secured financing relating to movable assets;
- (b) enhance the ability of individuals and entities to access credit using movable assets; and
- (c) establish the office of the Registrar and a Registry to facilitate the registration of security rights in movable assets.

Scope of application.

4.—(1) This Act applies to security rights in movable assets, including—

- (a) every transaction that secures payment or performance of an obligation, without regard to its form and without regard to the person who owns the collateral;
- (b) without limiting the generality of paragraph (a), a chattel mortgage, credit purchase transaction, credit sale agreement, floating and fixed charge, pledge, trust indenture, trust receipt, financial lease and any other transaction that secures payment or performance of an obligation; and
- (c) with the exception of Part VII, an outright transfer of a receivable.

(2) Notwithstanding sub-section (1), this Act does not apply to—

- (a) a security right in book-entry securities under the Securities Industry Act;
- (b) the creation, lease or transfer of an interest in land, excluding a right to payment that arises in connection with an interest in or a lease of land;
- (c) any right to set-off under relevant netting legislation;
- (d) any shareholder loans of a credit union as defined in the Credit Unions Act;
- (e) a security right in a vessel including a mortgage right subject to the Harbours and Merchant Shipping Act;

Act No. 46 of 2021.

CAP. 314.

CAP. 234.

(f) a security right in an aircraft subject to the Civil Aviation Act; and

CAP. 239.

(g) except as otherwise provided in this Act, a lien, charge or other interest created by law.

(3) This Act does not apply to security rights in proceeds of collateral if the proceeds constitute a type of asset that is governed by another law.

(4) Nothing in this Act affects the rights and obligations of the grantor and the secured creditor under any national enactments governing the protection of consumers within the financial industry.

(5) Nothing in this Act overrides a provision of any other law that limits the creation or enforcement of a security right in, or the transferability of, specific types of asset, with the exception of a provision that limits the creation or enforcement of a security right in, or the transferability of an asset on the sole ground that it is a future asset, or a part of, or undivided interest in, an asset.

5.—(1) Except for sub-section (2) and sections 6, 8, 56, 57 and 80 to 87, the provisions of this Act may be derogated from or varied by agreement, provided that the agreement does not affect the rights or obligations of any person that is not a party to the agreement.

Party autonomy and standard of conduct.

(2) A person shall exercise the rights and perform the obligations under this Act diligently and in good faith.

PART II

Creation Of A Security Right

Creation by execution of a security agreement.

6.—(1) A security right is created by a security agreement, provided that the grantor has rights in the asset to be encumbered or the power to encumber it.

(2) A security agreement may provide for the creation of a security right in a future asset, but the security right in that asset is created only at the time when the grantor acquires rights in it or the power to encumber it.

(3) A security agreement shall—

(a) be in writing and signed by the grantor;

(b) identify the secured creditor and the grantor;

(c) except in the case of an agreement that provides for the outright transfer of a receivable, describe the secured obligation; and

(d) describe the collateral as provided in section 8.

(4) A security agreement entered into in accordance with this section is enforceable and creates a security right, irrespective of the satisfaction of the requirements that may be imposed by any other written law.

Obligations that may be secured and assets that may be encumbered.

7.—(1) A security right may secure one or more obligations of any type, present or future, determined or determinable, conditional or unconditional, fixed or fluctuating.

(2) A security right may encumber—

(a) any type of movable asset, whether tangible or intangible;

(b) parts of assets and undivided rights in movable assets;

(c) generic categories of movable assets; and

(d) all of a grantor's movable assets.

Description of collateral.

8.—(1) The assets encumbered or to be encumbered shall be described in the security agreement in a manner that reasonably allows their identification.

(2) A description that indicates that the collateral consists of all of the grantor's movable assets, or of all of the grantor's movable assets within a generic category and satisfies the standard of sub-section (1).

(3) A description reasonably identifies the collateral if it identifies the collateral by—

(a) specific listing;

(b) category;

(c) type of collateral defined in this Act; or

(d) quantity.

(4) The obligations secured or to be secured shall be described in the security agreement in a manner that reasonably allows their identification.

(5) A generic description of the secured obligations satisfies the standard of sub-section (4).

9.—(1) A security right in an asset extends to its identifiable proceeds.

Right to proceeds.

(2) Where proceeds in the form of funds credited to a deposit account or money become commingled assets—

- (a) the security right extends to the commingled assets;
- (b) the security right in the commingled assets is limited to the amount of the proceeds immediately before they became commingled assets; and
- (c) if at any time after the commingling, the balance credited to the deposit account or amount of money is less than the amount of the proceeds immediately before they became commingled assets, the obligation secured by the security right that is enforceable against the commingled assets is limited to the lowest amount between the time when the proceeds were commingled and the time the security right in the proceeds is claimed.

10. A security right in collateral extends to commingled goods.

Tangible assets commingled in a mass or product.

11.—(1) A security right in a receivable is effective as between the grantor and the secured creditor and as against the debtor of the receivable notwithstanding an agreement limiting the grantor's right to create a security right entered into between the grantor and the debtor of the receivable or any subsequent secured creditor.

Contractual limitations on the creation of a security right.

(2) Nothing in sub-section (1) affects any obligation or liability of the grantor for breach of the agreement referred to in that sub-section, but the other party to the agreement may not—

- (a) avoid the contract giving rise to the receivable or the security agreement on the sole ground of the breach of that agreement; or
- (b) raise against the secured creditor any claim the party may have against the grantor as a result of that breach.

(3) A person who is not a party to the agreement referred to in sub-section (1) cannot be held liable for any damages resulting from the grantor's breach of the agreement on the sole ground that it had knowledge of the agreement.

(4) This section applies only to receivables arising from—

CAP. 267.
CAP. 310.
CAP. 279.
CAP. 313.

- (a) a contract for the supply or lease of goods or services other than financial services under the International Banking Act, the Building Societies Act, Development Finance Corporation Act or the Co-operative Societies Act;
- (b) a construction contract; or
- (c) a contract for the sale, lease or licence of intellectual property or of proprietary information.

(5) A security right in a right to payment of funds credited to a deposit account is effective notwithstanding an agreement between the grantor and the financial institution limiting the grantor's right to create a security right.

Personal or property rights securing or supporting payment or other performance.

12.—(1) A secured creditor with a security right in a receivable or other intangible asset, or in a negotiable instrument, has the benefit of any personal or property right that secures or supports payment or other performance of the collateral without a new act of transfer.

(2) Where the right referred to in sub-section (1) is transferable only with a new act of transfer, the grantor is obligated to transfer the benefit of that right to the secured creditor.

Tangible assets covered by negotiable documents.

13. A security right in a negotiable document extends to the tangible asset covered by the document, provided that the issuer of the document is in possession of the asset at the time the security right in the document is created.

Tangible assets with respect to which intellectual property is used.

14. A security right in a tangible asset with respect to which intellectual property is used does not extend to the intellectual property and a security right in the intellectual property does not extend to the tangible asset.

PART III

Third-Party Effectiveness of a Security Right

15.—(1) A security right in any movable asset is effective against third parties if a notice with respect to the security right is registered with the Registrar under Part IV.

Method for achieving third-party effectiveness.

(2) A security right that is not effective against third parties is not effective against a competing claimant with rights in the same encumbered asset.

Security right in proceeds.

16.—(1) A security right in any proceeds is effective against third parties without any further action of the grantor and the secured creditor if—

- (a) the security right in the original collateral is effective against third parties; and
- (b) the proceeds are in the form of money, receivables, negotiable instruments or rights to payment of funds credited to a deposit account.

(2) If a security right in a collateral is effective against third parties, a security right in any type of proceeds of that collateral, other than the types of proceeds referred to in sub-section (1)–

- (a) is effective against third parties for ten working days after the proceeds arise; and
- (b) continues to be effective after the expiration of the ten days if the security right in the proceeds is made effective against third parties by registration of an amendment notice.

17.–(1) If the secured creditor transfers a security right or a part of it, the secured creditor shall register an amendment notice to reflect the transfer.

Transfer of a security right.

(2) A transfer of a security right is effective at the time the amendment notice has been registered.

18. If a security right in a negotiable document is effective against third parties, the security right that extends to the asset covered by the document is also effective against third parties.

Negotiable documents and tangible assets covered by negotiable documents.

PART IV

Registration of Notices Relating to Security Rights

19.–(1) There is established the Office of Registrar who shall oversee the general running of the Registry.

Establishment of the Office of the Registrar.

- (2) The Director General of the Commission shall be–
 - (a) the Registrar; and
 - (b) responsible for–
 - (i) the operations of the Registry and for ensuring that the Registry is maintained in accordance with this Act; and
 - (ii) the performance of the functions assigned to the Registrar under this Act or another law.

(3) The Registrar, may with the approval of the Commission, appoint or designate a Deputy Registrar to assist with the execution of functions and responsibilities of the Registrar.

Establishment of the Registry.

20.—(1) There is established under the jurisdiction and control of the Commission an electronic registry known as the Collateral Registry.

(2) The function of the Registry shall be to—

- (a) receive and maintain the types of notices relating to security rights listed in section 21(1); and
- (b) store and make accessible to relevant persons, information on registered notices with respect to security rights and rights of non-consensual creditors.

Organisation and integrity of the Registry.

21. The Registry shall be maintained in a manner that provides for the registration of initial notices, amendment notices, and cancellation notices under this Part.

Removal of information from the Registry and archival.

22.—(1) The Registrar may remove information in a registered notice from the Registry records only on the expiry of the period of effectiveness of the registration of a notice under section 30 and the submission of a cancellation notice by the secured creditor to the Registrar.

(2) The Registry shall archive information removed from the Registry records—

- (a) for ten years; and
- (b) in a manner that enables the information to be retrieved by the Registrar.

(3) Where a secured creditor fails, neglects or refuses to submit a cancellation notice to the Registrar upon the expiration of the period of effectiveness of the registration of a notice under section 30, the security right to which the notice relates shall be deemed to be extinguished and the Registrar may remove information in the registered notice from the Registry records.

Limitation of liability of the Registrar.

23. No liability attaches to the Registrar or any person acting under the authority of the Registrar for any act done in good faith in the discharge of his functions under this Act.

Registry fees and financial provisions.

24.—(1) The Registrar may charge the prescribed fees, as set out in Regulations and further to section 89 for the services provided.

(2) The revenues of the Registry, for purposes of this Act, shall consist of—

- (a) all sums that may be provided from time to time by the National Assembly;
- (b) all fees, fines and other sums from time to time paid to or received by the Registry from its operations under this Act; and
- (c) all other sums or other property as from time to time may in any manner be lawfully paid to or vested in the Registry in respect of any matter incidental to its powers, functions or duties under this Act.

(3) The revenues of the Registry set forth under sub-section (2) shall not form part of the Consolidated Revenue Fund and shall—

- (a) be placed into and credited to the Operational Fund established under section 287(1) of the Belize Companies Act; and
- (b) be applied to carrying out the powers conferred, and duties imposed on the Registry under this Act.

Act No. 11 of 2022.

(4) All expenses incurred or payable by the Registry pursuant to this Act shall be paid out of the Operational Fund and all disbursements from the Operational Fund shall be in accordance with accounting procedures that may be made by the Commission from time to time.

25.—(1) Registration of—

- (a) an initial notice; or
- (b) an amendment notice that—
 - (i) adds collateral not included in the security agreement or extends the period of effectiveness of the registration of a notice is ineffective unless authorized by the grantor in writing;
 - (ii) adds a grantor is ineffective unless authorised by the additional grantor in writing.

Grantor's authorization for registration.

(2) A written security agreement is sufficient to constitute authorization by the grantor for the registration of an initial notice or amendment notice.

Procedure for registration of notice etc..

Information required in an initial notice.

26. The procedure for registration of notice, access to information by the public, conduct of search and assigning of unique identifiers to grantors and secured creditors shall be as prescribed in the Regulations.

27.—(1) An initial notice shall contain the following information in the relevant designated fields, as further prescribed in the Regulations—

- (a) the identifier and address of the grantor;
- (b) the identifier and address of the debtor;
- (c) the identifier and address of the secured creditor or its representative;
- (d) a description of the collateral in accordance with section 8 or by a serial number for the serial-numbered collateral only that is not held as inventory;
- (e) the period of effectiveness of the registration; and
- (f) any other information for statistical purposes only.

(2) If there is more than one grantor, debtor or secured creditor, the required information shall be entered separately for each grantor or secured creditor.

Language of information in a notice.

28. With the exception of the names and addresses of the grantor and the secured creditor or their representatives, the information contained in a notice shall be expressed in English.

Time and date of effectiveness of the registration of a notice.

29.—(1) The Registrar shall cause to be assigned a unique consecutive registration number to a registered initial notice and associate all registered amendment and cancellation notices that contain that number with the registered initial notice.

(2) The registration of an initial, amendment or cancellation notice is effective from the date and time when the information in the notice is received by the Registry.

(3) A notice is received when it enters into the Registry records so that it is accessible to a person who conducts a search of the Registry records.

(4) Information in a notice enters into the records of the Registry in the order in which each notice is received.

(5) The electronic time stamp that is generated for a notice received by the Registry shall be deemed to enjoy the presumption of the accuracy of

the date and the time it indicates and the integrity of the information to which the date and time are bound.

(6) This section is subject to section 25.

30. The registration of an initial notice is effective for the period that the secured transactions remains outstanding.

Period of effectiveness of the registration of a notice.

31.—(1) The person identified in a registered initial notice as the secured creditor may, in the prescribed manner, register an amendment or cancellation notice relating to that registered notice.

Who may register an amendment or cancellation notice.

(2) The registration of an amendment or cancellation notice is ineffective unless authorized by the person identified in the registered initial or amendment notice as the secured creditor.

32.—(1) The secured creditor shall register an amendment notice if—

Compulsory registration of an amendment or cancellation notice.

- (a) the registered notice to which it relates contains information that exceeds the scope of the grantor's authorization; or
- (b) the security agreement to which the registered notice relates has been revised to delete some collateral.

(2) The secured creditor shall register a cancellation notice if—

- (a) the registration of an initial notice was not authorized by the grantor;
- (b) the registration of an initial notice was authorized by the grantor but the authorization has been withdrawn and no security agreement has been concluded; or
- (c) the security right to which the notice relates has been extinguished and the secured creditor has no further commitment to provide value to the grantor.

(3) In cases described in sub-sections (1)(a) and (2)(a), the secured creditor shall not charge or accept any fee or expense for complying with its obligation.

(4) If any of the conditions set out in sub-sections (1) and (2) is met, the grantor may, in writing, request the secured creditor to register an amendment or cancellation notice and the secured creditor shall not charge for complying with the grantor's request.

(5) If the secured creditor fails to comply with the request of the grantor within ten working days after its receipt, the grantor may seek a

decision of the Registrar for the registration of an amendment or cancellation notice by the Registrar.

(6) Before giving effect to the requested registration, the Registrar shall give notice to the secured creditor.

(7) Appeals from the decision of the Registrar shall lie with a court of competent jurisdiction.

Search criteria and results.

33.—(1) A search of the Registry records may be conducted according to—

- (a) the serial number of the collateral; or
- (b) any other criteria prescribed in Regulations

(2) A search certificate issued by the Registry is proof of its contents.

Errors in required information by the registrant entered in a notice.

34.—(1) An error in the grantor identifier entered by the registrant in a notice renders the registration of the notice ineffective.

(2) An error in the grantor identifier does not render the registration of the notice ineffective with respect to other grantors correctly identified in the notice.

(3) An error in required information other than the grantor’s identifier does not render the registration ineffective unless the error would seriously mislead a reasonable searcher.

(4) An error in the description of the collateral does not render the registration of the notice ineffective with respect to other collateral sufficiently described.

(6) An error in the serial number of the serial-numbered collateral renders the registration ineffective as against a buyer or lessee of that asset.

Post-registration change of grantor identifier.

35.—(1) If the grantor’s identifier changes after a notice is registered and the secured creditor registers an amendment notice indicating the new identifier of the grantor within sixty days after the change but before the expiry of the period of effectiveness of the registered notice, the security right to which the notice relates remains effective against third parties and retains the priority it had over the rights of competing claimants before the change.

(2) If the secured creditor registers an amendment notice after the expiration of the time period indicated in sub-section (1)—

- (a) a security right with respect to which a notice is registered after the change in the grantor’s identifier but before the

registration of the amendment notice has priority over the security right to which the amendment notice relates; and

- (b) a person that buys, leases or licenses the collateral after the change in the grantor's identifier but before the registration of the amendment notice acquires the collateral rights free of the security right to which the amendment notice relates.

36.—(1) If a security right has been made effective against third parties and the collateral is transferred to a transferee that acquires the collateral rights subject to the security right, the security right remains effective against third parties and retains the priority it had over the rights of competing claimants before the transfer, provided that the secured creditor registers an amendment notice adding the transferee as a new grantor within ten working days after the secured creditor acquires knowledge of the transfer and the transferee's identifier.

Post-registration transfer of the collateral.

(2) If the secured creditor registers an amendment notice after the expiration of the time period indicated in sub-section (1)—

- (a) a security right created by the transferee with respect to which a notice is registered after the transfer but before the registration of the amendment notice has priority over the security right to which the amendment notice relates; and
- (b) a person who buys, leases or licenses the collateral after its transfer but before the registration of the amendment notice acquires the collateral rights free of the security right to which the amendment notice relates.

(3) In the case of successive transfers of the collateral, sub-sections (1) and (2) apply to the last transfer.

PART V

Priorities

Competing security rights created by the same grantor.

37. Subject to the other provisions of this Part, priority among competing security rights created by the same grantor in the same collateral is determined according to the time of submission.

38. A security right created by a grantor is subordinate to a security right in the same collateral created by another person if the grantor acquired the collateral subject to the security right created by the other person and made effective against third parties before the grantor acquired the collateral.

Competing security rights created by different grantors.

- Irrelevance of knowledge of the existence of a security right.
- Future advances and future collateral.
- Priority of a security right in proceeds.
- Priority of security rights in tangible assets commingled in a mass or product.
- Priority of security rights in attachments to immovable property.
- Rights of buyers or other transferees, leases or licences of collateral.
- 39.** Knowledge of the existence of a security right in favour of another person on the part of a secured creditor does not affect its priority under this Act.
- 40.**—(1) Subject to the rights of a non-consensual creditor under section 45, the priority of a security right extends to all secured obligations, including obligations incurred after the security right became effective against third parties.
- (2) The priority of a security right covers all collateral described in a notice registered by the Registrar, irrespective of whether they are acquired by the grantor or come into existence before or after the time of registration.
- 41.** If a security right in proceeds of the collateral is effective against third parties as provided in section 16, the priority of the security right in the proceeds is determined using the same date used to determine the priority of the security right in the collateral.
- 42.**—(1) If more than one security right extends to commingled goods, a security right that is effective against third parties before the goods become commingled has priority over a security right that is not effective against third parties at the time the collateral becomes commingled goods.
- (2) If more than one security right in commingled goods is effective against third parties, the security rights rank equally in proportion to the value of the collateral at the time it became commingled goods.
- 43.**—(1) A security right may be created in tangible assets that are attachments to immovable property or may continue in tangible assets that become attachments to immovable property.
- (2) A security right made effective against third parties in an attachment to immovable property under this Act has priority over a competing interest created and made effective against third parties under immovable property law.
- 44.**—(1) If the collateral is sold or otherwise transferred, leased or licensed and a security right in that collateral is effective against third parties at the time of the sale or transfer, lease or license, the buyer, transferee, lessee or licensee acquires its rights subject to the security right except as provided in this section.
- (2) A buyer or other transferee of the collateral acquires its rights free of the security right if the secured creditor authorizes the sale or other transfer of the asset free of the security right.

(3) The rights of a lessee or licensee are not affected by the security right if the secured creditor authorizes the grantor to lease or license the asset not affected by the security right.

(4) A buyer of tangible collateral sold in the ordinary course of the seller's business acquires its rights free of the security right, provided that, at the time of the conclusion of the sale agreement, the buyer does not have knowledge that the sale violates the rights of the secured creditor under the security agreement.

(5) The rights of a lessee of tangible collateral leased in the ordinary course of the lessor's business are not affected by the security right, provided that, at the time of the conclusion of the lease agreement, the lessee does not have knowledge that the lease violates the rights of the secured creditor under the security agreement.

(6) The rights of a non-exclusive licensee of intangible collateral licensed in the ordinary course of the licensor's business are not affected by the security right, provided that, at the time of the conclusion of the license agreement, the licensee does not have knowledge that the license violates the rights of the secured creditor under the security agreement.

(7) If a buyer or other transferee of tangible collateral acquires its rights free of a security right, any subsequent buyer or other transferee also acquires its rights free of that security right.

(8) If the rights of a lessee of a tangible collateral or licensee of intangible collateral are not affected by the security right, the rights of any sub-lessee or sub-licensee are also unaffected by that security right.

45.—(1) A non-consensual creditor shall have priority over a security right only if he registers a notice with the Registrar before the security right was made effective against third parties.

Rights of non-consensual creditors.

(2) If a security right is made effective against third parties before the non-consensual creditor registers a notice, the security right has priority, but that priority is limited to credit extended by the secured creditor—

(a) within thirty working days from the time the secured creditor received a notification from the non-consensual creditor that the non-consensual creditor had registered a notice with the Registrar; or

(b) pursuant to an irrevocable commitment in a fixed amount agreed between the grantor and the secured creditor, if the commitment was made before the secured creditor received a notification from the non-consensual creditor that the non-consensual creditor had registered a notice.

(3) A possessory lien on goods which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business has priority over a security right in the goods as long as the holder of the possessory lien remains in possession of the goods.

Non-acquisition security rights competing with acquisition security rights.

46. An acquisition security right in consumer goods, equipment, inventory, or intellectual property has priority as against a competing non-acquisition security right created by the grantor, provided that a notice with respect to the acquisition security right is registered with the Registrar before the grantor obtains possession of the consumer goods, equipment, inventory, or intellectual property.

Competing acquisition security rights.

47. An acquisition security right of a seller or lessor, that was made effective against third parties, has priority over a competing acquisition security right of a secured creditor, other than a seller or lessor.

Acquisition security rights in proceeds.

48.—(1) In the case of an acquisition security right in equipment, a security right in proceeds has the same priority as the acquisition security right.

(2) In the case of an acquisition security right in inventory or intellectual property, a security right in proceeds has the same priority as the acquisition security right, except where the proceeds take the form of receivables, negotiable instruments, or rights to payment of funds credited to a deposit account.

(3) The priority of a security right in proceeds referred to in subsection (2) is conditional on the acquisition secured creditor notifying non-acquisition secured creditors with a security right in the same kind of asset as the proceeds that, before the proceeds were generated, the acquisition secured creditor registered a notice with the Registrar.

49. An acquisition security right in a tangible asset that extends to commingled goods and is effective against third parties has priority over a non-acquisition security right granted by the same grantor in the commingled goods.

Acquisition security rights in tangible assets commingled in a mass or product.

Subordination.

50.—(1) A person may at any time subordinate the priority of its rights under this Act in favour of any existing or future competing claimant without the need for the beneficiary to be a party to the subordination.

(2) Subordination does not affect the rights of competing claimants other than the rights of the person subordinating its priority and those of the beneficiary of the subordination.

Negotiable instruments.

51. A consensual transferee of an encumbered negotiable instrument acquires its rights free of the security right that is made effective against third parties by registration of a notice if the consensual transferee—

- (a) qualifies as a holder in due course under the Bills of Exchange Act; or
- (b) takes possession of the negotiable instrument and gives value without knowledge that the sale or other transfer is in violation of the rights of the secured creditor under the security agreement.

CAP. 245.

52. A transferee of funds from a deposit account pursuant to a transfer initiated or authorized by the grantor acquires its rights free of a security right in the right to payment of funds credited to the deposit account, unless the transferee has knowledge that the transfer violates the rights of the secured creditor under the security agreement.

Rights to payment of funds credited to a deposit account.

53. A transferee that obtains possession of money that is subject to a security right acquires its rights free of the security right, unless that transferee has knowledge that the transfer violates the rights of the secured creditor under the security agreement.

Money.

54. A transferee of securities who takes possession of the certificated security or acquires rights in an electronic security and gives value without knowledge that the sale or other transfer is in violation of the rights of the secured creditor under the security agreement acquires its rights free of a security right.

Securities.

55. A security right that is effective against third parties under this Act at the time of the commencement of insolvency proceedings in respect of the grantor remains effective against third parties and retains the priority it had before the commencement of the insolvency proceedings, unless another claim has priority pursuant to national enactments governing insolvency and bankruptcy.

Impact of the grantor's insolvency on the priority of a security right.

PART VI

Rights and Obligations of the Parties and Third-Party Obligors

Obligation to exercise reasonable care.

56. A grantor or secured creditor in possession of the collateral shall exercise reasonable care to preserve the asset.

Obligation of a secured creditor to register an amendment or cancellation of the collateral.

57. On termination of a security right in the collateral the secured creditor shall register an amendment or cancellation notice as provided in section 32.

58. A secured creditor has the right to inspect the collateral in the possession of the grantor or another person.

Protection of the debtor of the receivable.

59. Except as otherwise provided in section 16, the creation of a security right in a receivable does not affect the rights and obligations of the debtor of the receivable, including the payment terms contained in the contract giving rise to the receivable, without the debtor's consent.

Notification of a security right and payment of a receivable.

60.—(1) Notification of a security right in a receivable is effective when received by the debtor of the receivable if it reasonably identifies the encumbered receivable and the secured creditor.

(2) Notification of a security right in a receivable may relate to receivables arising after notification.

(3) Unless the debtor of the receivable receives notification of a security right in a receivable, the debt may be discharged by paying in accordance with the original contract.

(4) After the debtor of the receivable receives notification of a security right in a receivable, the debt may be discharged only by paying the secured creditor or by paying as otherwise instructed in the notification or subsequently by the secured creditor in writing received by the debtor of the receivable.

(5) If the debtor of the receivable receives notification of more than one security right in the same receivable created by the same grantor, it is discharged by paying in accordance with the first notification received.

(6) The debtor of the receivable is entitled to request the secured creditor to provide within a reasonable period of time adequate proof that the security right in a receivable has been created.

(7) Until the secured creditor complies with sub-section (6), the debtor of the receivable may discharge its obligation by paying the grantor, even if the debtor of the receivable has received a notification of a security right.

Defences and rights of set-off of the debtor of the receivable.

61.—(1) In a claim by the secured creditor against the debtor of the receivable for payment of the encumbered receivable, the debtor of the receivable may raise against the secured creditor—

(a) all defences and rights of set-off arising from the contract giving rise to the receivable, or any other contract that was part of the same transaction, of which the debtor of the

receivable could avail itself as if the security right had not been created and the claim were made by the grantor; and

- (b) any other right of set-off that was available to the debtor of the receivable at the time it received notification of the security right.

(2) Notwithstanding sub-section (1), the debtor of the receivable may not raise as a defence or right of set-off against the secured creditor breach of an agreement referred to in section 11 limiting the grantor's right to create the security right.

(3) The debtor of the receivable may agree with the grantor in writing not to raise against the secured creditor the defences and rights of set-off referred to in sub-section (1), but the debtor of the receivable may not waive defences arising from fraudulent acts on the part of the secured creditor or based on the incapacity of the debtor of the receivable.

62. An agreement concluded before notification of a security right in a receivable created by a security agreement between the grantor and the debtor of the receivable that affects the secured creditor's rights is effective as against the secured creditor, and the secured creditor acquires corresponding rights.

Modification of the original contract.

63. The failure of the grantor to perform obligations under the contract giving rise to a receivable does not entitle the debtor of the receivable to recover from the secured creditor a sum paid by the debtor of the receivable to the grantor or the secured creditor.

Recovery of payments made by the debtor of the receivable.

64.—(1) The creation of a security right in a right to payment of funds credited to a deposit account does not affect the rights and obligations of the institution with which that deposit account is maintained without the consent of the institution, nor does it obligate the institution to provide any information about that deposit account to third parties.

Rights as against the institution.

(2) Any rights of set-off that the institution may have are not affected by any security right that the institution may have in a right to payment of funds credited to a deposit account that it maintains.

PART VII

Enforcement of a Security Right

65.—(1) After the failure of the debtor to pay or otherwise perform a secured obligation, the grantor and the secured creditor may exercise any right—

Post-default rights.

- (a) under this Part;
- (b) provided in the security agreement; or
- (c) provided under any other written law.

(2) The exercise of a post-default right with respect to the collateral does not prevent the exercise of a post-default right with respect to the secured obligation, and the exercise of a post-default right with respect to the secured obligation does not prevent the exercise of a post-default right with respect to the collateral.

(3) The grantor and any other person that owes payment or other performance of the secured obligation may not waive unilaterally or vary by agreement any of its rights under this Part before default.

CAP. 292.

(4) If the security right has been created under a hire-purchase agreement, the secured creditor may enforce its rights only in accordance with the Hire Purchase Act.

Methods of exercising post-default rights.

66. A secured creditor may exercise its post-default rights by application to a court or in accordance with this Part, without applying to a court.

Relief for non-compliance.

67.—(1) If there is a default with respect to any obligation, the secured creditor shall serve on the grantor a notification, in writing agreed between the parties, to pay the money owing or perform and observe the agreement as the case may be.

(2) The notification required under sub-section (1) shall adequately inform the recipient of the following matters—

- (a) the nature and extent of default;
- (b) if the default consists of non-payment, the actual amount and the time by the end of which payment must be completed;
- (c) if the default consists of the failure to perform or observe any covenant, express or implied, in the agreement, the act the grantor must do or desist from doing so as to rectify the default and the time by the end of which the default must have been rectified;
- (d) the consequence that if the default is not rectified within the time specified in the notification, the secured creditor will proceed to exercise any of the remedies referred to in section 65; and

- (e) the right of the grantor in respect of certain remedies to apply to the court for relief against those remedies.

(3) If the grantor does not comply within the time period indicated in the notification after the date of service of the notification, the secured creditor may—

- (a) sue the grantor for any payment due and owing under the agreement;
- (b) appoint a receiver of the movable asset;
- (c) lease the movable asset;
- (d) take possession of the movable asset;
- (e) sell the movable asset; or
- (f) pursue any of the remedies under section 65.

(4) The Registrar may prescribe the form and content of a notification to be served under this section.

68.—(1) The secured creditor may sue for the performance of the secured obligation only if—

Secured creditor's right to sue.

- (a) the grantor is personally bound to satisfy the secured obligation;
- (b) by any cause other than the wrongful act of the secured creditor or grantor, the collateral is rendered insufficient to fully satisfy the secured obligation and the secured creditor has given the grantor a reasonable opportunity to provide additional sufficient security and the grantor has failed to provide that additional security; or
- (c) the secured creditor is deprived of the whole or part of the security right through or in consequence of, a wrongful act or default of the grantor or the debtor.

(2) The court may order the postponement of any proceedings brought under this section until the secured creditor has exhausted all other remedies relating to the collateral under this Part or a security agreement.

(3) Notwithstanding sub-section (2), a court may order the parties to resort to alternative forms of dispute resolution including reconciliation, mediation, arbitration and other dispute resolution mechanisms.

Rights of redemption.

69.—(1) Any person whose rights are affected by the enforcement process in accordance with this Part is entitled to redeem the collateral by paying or otherwise performing the secured obligation in full, including the reasonable cost of enforcement.

(2) The right of redemption may be exercised until the asset is sold or otherwise disposed of, acquired or collected by the secured creditor or until the conclusion of an agreement by the secured creditor for that purpose.

Right of the higher-ranking secured creditor to take over enforcement.

70.—(1) Notwithstanding the fact that another secured creditor or a non-consensual creditor has commenced enforcement, a secured creditor whose security right has priority over that of the enforcing secured creditor or non-consensual creditor is entitled to take over the enforcement process.

(2) The right referred to in sub-section (1) may be invoked at any time before the asset is sold or otherwise disposed of, or acquired by the secured creditor or until the conclusion of an agreement by the secured creditor for that purpose.

(3) The right of the higher-ranking secured creditor to take over the enforcement process includes the right to enforce the rights by any method available to a secured creditor under section 65.

Right of the secured creditor to possession of the collateral.

71.—(1) A secured creditor is entitled to obtain possession of the collateral in the following cases—

- (a) the grantor has consented in the security agreement to the secured creditor obtaining possession, in which case no court application is required; or
- (b) the grantor has not consented in the security agreement to the secured creditor obtaining possession, but at the time the secured creditor attempts to obtain possession of the collateral, the grantor or any other person in possession of the collateral does not object.

(2) A secured creditor may, without removal, render the collateral unusable and dispose of it on the grantor's premises.

Right of the secured creditor to dispose of the collateral.

72.—(1) After default, the secured creditor is entitled to sell or otherwise dispose of, lease or license the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) The secured creditor may select the method, manner, time, place and other aspects of the sale or other disposition, lease or license, including whether to sell or otherwise dispose of, lease or license collaterals individually, in groups or as a whole.

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- (3) The secured creditor may buy collateral—
- (a) at a public auction; or
 - (b) at a private auction but only if the collateral is of a kind that is customarily sold on a recognized market.

73.—(1) A secured creditor shall send a notification of its intention to dispose of the collateral to—

Notice of disposition.

- (a) the grantor and the debtor; and
 - (b) any other secured creditor that registered a notice with respect to the collateral, at least five working days before the notification is sent to the grantor.
- (2) The notification shall be sent at least five working days before the sale or other disposition, lease or license takes place and shall—
- (a) identify the grantor and the secured creditor;
 - (b) contain a description of the collateral;
 - (c) provide a statement of the amount required to satisfy the secured obligation including interest and a reasonable estimate of the cost of enforcement;
 - (d) identify the manner of the intended disposition; and
 - (e) provide a statement of the date after which the collateral will be sold or otherwise disposed of, leased or licensed, or the time and place of a public disposition.
- (3) The notification shall be in the language of the security agreement or such other language that is reasonably expected to inform its recipients about its contents.
- (4) The contents of a notification providing substantially the information specified in sub-section (2) are sufficient, even if the notification includes information not specified in that sub-section or minor errors that are not seriously misleading.
- (5) The notification need not be given if the collateral may perish before the end of ten working days after the secured creditor obtains its possession and may decline in value quickly.

Right of the secured creditor to distribute the proceeds of a disposition of a collateral.

74.—(1) A secured creditor shall apply the proceeds of disposition under section 72 in the following order—

- (a) the reasonable expense of repossessing, holding, preparing for disposition, processing, and disposing of the collateral;
- (b) the satisfaction of obligations secured by the security right under which the disposition is made; and
- (c) the satisfaction of obligations secured by any subordinate security right or other subordinate lien or right in the collateral if the secured creditor receives from the holder of the subordinate security right, lien or other right a demand for proceeds before distribution of the proceeds is completed.

(2) If requested by the secured creditor, a holder of a subordinate security right, lien or other right shall furnish reasonable proof of the right or lien within a reasonable time if the secured creditor is to comply with the holder's demand under sub-section (1)(c).

(3) Whether or not there is any dispute as to the entitlement or priority of any competing claimant, the enforcing secured creditor may pay the surplus to a court for distribution in accordance with the provisions of this Act on priority.

(4) A debtor remains liable for any shortfall owing after application of the net proceeds under this section.

Acquisition of collateral in total or partial satisfaction of the secured obligation.

75.—(1) A secured creditor may propose in writing to acquire one or more of the collaterals in total or partial satisfaction of the secured obligation.

- (2) The secured creditor shall send the proposal to—
 - (a) the grantor;
 - (b) the debtor, but only in the case of a proposal to accept the collateral in partial satisfaction of the secured obligation;
 - (c) any person with rights in the collateral that has notified in writing the secured creditor of those rights, at least five working days before the proposal is sent to the grantor or the grantor waived the right to receive the proposal; and
 - (d) any other secured creditor that registers a notice with respect to the collateral, at least five working days before the proposal is sent to the grantor or the grantor waived the right to receive the proposal.

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- (3) In the proposal referred to in sub-section (2)–
- (a) the secured creditor shall identify the secured creditor and grantor;
 - (b) specify the amount owed as of the date the proposal is sent, including interest and the cost of enforcement;
 - (c) state the obligation that is proposed to be satisfied by acquiring the collateral;
 - (d) state whether the secured creditor proposes to acquire the collateral in total or partial satisfaction of the secured obligation;
 - (e) describe the collateral;
 - (f) refer to the right of the debtor or the grantor to redeem the collateral as provided in section 69; and
 - (g) state the date after which the collateral will be acquired by the secured creditor.
- (4) The secured creditor acquires the collateral–
- (a) in the case of a proposal for the acquisition of the collateral in full satisfaction of the secured obligation, unless the secured creditor receives an objection in writing from any person entitled to receive such a proposal within fifteen working days after the proposal is sent to that person; and
 - (b) in the case of a proposal for the acquisition of the collateral in partial satisfaction of the secured obligation, only if the secured creditor receives the affirmative consent of each addressee of the proposal in writing within fifteen working days after the proposal is sent to that person.
- (5) The grantor may request the secured creditor to make a proposal in accordance with sub-section (1) and if the secured creditor accepts it, the secured creditor shall proceed as provided in sub-sections (2), (3) and (4).

76.–(1) If a secured creditor sells or otherwise disposes of the collateral, a buyer or other transferee acquires the grantor's right in the asset free of the rights of the enforcing secured creditor and any competing claimant, except the rights that have priority over the security right of the enforcing secured creditor.

Rights acquired
in collateral.

(2) If a secured creditor leases or licenses the collateral, a lessee or licensee is entitled to the benefit of the lease or license during its term, except as against creditors with rights that have priority over the right of the enforcing secured creditor.

(3) If a secured creditor sells or otherwise disposes of, leases or licenses the collateral and does so in violation of this Part, the buyer or other transferee, lessee, or licensee of the collateral acquires the rights or benefits mentioned in sub-sections (1) and (2), provided that the buyer or other transferee, lessee or licensee had no knowledge of a violation of this Part which materially prejudiced the rights of the grantor or another person.

Collection of payment under a receivable, negotiable instrument, right to payment of funds credited to a deposit account or security.

77.—(1) After default by the grantor, a secured creditor with a security right in a receivable, negotiable instrument, right to payment of funds credited to a deposit account or security is entitled to collect payment from the debtor of the receivable, obligor under the negotiable instrument, depository bank or issuer of the security.

(2) The secured creditor may, with the consent of the grantor, exercise the right to collect under sub-section (1) even before default.

(3) A secured creditor exercising the right to collect under sub-section (1) or (2) is also entitled to enforce any personal or property right that secures or supports payment.

(4) The right of the secured creditor to collect under sub-sections (1) to (3) is subject to sections 59 to 63.

Collection of payment under a receivable by an outright transferee.

78. In the case of an outright transfer of a receivable, the transferee is entitled to collect the receivable before or after default of the transferor.

PART VIII

Applicable Law

79. The law applicable to the mutual rights and obligations of a grantor and a secured creditor arising from their security agreement is the law chosen by them and, in the absence of a choice of law, the law governing the security agreement.

Law applicable to the mutual rights and obligations.

Law applicable to a security right in a tangible asset.

80.—(1) Except as otherwise provided in this section, the law applicable to the creation, effectiveness against third parties and priority of a security right in a tangible asset is the law of the country in which the asset is located.

(2) The law applicable to the creation, third-party effectiveness and priority of a security right in a tangible asset of a type ordinarily used in more than one country is the law of that country in which the grantor is located.

81.—(1) The law applicable to the creation, effectiveness against third parties and priority of a security right in an intangible asset is the law of the country in which the grantor is located.

Law applicable to a security right in an intangible asset.

(2) The law applicable to the creation, effectiveness against third parties, priority and enforcement of a security right in a right to payment of funds credited to a deposit account, as well as to the rights and obligations between the financial institution and the secured creditor, is the law of the country in which that financial institution has its place of business; and if the financial institution has places of business in more than one country, the law applicable is the law of the country in which the branch maintaining the deposit account is located.

(3) The law applicable to the creation, effectiveness against third parties and priority of a security right in an intangible asset is the law of the country in which the issuer is located.

(4) The law applicable to the creation, effectiveness against third parties and priority of a security right in intellectual property is the law of the country in which the intellectual property is protected.

82. The law applicable to issues relating to the enforcement of a security right—

Law applicable to the enforcement of a security right.

- (a) in a tangible asset is the law of the country where the relevant act of enforcement takes place; and
- (b) in an intangible asset is the law applicable to the priority of the security right.

83.—(1) The law applicable to the creation of a security right in proceeds is the law applicable to the creation of the security right in the original collateral from which the proceeds arose.

Law applicable to a security right in proceeds of the collateral.

(2) The law applicable to the third-party effectiveness and priority of a security right in proceeds is the law applicable to the third-party effectiveness and priority of a security right in the original collateral of the same kind as the proceeds.

84. For the purposes of the provisions of this Part, the grantor is located—

Meaning of location of the grantor.

- (a) in the country in which the grantor has place of business, if any;
- (b) if the grantor has a place of business in more than one country, in the country in which the central administration of the grantor is exercised; and

- (c) if the grantor does not have a place of business in the country in which the grantor has his or her habitual residence.

Relevant time for determining location.

85.—(1) Except as provided in sub-section (2), references to the location of the collateral or the grantor in the provisions of this Part refer—

- (a) for creation issues, to the location at the time of the creation of the security right; and
- (b) for third-party effectiveness and priority issues, to the location at the time the issue arises.

(2) If the rights of all secured creditors in the collateral are created and made effective against third parties and the rights of all claimants are established before a change in the location of the collateral or the grantor, references in the provisions of this Part to the location of the collateral or of the grantor refer, with respect to third-party effectiveness and priority issues, to the location prior to the change in location.

Law applicable to the relationship of third parties and secured creditors.

86. The law applicable to the relationship between the grantor of a security right in a receivable, negotiable instrument or negotiable document and the debtor of the receivable, the obligor under the negotiable instrument or the issuer of the negotiable document is the law applicable to—

- (a) the relationship between the debtor of the receivable, the obligor under the instrument or the issuer of the document and the holder of a security right in the receivable, instrument or document;
- (b) the conditions under which a security right in the receivable, instrument or document may be invoked against the debtor of the receivable, the obligor under the instrument or the issuer of the document, including whether an agreement limiting the grantor's right to create a security right may be asserted by the debtor of the receivable, the obligor under the instrument or the issuer of the document; and
- (c) whether the obligations of the debtor of the receivable, the obligor under the instrument or the issuer of the document have been discharged.

Continuity in third-party effectiveness upon a change of the applicable law to this Act.

87.—(1) If a security right is effective against third parties under the law of another country and this Act becomes applicable as a result of a change in the location of the collateral or the grantor, whichever determines the applicable law under the provisions of this Part, the security right remains effective against third parties under this Act until the earlier of—

- (a) the time when third-party effectiveness would have lapsed under the law of the other country; and
- (b) ten working days after the change and, thereafter, only if the third-party effectiveness requirements of this Act are satisfied before the expiry of that time period.

(2) If the security right remains effective against third parties under sub-section (1), the time of third-party effectiveness is the time when it was achieved under the provisions of the relevant law.

88. The commencement of insolvency proceedings in respect of the grantor shall not displace the law applicable to a security right of a secured or unsecured creditor under this Act.

Effect of commencement of insolvency proceedings.

PART IX

General Provisions

89. The Registrar may approve and alter, as needed, the forms and data required for the Collateral Security Registry.

Approval of forms and data by Registrar.

90. The Registrar may accept any document signed or sealed electronically and such document shall have the same force and effect as if the signature is affixed to a paper copy of the document.

Electronic signatures.

91.—(1) The Commission may, with the approval of the Minister, make Regulations generally for giving effect to this Act and specifically in respect of anything required or permitted to be prescribed by this Act.

Regulations.

(2) Without limiting the generality of sub-section (1), regulations may provide for—

- (a) the form of identification required by an identifier of the grantor and identifier of the secured creditor;
- (b) the conduct of the business of the Registry and the maintenance of the Registry records;
- (c) the form of a registration notice, amendment notice, continuation notice and cancellation notice, and of other notices or forms required under this Act to be registered in, or issued by, the Registry;
- (d) the contents and manner of submission of an initial notice, amendment notice and cancellation notice;

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- (e) the form and method of disclosure of search results;
 - (f) to make provision for transitional arrangements under the Act; and
 - (g) any other matter in relation to the Registry.
- (3) Regulations made under this section may—
- (a) provide for the payment of fees for services under this Act
 - (b) provide for the Commission to exercise a discretion in respect of matters prescribed by the Regulations;
 - (c) permit the Commission to publish fees that may be imposed by the Regulations; and
 - (d) permit the Commission and the Registrar to publish material in respect of matters prescribed by the Regulations.
- (4) Regulations made under this section may create offences and prescribe penalties.
- (5) The Regulations may make different provision in relation to different persons, circumstances or cases.
- (6) Regulations made under this section may also provide for the waiver of any fees prescribed to be paid under this Act.
- (7) Without limiting sub-section (1), regulations may prescribe fees which are required to be prescribed under this Act and which are not otherwise prescribed in this Act.
- (8) The Commission may make administrative guidelines, where necessary, in respect of anything required by this Act or Regulations made hereunder.

Transitional
application of
Act .

92.—(1) Security interests in moveable assets created before the commencement of this Act shall continue to remain valid and effective on terms and conditions agreed to by the grantor and the creditor.

(2) Every prior security interest perfected by a formal or informal mode recognized by common law continues to be legally valid and enforceable.

(3) Transactions creating security interests referred to in sub-section (2) shall be valid for a period of 180 days after the commencement of this Act, unless financing statements in respect of those transactions are registered

and brought into compliance with the provisions of this Act before the expiration of the period.

93.—(1) The enactments specified in the first column of the Schedule are amended to the extent specified in the second column of that Schedule.

Consequential amendments.

(2) Notwithstanding sub-section (1) —

(a) where a Regulation, Order, Notice or other subsidiary legislation made under any of the Acts referred to in subsection (1) is repealed, it shall, if in force at the commencement of this Act, continue in force until replaced by a Regulation, Order or Notice or other subsidiary legislation made under this Act;

(b) an act, decision or other matter carried out under the any of the Acts referred to in paragraph (a) shall be deemed to have been carried out under this Act; and

(c) an action, proceeding and a similar matter commenced or pending under the any of the Acts referred to in subsection (1) shall continue under this Act as if it had been commenced under this Act.

(3) In the case of conflict between this Act and any other law of Belize, this Act shall prevail.

94.—(1) This Act shall come into force on a date appointed by the Minister, by Order published in the *Gazette*.

Commencement.

(2) An Order under sub-section (1) may appoint different dates for the commencement of different provisions of this Act.

SCHEDULE

[section 93]

CONSEQUENTIAL AMENDMENTS

SHORT TITLE	AMENDMENT
Credit Union Act, CAP 314	<p>1. The principal Act is amended in section 2 by inserting the following definition in the appropriate alphabetical sequence—</p> <p style="padding-left: 40px;">““security right” means a security right created under the Moveable Property Security Rights Act, 2024;”.</p> <p>2. The principal Act is amended in section 43(4) by inserting after the words “bill of sale” the words “or a security right”.</p> <p>3. The principal Act is amended in section 66(9) by inserting after the word “mortgages,” the words “security rights”.</p>
Development Finance Corporation, CAP 279	<p>1. The principal Act is amended in section 2 by inserting the following definition in the appropriate alphabetical sequence—</p> <p style="padding-left: 40px;">““security right” means a security right created under the Moveable Property Security Rights Act, 2024;”.</p> <p>2. The principal Act is amended in section 23(i), by inserting after the word “charges”, the words “, security right”.</p>
Bills of Sale Act, CAP 246	<p>1. The principal Act is amended in section 2—</p> <p style="padding-left: 40px;">(a) in sub-section (1)—</p> <p style="padding-left: 80px;">(i) by inserting the following definitions in the appropriate alphabetical sequence—</p>

	<p>““security right” means a security right created under the Moveable Property Security Rights Act, 2024;</p> <p>“trade machinery” means the machinery used in or attached to any factory or workshop, exclusive of—</p> <p>(a) the fixed motive-powers, such as their waterwheels, steam engines and their steam-boilers, donkey engines and other fixed appurtenances;</p> <p>(b) the fixed power machinery, such as the shafts, wheels, drums and their fixed appurtenances, which transmit the action of the motive-powers to the other machinery, fixed and loose; and</p> <p>(c) the pipes for steam, gas and water, and wires and cables for transmitting electricity in the factory or workshop;</p> <p>“factory or workshop” means any premises on which any manual labour is exercised by way of trade, or for purposes of gain, in or incidental to the making of any article or part of an article, or the altering, repairing, ornamenting or finishing of any article, or the adapting for sale of any article;”;</p> <p>and</p>
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	<p>(ii) by deleting the definition of “bill of sale” and substituting it with the following—</p> <p>““bill of sale” includes bills of sale, assignments, transfers, declarations of trust without transfers, and other assurances of personal chattels, and also powers of attorney, authorities or licences to take possession of personal chattels as security for any debt, and also any agreement whether intended or not to be followed by the execution of any other instrument, by which a right in equity to any personal chattels, or to any charge or security thereon, is conferred, but does not include the following documents—</p> <p>(a) assignments for the benefit of the creditors of the person making or giving them, marriage settlements, transfers or assignments of any ship or vessel or any share thereof, transfers of goods in the ordinary course of business of any trade or calling, bills of sale of goods in foreign parts or at sea, bills of lading, India warrants, warehouse-keepers’ certificates, warrants or orders for the delivery of goods, or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of</p>
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	<p>such document to transfer or receive goods thereby represented; or</p> <p>(b) an instrument charging or creating any security on, or declaring trusts of, imported goods, given or executed at any time prior to their deposit in a warehouse, factory or store, or to their being re-shipped for export, or delivered to a purchaser not being the person giving or executing that instrument; or</p> <p>(c) an instrument charging or creating any security right;” and</p> <p>(b) by inserting after sub-section (3), the following new sub-sections–</p> <p>“(4) For the purposes of this Act, “trade machinery” shall not be considered as personal chattels within the meaning of this expression under this Act.</p> <p>(5) Any mode of disposition of trade machinery by the owner thereof which would be a bill of sale as to any other personal chattels shall be not deemed to be a bill of sale within the meaning of this Act but however shall be dealt with under the Moveable Property Security Rights Act, 2024.”.</p> <p>2. The principal Act is amended by repealing section 3.</p>
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	<p>3. The principal Act is amended by repealing section 5.</p> <p>4. The principal Act is amended in section 6 by inserting after sub-section (1), the following new sub-section–</p> <p style="padding-left: 40px;">“(1A) Where an instrument or good is subject to a security right under the Moveable Property Security Rights Act, 2024 that instrument or good shall be registered in accordance with the procedures under that Act.”.</p>
Companies Act, Act No. 11 of 2022	<p>1. The principal Act is amended in section 28(2)(c) by inserting after the word “mortgage” the words “security right,”.</p> <p>2. The principal Act is amended in section 66 by inserting after the word “mortgage” the words “, security right”.</p> <p>3. The principal Act is amended in section 155(1)–</p> <p style="padding-left: 40px;">(a) in the chapeau, by inserting after the words “any form of” the words “security right or”; and</p> <p style="padding-left: 40px;">(b) inserting after the definition of “relevant charge” the following definition–</p> <p style="padding-left: 80px;">““security right” means a security right created under the Moveable Property Security Rights Act, 2024.”.</p> <p>4. The principal Act is amended in section 157(1)(a) by inserting after the word “company”, where it first occurs, the words “or a security right created under the Moveable Property Security Rights Act, 2024”.</p>

	<p>5. The principal Act is amended in section 163(a)–</p> <p>(a) in sub-paragraph (ii), by inserting after the semi-colon, the word “or; and</p> <p>(b) by inserting after sub-paragraph (ii) the following new sub-paragraph–</p> <p>“(iii) a security right registered under the Movable Property Security Rights Act, 2024; and”.</p>
<p>Sale of Goods Act, CAP 261</p>	<p>The principal Act is amended in section 61–</p> <p>(a) in sub-section (4), by inserting after the word “pledge”, the words “security right;” and</p> <p>(b) by inserting after sub-section(4) the following new sub-section–</p> <p>“(5) Nothing in this Act shall affect the provisions of the Movable Property Security Rights Act, 2024 which shall apply mutatis mutandis to matters not expressly provided for in the Sale of Goods Act.”.</p>
<p>Stamp Duty Act, CAP 64</p>	<p>1. The principal Act is amended by inserting after section 38, the following new section–</p> <p>“Stamp Duty not applicable to Moveable Property Rights Act.</p> <p>38A.–(1) An instrument under the Moveable Property Rights Act shall be exempt from stamp duties charged under this Act.</p> <p>(2) For the purposes of sub-section (1), an instrument under the Moveable Property Security Rights Act, includes a security agreement.”.</p> <p>2. The principal Act is amended in section 59(3)(c) by inserting after sub-paragraph (i), the following new sub-paragraph–</p>

	<p>“(ia) a security right registered under the Moveable Property Security Rights Act, 2024; or”.</p> <p>3. The principal Act is amended by inserting after section 69, the following new section–</p> <p>“Instruments registered under the Moveable Property Rights Act.</p> <p>69A. An instrument registered under the Moveable Property Rights Act shall be exempt from stamp duties imposed under or charged by this Act.”.</p>
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