

2010

CHAPTER E-9.22

An Act respecting the Enforcement of Judgments for the payment of money, making consequential amendments to certain Acts and repealing certain Acts

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(Assented to May 20, 2010)

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

PART I Preliminary Matters

Short title

1 This Act may be cited as *The Enforcement of Money Judgments Act*.

Interpretation

2(1) In this Act:

(a) **“account”** means a monetary obligation, however created, other than an obligation evidenced by a negotiable instrument or a security, due to a judgment debtor:

- (i) by a person, partnership, trustee or governmental entity;
- (ii) whether or not payable and whether or not specific as to amount; and
- (iii) including an obligation under a term deposit contract, an insurance contract, a letter of credit, a guarantee agreement or an indemnity agreement to make payment to the judgment debtor in discharge of a liability of the insurer, issuer, guarantor or indemnitor to a judgment debtor;

and, if the context requires, includes a future account;

(b) **“account debtor”** means a person, partnership, trustee or governmental entity:

- (i) that is obligated under an account to a judgment debtor; or
- (ii) that, subject to any conditions affecting the account, will become obligated to a judgment debtor under a future account;

and, where the context permits, includes an insurer, issuer, guarantor or indemnitor;

(c) **“amount recoverable”** means:

- (i) the unsatisfied amount of a judgment being enforced pursuant to a subsisting enforcement instruction;
- (ii) costs to which the judgment creditor is entitled in relation to the judgment;
- (iii) unpaid interest on an amount mentioned in subclause (i) or (ii);

- (iv) fees and costs with respect to sheriffs' enforcement services in relation to the enforcement instruction;
- (v) any other amount ordered by the court; and
- (vi) any other prescribed amount;

and, if more than one subsisting enforcement instruction has been given to the sheriff with respect to a judgment debtor, includes the foregoing amounts relating to the subsisting enforcement instructions cumulatively;

(d) **“co-owned property”** means property owned by two or more persons as joint tenants, tenants in common or in which two or more persons have an undivided interest;

(e) **“co-owner”** means a person who owns an interest in co-owned property;

(f) **“court”** means the Court of Queen's Bench, unless the context requires otherwise;

(g) **“crop”** means a crop, whether matured or otherwise, and whether naturally grown or planted, attached to land by roots or forming part of trees or plants attached to land, and includes trees only if they are:

- (i) being grown as nursery stock;
- (ii) being grown for uses other than the production of lumber and wood products; or
- (iii) intended to be replanted in another location for the purpose of reforestation;

(h) **“Crown”** means the Crown in right of Saskatchewan;

(i) **“deposit account”** means an account owing by a deposit-taking institution in the form of a demand, time, savings or passbook account, but does not include an obligation arising under a contract with the deposit-taking institution to pay to the judgment debtor a specified sum of money and interest at a specified date in the future;

(j) **“deposit-taking institution”** means an organization that is a member of the Canadian Payments Association or a credit union;

(k) **“defendant”** means a defendant, respondent or other person opposing a claim for the payment of money in an action commenced in Saskatchewan or another jurisdiction and, in Part II, includes a judgment debtor where the context permits;

(l) **“due”**, when used in relation to a monetary obligation, means:

- (i) that the obligation is owed unconditionally, notwithstanding that it may not be payable;
- (ii) that payment of the obligation is conditional only on the effluxion of time; or
- (iii) in connection with an obligation subject to a condition other than or in addition to the effluxion of time, that the condition has been satisfied, notwithstanding that the obligation is not immediately payable on satisfaction of the condition;

- (m) “**employment remuneration**” means amounts payable by an account debtor to a judgment debtor pursuant to a contract of service in relation to a pay period and includes the market value of all goods and services that the judgment debtor has received or is entitled to receive in relation to that pay period in lieu of money;
- (n) “**enforcement charge**” means:
- (i) with respect to personal property, a charge in the personal property registry created by registration of a judgment in the registry; and
 - (ii) 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;
- (o) “**enforcement instruction**” includes, when appropriate, a supplementary enforcement instruction;
- (p) “**enforcement measure**” means any action, step or measure provided for by this Act to enforce a judgment, but does not include registration of a judgment;
- (q) “**enforcing judgment creditor**” means a judgment creditor who has given an enforcement instruction to the sheriff in accordance with Part V, where that enforcement instruction has not expired;
- (r) “**entitlement order**” means entitlement order as defined in *The Securities Transfer Act*;
- (s) “**exempt property**” means property that is not subject to an enforcement measure;
- (t) “**exemption**” means an identifiable amount, item or kind of property of a judgment debtor that is not subject to an enforcement measure;
- (u) “**exigible property**” means property of a judgment debtor that is not exempt property, and includes:
- (i) property owned by co-owners; and
 - (ii) property owned by a person other than the judgment debtor that is subject to an enforcement charge;
- (v) “**fixture**” means fixture as defined in *The Personal Property Security Act, 1993*;
- (w) “**future account**” means an account:
- (i) that becomes due any time within 12 months after a notice of seizure has been served; or
 - (ii) that is one of a series of periodic recurring payments arising from a legal relationship between the account debtor and a judgment debtor existing when a notice of seizure is served, regardless of the period over which the periodic recurring payment obligations become due;

(x) **“futures contract”** means a futures contract as defined in *The Personal Property Security Act, 1993*;

(y) **“futures intermediary”** means a futures intermediary as defined in *The Personal Property Security Act, 1993*;

(z) **“intellectual property”** includes any property right or interest in:

- (i) a copyright;
- (ii) letters patent for an invention;
- (iii) a trade mark;
- (iv) an industrial design;
- (v) integrated circuit topography;
- (vi) plant breeder’s rights; and
- (vii) a transferable licence, interest or right derived from or associated with any of the intellectual property mentioned in subclauses (i) to (vi);

whether the property right or interest arose or was recognized under the law of Canada or the law of any other country;

(aa) **“judgment”** means a judgment that, in whole or in part, requires a person to pay money, including:

- (i) a subsisting judgment of the court, the Court of Appeal or the Supreme Court of Canada;
- (ii) a subsisting order, decree, certificate or other right for the payment of money that may be enforced as, or in the same manner as, a judgment of the court; and
- (iii) if the context permits, information that is authorized by the regulations to be electronically transmitted to the registry to effect a registration of a judgment;

(bb) **“land”** includes title and any legal or equitable right, interest or estate less than title in or with respect to land;

(cc) **“land titles registry”** means the land titles registry as defined in *The Land Titles Act, 2000*;

(dd) **“licence”** means a right, whether or not exclusive:

- (i) to manufacture, produce, reproduce, sell or otherwise deal with property;
- (ii) to transport persons or property;
- (iii) to perform or copy a work;
- (iv) to engage in an undertaking granted pursuant to a statutory authority; or
- (v) to provide services;

that is transferable by the grantee with or without restriction or the consent of the grantor;

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

(ff) “**net employment remuneration**” means employment remuneration less amounts that the account debtor is required by law or contract to deduct from the employment remuneration of the judgment debtor for income tax, employment insurance, Canada Pension Plan contributions, compulsory union or professional fees, registered pension plan contributions, health insurance and disability insurance premiums and any other prescribed amounts;

(gg) “**payable**”, when used in relation to a monetary obligation, means that the time for discharge of the obligation has arrived;

(hh) “**personal property**” means a right recognized in law or equity as personal property, including:

(i) goods, chattel paper, a document of title, an instrument, money, a security and an intangible as those terms are defined in *The Personal Property Security Act, 1993*;

(ii) intellectual property;

(iii) an interest in any licence; and

(iv) a cause of action;

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

(jj) “**plaintiff**” means a plaintiff, a plaintiff by counterclaim, petitioner, claimant, applicant or other person asserting a claim for the payment of money in an action commenced in Saskatchewan or another jurisdiction;

(kk) “**prescribed**” means prescribed in the regulations;

(ll) “**preservation order**” means an order made pursuant to section 5 to preserve property;

(mm) “**property**” includes personal property and land, unless limited by the context to either personal property or land;

(nn) “**Registrar of Personal Property Security**” means the Registrar of Personal Property Security appointed pursuant to section 42 of *The Personal Property Security Act, 1993*;

(oo) “**Registrar of Titles**” means the Registrar of Titles appointed pursuant to section 6 of *The Land Titles Act, 2000*;

(pp) “**registry**” means the Judgment Registry established pursuant to section 18;

- (qq) “**secured party**” means a person who has a security interest in property and includes, if the context permits, a mortgagee of an interest in or holder of a charge on land;
- (rr) “**securities entitlement**” means securities entitlement as defined in *The Securities Transfer Act*;
- (ss) “**securities intermediary**” means securities intermediary as defined in *The Securities Transfer Act*;
- (tt) “**security**” means security as defined in *The Securities Transfer Act*;
- (uu) “**security agreement**” means an agreement that creates or provides for a security interest and includes, if the context permits, a mortgage or agreement creating or providing for a charge on land;
- (vv) “**security interest**” means, except as otherwise provided in Part IV, an interest in property that secures payment or performance of an obligation;
- (ww) “**seizure**” includes any enforcement measure a sheriff takes to enforce a judgment;
- (xx) “**serial numbered goods**” means goods defined as serial numbered goods in the regulations made pursuant to *The Personal Property Security Act, 1993*, other than:
- (i) goods held by the judgment debtor for sale or lease;
 - (ii) goods that have been leased by the judgment debtor as lessor;
 - (iii) goods furnished or to be furnished under a contract of service;
 - (iv) raw materials or work in progress; or
 - (v) materials used or consumed in connection with a business;
- (yy) “**sheriff**” means a sheriff, a deputy sheriff or a sheriff’s bailiff appointed pursuant to section 3 of *The Court Officials Act, 1984*;
- (zz) “**subsisting enforcement instruction**” means an enforcement instruction or a supplementary enforcement instruction that remains in effect.

(2) A judgment of the Federal Court of Canada for the payment of money is deemed to be a judgment that may be registered pursuant to Part IV.

(3) Subject to subsection 120(2), when process has issued for the purpose of enforcing a judgment of the Federal Court of Canada pursuant to the *Federal Court Act* (Canada), that judgment may be enforced pursuant to this Act.

Application

3(1) Except as provided for in this Act or any other Act or law, all judgments shall be enforced pursuant to this Act.

(2) Except as provided for in this Act or any other Act or law, all exigible property of a judgment debtor is subject to enforcement pursuant to this Act.

(3) When a judgment is registered in accordance with this Act, the judgment may be enforced anywhere in Saskatchewan without regard to judicial districts or geographical divisions.

(4) Except when provided for in this Act or any other Act or law, all enforcement proceedings are deemed to be taken on behalf of, and for the benefit of, all judgment creditors of a judgment debtor.

(5) Except as provided in any other Act or law, a person may not be arrested or imprisoned for default of payment of a judgment.

(6) Nothing in this section shall be construed as preventing a judgment creditor from soliciting or accepting payment from a judgment debtor.

Sheriff authorization

4(1) Subject to the regulations, the sheriff may authorize any person, including a judgment creditor, to perform any function that the sheriff is empowered or required by this Act or the regulations to perform.

(2) Anything done by a sheriff in reliance on a sworn declaration of any person, including a judgment creditor, or an agent of the judgment creditor, that a function mentioned in subsection (1) was duly performed as required by this Act is deemed to have been done in compliance with this Act.

(3) If a judgment creditor, or an agent of the judgment creditor, fails to perform a function mentioned in subsection (1) in the manner required by this Act, the court may order the entry of a judgment against the judgment creditor in favour of a person who has suffered loss or damages as a result of that failure in an amount equal to:

- (a) the loss or damage suffered due to that failure; and
- (b) the prescribed amount for deemed damages.

(4) No person shall fail to comply with the terms of an authorization made by the sheriff pursuant to subsection (1), the directions of the sheriff with respect to such an authorization or the regulations made for the purposes of this section.

PART II Preservation Orders

Preservation order

5(1) In this Part:

- (a) **“action”** means a legal action that would, if successful, result in:
 - (i) a judgment; or
 - (ii) an order declaring a gift, conveyance, assignment, transfer, delivery over or payment of property by the defendant void as a fraudulent conveyance or fraudulent preference;
- (b) **“transferee”** means a person who has received an interest in property from the defendant pursuant to a transaction mentioned in subclause (a)(ii).

- (2) An application for a preservation order may be made to the court by any of the following persons:
- (a) a plaintiff in an action commenced in Saskatchewan;
 - (b) a plaintiff in an action commenced in another jurisdiction, if the action would, if successful, result in a judgment that is enforceable as a judgment of the court.
- (3) Two or more plaintiffs in separate actions may apply jointly for a preservation order pursuant to subsection (2).
- (4) In the case mentioned in subsection (3), the discontinuance of one of the actions does not affect the application or the preservation order with respect to the other action.
- (5) The court may grant a preservation order if the court is satisfied that:
- (a) the action would, if successful, result in:
 - (i) a judgment in favour of the plaintiff; or
 - (ii) an order described in subclause (1)(a)(ii);
 - (b) if the preservation order is not granted, the enforcement of a judgment or order against the defendant or transferee is likely to be partially or totally ineffective as a result of the disposition of, damage to, dissipation of, destruction of, concealment of or any dealing with property, other than disposition for the purposes of:
 - (i) meeting reasonable living expenses of the defendant and dependants of the defendant;
 - (ii) carrying on the business of the defendant in the ordinary course; or
 - (iii) acquiring income to pay the expenses of defending or responding to the action; and
 - (c) the action will be prosecuted without delay, other than delay caused by the defendant or transferee.
- (6) A preservation order may do one or more of the following:
- (a) prohibit the disposition of property other than for a purpose mentioned in subclause (5)(b)(i), (ii) or (iii);
 - (b) prohibit the damage to, dissipation of, destruction of or concealment of property;
 - (c) require the defendant or transferee to pay money to the sheriff, whether as a single amount or through a series of payments;
 - (d) require a person who is or who will become indebted to the defendant or transferee to discharge the debt by payment to the sheriff when the debt becomes payable;
 - (e) prohibit the defendant or transferee from collecting an account;

- (f) appoint a receiver pursuant to Part VIII, with or without security, in which case Part VIII applies with any necessary modification;
 - (g) allow the defendant or transferee to retain and use property affected by an order subject to conditions;
 - (h) instruct the sheriff to seize property on such terms and conditions as the court considers appropriate;
 - (i) instruct the sheriff, a receiver, the defendant, a transferee or another person to sell property pursuant to Part XI if:
 - (i) the property is likely to depreciate substantially in value before expiry of a preservation order; or
 - (ii) the costs of storage of the property are disproportionately large in relation to its value;
 - (j) in the case of a sale mentioned in clause (i) by a person other than the sheriff or a receiver, instruct that person to pay the net proceeds of the sale to the sheriff;
 - (k) direct the defendant or transferee to disclose to the court or to the sheriff the existence and location of property in the manner specified, which may include an examination of the defendant under oath or affirmation;
 - (l) make any other provision that the court considers necessary for the effectiveness of the preservation order.
- (7) A preservation order shall require the plaintiff to provide security in an amount that, in the opinion of the court, is sufficient to compensate the defendant or other person affected by the preservation order for pecuniary loss that may be caused as a result of the preservation order unless, in the court's opinion, requiring the plaintiff to provide security would cause undue hardship to the plaintiff.
- (8) A preservation order shall not relate to property located outside Saskatchewan if the action in connection with which the order is made was commenced outside of Canada.
- (9) The court may grant a preservation order against any of the following persons:
- (a) the defendant, with respect to property of the defendant and property acquired by the defendant after the date of the preservation order;
 - (b) a transferee, with respect to property received from the defendant;
 - (c) a person, other than the defendant or a transferee, with respect to property of the defendant and property acquired by the defendant after the date of the preservation order.
- (10) A preservation order may be granted on application by a judgment creditor.
- (11) Subsections (1) to (9) apply, with any necessary modification, to an application pursuant to subsection (10).

Effect of preservation order**6(1)** A preservation order:

- (a) operates as an injunction against the defendant, transferee and any other person named in the preservation order; and
 - (b) gives no property interest or priority to the plaintiff or judgment creditor.
- (2) If a preservation order is granted *ex parte*, it is not binding on the defendant, transferee or on any other person named in the preservation order until the preservation order is personally served on the defendant, transferee or other person.
- (3) The sheriff shall hold money received pursuant to a preservation order or an order of the court pursuant to section 9 until the earliest of:
- (a) 15 days after:
 - (i) the issuance of a judgment against the defendant; or
 - (ii) in the case of an action as defined in subclause 5(1)(a)(ii), the issuance of a declaration that a transfer is void;
 - (b) the day on which the action to which the order relates is discontinued or dismissed; and
 - (c) the day on which the order expires.
- (4) Unless the court orders otherwise:
- (a) property affected by a preservation order, other than a preservation order granted pursuant to subclause 5(5)(a)(ii), shall be subject to enforcement measures as if the preservation order had not been granted; and
 - (b) if an enforcement instruction has been given to the sheriff with respect to a defendant, money received by the sheriff pursuant to a preservation order affecting the property of the defendant, other than money received as a result of a preservation order granted pursuant to subclause 5(5)(a)(ii), shall be allocated to the fund constituted in connection with that defendant pursuant to section 107.

Termination of preservation order**7(1)** Subject to section 8 and subsection (2), a preservation order is terminated on the earliest of the following:

- (a) if granted *ex parte*, on the expiry of 21 days;
- (b) if granted on notice of motion, on the expiry of 60 days;
- (c) on termination or dismissal of the action to which the preservation order relates;
- (d) on the expiry of 15 days after the issuance of a judgment in favour of the plaintiff;

(e) on the day on which the defendant, transferee or other person provides security to the court or the plaintiff in a form and in an amount considered sufficient by the court or the plaintiff;

(f) in the case of an action as defined in subclause 5(1)(a)(i), on satisfaction of a judgment obtained against the judgment debtor in the action to which the preservation order relates.

(2) Notwithstanding subsection (1), on application of the plaintiff or judgment creditor, the court may fix any date on which the preservation order terminates.

Extension, renewal and modification of preservation order

8(1) A plaintiff, judgment creditor, defendant, judgment debtor or any other person affected by a preservation order may apply to the court to have the preservation order extended, renewed, modified or terminated.

(2) Section 5 applies, with any necessary modification, to an application made pursuant to this section.

(3) In an application to extend, renew, modify or terminate a preservation order, the onus is on the applicant to establish that the preservation order should be extended, renewed, modified or terminated.

(4) On application made pursuant to this section, the court may make any order that the court considers appropriate in the circumstances, including:

(a) an order doing one or more of the things mentioned in subsection 5(6); and

(b) an order extending, renewing, modifying or terminating a preservation order.

Order re payment out of security

9(1) A defendant, former defendant or other person affected by a preservation order may apply to the court for an order directing payment out of the security, if any, provided pursuant to subsection 5(7).

(2) The court may make an order directing payment out of the security in an amount to compensate the defendant, former defendant or other person affected by the preservation order for actual pecuniary losses suffered as a result of the preservation order if:

(a) the action with respect to which the preservation order was issued failed or was discontinued and the court is satisfied that:

(i) the failure or discontinuance of the action was a result of:

(A) the failure on the part of the plaintiff to pursue the claim;

(B) the reliance by the plaintiff on evidence or information that, to the knowledge of the plaintiff, was or was likely to be false or materially misleading; or

(C) any other misconduct on the part of the plaintiff; or

(ii) at the date the action was initiated, the plaintiff had no reasonable expectation of obtaining judgment; or

(b) the court is satisfied that the preservation order was issued on the basis of evidence or information relied on by the plaintiff or judgment creditor in the knowledge that such evidence or information was or was likely to be false or materially misleading.

Disposing of property, etc., in contravention of preservation order

10(1) A judgment creditor may make an application pursuant to this section if:

- (a) the court has granted a preservation order; and
- (b) the person against whom the preservation order has been issued has, in contravention of that order, disposed of, damaged, dissipated, destroyed, concealed or otherwise dealt with property that is the subject of the preservation order.

(2) If the court is satisfied that the circumstances set out in subsection (1) exist, the court may make an order that judgment be entered against the person mentioned in clause (1)(b) in an amount not greater than the value of the property that was disposed of, damaged, dissipated, destroyed, concealed or otherwise dealt with by the person.

(3) The court may make an order pursuant to subsection (2) on any terms and conditions that the court considers appropriate.

PART III Obtaining Disclosure

Interpretation of Part

11 In this Part, when the judgment debtor is:

- (a) a corporation, the term “judgment debtor” includes an officer, director, employee, agent or liquidator of the corporation; and
- (b) a partnership, the term “judgment debtor” includes any partner, officer, agent or employee of a partnership.

Voluntary questionnaire

12(1) An enforcing judgment creditor may serve a notice on the judgment debtor requesting the judgment debtor to complete a questionnaire that discloses the information set out in subsection 13(1).

(2) A notice provided to a judgment debtor pursuant to subsection (1) must:

- (a) include a questionnaire in the form provided by the sheriff;
- (b) contain a statement:
 - (i) that the questionnaire must be returned to the enforcing judgment creditor within 10 days after receiving the notice or within any further period specified by the enforcing judgment creditor in the notice; and

(ii) advising the judgment debtor that failure to return a completed questionnaire to the enforcing judgment creditor within the period mentioned in the notice may result in:

(A) the service of a mandatory questionnaire pursuant to section 13; or

(B) an appointment for examination pursuant to section 14; and

(c) be personally served.

(3) An enforcing judgment creditor shall provide the sheriff with a copy of the questionnaire completed by the judgment debtor within 10 days after receiving the completed questionnaire.

Sheriff questionnaire

13(1) If a judgment debtor fails to return a completed questionnaire to the enforcing judgment creditor within the period mentioned in the notice provided pursuant to section 12, an enforcing judgment creditor may instruct the sheriff to serve a notice on the judgment debtor requiring the judgment debtor to complete a questionnaire that discloses the following information:

(a) the legal name of the judgment debtor;

(b) all property in which the judgment debtor has an interest and any relevant information about that property including:

(i) the location of the property;

(ii) the serial number or other information by which the property can be identified;

(iii) the name under which the property is registered;

(iv) the estimated market value of the property; and

(v) the outstanding balance of any mortgage, lien or other encumbrance against the property and the identity of the person who holds the mortgage, lien or encumbrance;

(c) all debts, accounts or other funds that are due to the judgment debtor, and any relevant information about each of those debts, accounts or other funds, including:

(i) the amount that is or will become payable;

(ii) the person from whom the amount is payable;

(iii) the date on which the amount became payable, or will become payable; and

(iv) the name of the person to whom the amount is to be paid;

- (d) any other information requested by an enforcing judgment creditor that may reasonably assist the enforcing judgment creditor with the enforcement of a judgment against the judgment debtor, including copies of any records in the possession or control of the judgment debtor that contain information pertaining to the matters specified in clauses (b) and (c), or that are specified by the sheriff.
- (2) The notice served on a judgment debtor pursuant to subsection (1) must:
 - (a) include a questionnaire in the form provided by the sheriff;
 - (b) contain a statement:
 - (i) that the questionnaire must be returned to the sheriff within 10 days after receiving the notice or within any further period specified by the sheriff in the notice; and
 - (ii) advising the judgment debtor that failure to return a completed questionnaire to the sheriff within the period mentioned in the notice may result in an appointment for examination pursuant to section 14; and
 - (c) be personally served.
 - (3) The sheriff may serve a notice on any person requiring that person to complete a questionnaire that discloses the information set out in subsection (1) with respect to the judgment debtor when the sheriff has reasonable grounds to believe that a person:
 - (a) has information concerning property of the judgment debtor; or
 - (b) is in possession or control, or has recently been in possession or control, of:
 - (i) property of the judgment debtor; or
 - (ii) records relating to the property of the judgment debtor.

Examination of judgment debtor

- 14(1) If a judgment debtor fails to return a completed questionnaire to the enforcing judgment creditor or the sheriff within the period mentioned in the notice served pursuant to section 12 or 13, the enforcing judgment creditor may instruct the sheriff to issue and serve on the judgment debtor a notice of an appointment for the examination of the judgment debtor for the purpose of determining information that may reasonably assist the enforcing judgment creditor with the enforcement of a judgment against the judgment debtor.
- (2) The notice of appointment to be served on a judgment debtor pursuant to subsection (1) must:
 - (a) set out:
 - (i) the time of the examination, which time shall not be less than seven days from the date the notice was served; and
 - (ii) where the examination will take place; and
 - (b) be personally served.

- (3) A judgment debtor who is served with a notice pursuant to subsection (1) shall attend the examination at the time and place stated in the notice.
- (4) Notwithstanding subsection (3), the judgment debtor may, in accordance with the regulations and by agreement with the enforcing judgment creditor, arrange for a change of time and place for an examination pursuant to this section.
- (5) An enforcing judgment creditor who conducts an examination pursuant to this section and obtains a transcript of the examination shall deliver the transcript to the sheriff within 10 days after receiving it.
- (6) If a judgment debtor is examined pursuant to this section, the enforcing judgment creditor shall elicit information sufficient to complete a questionnaire in the form provided by the sheriff.
- (7) A person who conducts an examination pursuant to this section shall:
- (a) complete a questionnaire in the form provided by the sheriff based on the information disclosed at the examination;
 - (b) certify under oath or affirmation that the completed questionnaire accurately reflects the information disclosed;
 - (c) deliver the certified questionnaire to the sheriff and the judgment debtor within 30 days after the examination; and
 - (d) provide any prescribed information to the prescribed person in the prescribed manner.
- (8) The sheriff shall keep records of questionnaires, notices of appointments, orders for examination and transcripts that are required pursuant to this Part.

Consequences of failing to make a required disclosure

- 15(1)** On application by an enforcing judgment creditor, the court may do one or more of the following:
- (a) order a judgment debtor to provide to the sheriff complete and accurate information in response to a questionnaire that the judgment debtor is required to complete pursuant to section 13;
 - (b) order a judgment debtor to attend an examination that the judgment debtor is required to attend pursuant to section 14;
 - (c) order a judgment debtor to provide complete and accurate information in response to questions at an examination pursuant to section 14;
 - (d) order a specified person to disclose to the enforcing judgment creditor, or the sheriff, information contained in the specified person's records respecting the judgment debtor and any property in which the judgment debtor has an interest;
 - (e) order a person mentioned in subsection 13(3) to provide to the sheriff complete and accurate information in response to the questionnaire the person is required to complete pursuant to that subsection;

- (f) if the court is satisfied that the judgment debtor or person mentioned in subsection 13(3) has failed to complete a questionnaire that the judgment debtor or person is required to complete pursuant to section 13 or failed to attend an examination that the judgment debtor is required to attend pursuant to section 14 or if the court is satisfied that the response to a questionnaire or an examination is incomplete or erroneous and that the information specified in the application regarding property of a judgment debtor cannot otherwise be reasonably obtained, make an order authorizing the sheriff, or a person appointed by the sheriff, to do one or both of the following:
- (i) enter and search any place, premises or vehicle named in the order;
 - (ii) seize and remove from any place, premises or vehicle searched any records for the purposes of making copies;
- (g) if the court is satisfied that it is necessary to prevent the judgment debtor or other person from destroying, altering, concealing or removing from Saskatchewan any records indicating the existence and location of property of the judgment debtor, order a judgment debtor, or other person in possession of the records, to refrain from destroying, altering, concealing or removing from Saskatchewan any records relating to the existence and location of property of the judgment debtor.
- (2) With an order made pursuant to clause (1)(f), the sheriff, or any other person appointed by the sheriff, may:
- (a) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the sheriff or other person finds in the place, premises or vehicle; and
 - (b) require the production of and examine any records or property that the sheriff or other person believes, on reasonable grounds, may contain information relating to the existence or location of property of the judgment debtor.
- (3) No person shall:
- (a) fail to comply with an order made pursuant to subsection (1); or
 - (b) fail to provide complete and accurate information in any questionnaire or examination.

Disclosure of information on request

- 16(1)** If information respecting a judgment debtor or property of a judgment debtor is disclosed to an enforcing judgment creditor pursuant to this Part, the enforcing judgment creditor shall disclose that information to the sheriff.
- (2) When information is disclosed to a sheriff pursuant to subsection (1), the sheriff shall, on receiving a written request to do so, disclose the information to another enforcing judgment creditor who has a judgment against the judgment debtor.

PART IV
Registration of Judgments

Interpretation of Part**17** In this Part:

- (a) **“advance”** means the payment of money, the provision of credit or the giving of value and includes any liability of the debtor to pay interest, credit costs and other charges or costs payable by the debtor in connection with an advance or the enforcement of a security interest securing the advance;
- (b) **“property”** means personal property, and includes fixtures and crops as defined in *The Personal Property Security Act, 1993*;
- (c) **“registration”** means registration of a judgment in the registry.

Judgment Registry established

18(1) The Judgment Registry is established.

(2) The personal property registry continued pursuant to *The Personal Property Security Act, 1993* may be used as the Judgment Registry.

Contents of registry

19(1) The registry consists of all judgments that are registered or are deemed to be registered in the registry.

(2) The registry is to be used in the manner set out in this Act.

Status of registry

20(1) The registry is a public registry of the people of Saskatchewan.

(2) All information in the registry is the property of the Government of Saskatchewan.

(3) Access to and disclosure of information in the registry is to be provided only in accordance with this Act.

Registration of judgment

21(1) A judgment creditor may register a judgment in the registry in the prescribed manner.

(2) A judgment may be registered in the registry notwithstanding that:

- (a) an application for leave to appeal with respect to the judgment has been filed;
- (b) an appeal is pending with respect to the judgment; or
- (c) the time for appeal of the judgment has not expired.

Effect of registration with respect to personal property

22(1) Registration creates an enforcement charge securing the amount recoverable in connection with the judgment on the following:

- (a) all exigible property existing at the date of registration;
- (b) all exigible property acquired by the judgment debtor after the registration and before the discharge of the registration;
- (c) any exigible property of the judgment debtor that is described, in the prescribed manner, in the registration of the judgment.

- (2) For the purposes of this Act and *The Personal Property Security Act, 1993*, when a security, security entitlement or futures contract has been seized by the sheriff:
- (a) an enforcement charge relating to the judgment being enforced by the seizure has the same priority status as a security interest perfected by control;
 - (b) in the case of a security or security entitlement, the sheriff is deemed to be a purchaser who has control and the securities intermediary is deemed to have agreed to comply with entitlement orders originated by the sheriff without further consent of the judgment debtor; and
 - (c) in the case of a futures contract, the sheriff is deemed to have control and the judgment debtor, sheriff and the futures intermediary are deemed to have agreed that the futures intermediary will apply any value distributed on account of the futures contract as directed by the sheriff without the consent of the judgment debtor.
- (3) In subsection (2), “**control**” means control as defined in *The Securities Transfer Act*.
- (4) Subject to subsection (5), if a judgment debtor holds any exigible property as a joint tenant, registration of a judgment:
- (a) severs the joint tenancy; and
 - (b) the enforcement charge created on registration is created on the judgment debtor’s interest as a tenant in common.
- (5) Subsection (4) does not apply to exigible property that is partnership property within the meaning of *The Partnership Act*.
- (6) Except as otherwise provided in this Act or the regulations, an enforcement charge terminates on the earliest of the following:
- (a) the date on which the registration expires;
 - (b) the date on which the registration is discharged;
 - (c) the date on which all amounts recoverable have been paid;
 - (d) the date on which the judgment to which the registration relates is withdrawn or becomes otherwise unenforceable.
- (7) Unless the court orders otherwise, clause (6)(d) does not apply:
- (a) to a judgment that is not enforceable as a result of:
 - (i) an order staying enforcement of the judgment; or
 - (ii) an order made pursuant to section 81 of *The Queen’s Bench Act, 1998*; or
 - (b) to the extent that a charge relates to amounts mentioned in subclauses 2(1)(c)(ii) to (vi).
- (8) An enforcement charge relating to a judgment that is reversed on appeal is deemed to have never existed.

Priority of enforcement charge: general

23(1) Except as otherwise provided in this Act or the regulations, an enforcement charge has the same priority in relation to both prior and subsequent interests in property charged as a perfected security interest, other than a purchase money security interest, to which *The Personal Property Security Act, 1993* applies.

(2) 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 (1).

(3) Subject to subsection (4), priority between a perfected security interest in serial numbered goods and an enforcement charge on the same goods is determined by the earlier of the following occurrences:

- (a) the perfection of the security interest in accordance with *The Personal Property Security Act, 1993* and the regulations made pursuant to that Act;
- (b) the registration of the judgment in the prescribed manner.

(4) A security interest has priority over an enforcement charge with respect to advances secured by the security interest that were made after the enforcement charge came into existence if:

- (a) a registration relating to the security interest was effected before the enforcement charge came into existence; and
- (b) the advances were made without knowledge by the secured party of the enforcement charge.

(5) If the secured party has knowledge of the enforcement charge at the time an advance is made, the security interest mentioned in subsection (4) has priority with respect to:

- (a) advances made pursuant to a binding legal obligation owing to a person other than the judgment debtor incurred by the secured party before the secured party acquired knowledge of the enforcement charge;
- (b) reasonable costs and expenditures made by the secured party for the protection, preservation or repair of the property charged; and
- (c) any statutory obligation.

Priority of enforcement charge affecting fixtures and crops

24(1) Except as provided in this section, the effect and priority of an enforcement charge affecting a fixture or crop shall be determined without regard to the fact that the fixture is attached to land or that the crop is growing on land.

(2) Subject to the regulations, subsections (3) to (11) apply only with respect to land for which a title has been issued pursuant to *The Land Titles Act, 2000*.

(3) Except as provided in this section, an enforcement charge affecting goods that arises before the goods become fixtures has priority with respect to the goods over a claim to the goods made by a person with an interest in the land.

(4) Except as provided in this section, an enforcement charge affecting a crop has priority with respect to the crop over a claim to the crop made by a person with an interest in the land.

(5) An enforcement charge affecting goods that are fixtures or a crop may be registered in the land titles registry against the land to which the goods are affixed or on which the crop is growing.

(6) Section 28 of this Act and subsections 43(6), (8) and (9) of *The Personal Property Security Act, 1993* apply, with any necessary modification, to a registration of an enforcement charge as provided in subsection (5).

(7) An enforcement charge mentioned in subsection (3) or (4) is subordinate to the interest of:

(a) a person who, without fraud, acquires for value a registered interest in the land after the goods become fixtures or a crop becomes a growing crop, including an assignee for value of a person with an interest in the land at the time when the goods become fixtures or the crop becomes a growing crop;

(b) a person with a registered interest based on a mortgage on the land who, after the goods become fixtures or the crop becomes a growing crop:

(i) makes an advance pursuant to the mortgage, but only with respect to the advance; or

(ii) obtains an order *nisi* for sale or foreclosure;

without fraud and before an interest based on the enforcement charge is registered in accordance with subsection (5); or

(c) a person who obtains a vesting order with respect to the land after the goods become fixtures or the crop becomes a growing crop, without fraud and before an interest based on the enforcement charge is registered in accordance with subsection (5).

(8) An enforcement charge affecting goods that arises after the goods become fixtures is subordinate to the interest of a person, other than the judgment debtor, who had an interest in the land and had registered that interest in the land titles registry before the goods became fixtures.

(9) For the purposes of subsection (8), an interest in land includes an interest arising from a mortgage that provides for:

(a) an obligation to advance a specific principal sum, notwithstanding that advances and obligations pursuant to the terms of the mortgage are made or incurred after the enforcement charge was registered; and

(b) a revolving line of credit up to a specific principal sum, notwithstanding that:

(i) advances and obligations pursuant to the terms of the mortgage were made or incurred after the enforcement charge was registered; and

(ii) at any time during the term of the mortgage there may not be any outstanding advances to be secured.

(10) If a search is made of a title in the land titles registry, and at the time of the search there is no interest based on an enforcement charge registered against the title, and on the day on which the search is made an advance is made pursuant to a mortgage where an interest based on that mortgage is registered against the title, the advance is deemed to have been made before registration of an interest based on the enforcement charge that was not disclosed by the search, notwithstanding that the interest based on the enforcement charge was registered on the day that the search was made.

(11) When there is a priority conflict between a security interest in a fixture or a growing crop as personal property, an enforcement charge and an interest in land to which the fixture is attached or on which the crop is growing, the respective priority of each shall be determined as follows:

- (a) firstly, priority shall be determined between the interest in land and the enforcement charge;
- (b) secondly, priority shall be determined between the interest in land and the security interest.

Priority of enforcement charge as against buyers of goods and chattel paper transferees

25(1) In this section:

- (a) **“buyer or lessee of goods”** means buyer of goods as defined in clause 30(1)(a) of *The Personal Property Security Act, 1993*;
- (b) **“chattel paper”** means chattel paper as defined in clause 2(1)(f) of *The Personal Property Security Act, 1993*;
- (c) **“ordinary course of business”** includes the supply of goods in the ordinary course of business as part of a contract for services and materials;
- (d) **“purchase”** means purchase as defined in clause 2(1)(ii) of *The Personal Property Security Act, 1993*;
- (e) **“purchaser”** means a person who acquires chattel paper through a purchase;
- (f) **“sale”** or **“lease”** includes a sale or lease described in subsection 30(8) of *The Personal Property Security Act, 1993*;
- (g) **“seller”** means seller as defined in clause 30(1)(c) of *The Personal Property Security Act, 1993*.

(2) A buyer or lessee of goods sold or leased in the ordinary course of business of a seller or lessor who is a judgment debtor takes free of an enforcement charge affecting the goods, whether or not the buyer or lessee knows of the enforcement charge, unless the buyer or lessee also knows that the goods bought or leased had been seized or are subject to an order pursuant to Part VIII.

(3) A buyer or lessee of goods, other than goods that are also a fixture, that have a purchase price, or market value, of less than \$1,000, and that are acquired for personal, family, household or farming uses takes free of an enforcement charge affecting the goods if the buyer or lessee bought or leased the goods without knowledge of the enforcement charge or knowledge that the goods had been seized or are subject to an order pursuant to Part VIII.

(4) A buyer or lessee of goods takes free from an enforcement charge affecting serial numbered goods if:

(a) the buyer or lessee buys or leases the goods without knowledge of the enforcement charge or knowledge that the goods had been seized or are subject to an order pursuant to Part VIII; and

(b) at the time of the purchase or lease, the goods are not described in the registration for the enforcement charge in the manner required pursuant to this Act and the regulations.

(5) A purchaser has the priority in relation to an enforcement charge affecting the chattel paper that the purchaser has in relation to a security interest in the chattel paper perfected by registration as provided in clause 31(7)(a) of *The Personal Property Security Act, 1993*.

(6) When the sheriff has acquired possession of chattel paper as a result of seizure, a purchaser from the sheriff has priority over a security interest in the chattel paper that was perfected by registration pursuant to section 25 of *The Personal Property Security Act, 1993* if the purchaser takes possession of the chattel paper in the ordinary course of the purchaser's business.

Trustee succeeds to interest of holder of enforcement charge

26(1) The trustee in bankruptcy of a judgment debtor succeeds to the interest of a judgment creditor under an enforcement charge affecting the property of the judgment debtor that came into existence pursuant to section 21 before the date of bankruptcy.

(2) Subsection (1) does not give the trustee priority over a security interest in serial numbered goods perfected by registration of a financing statement that does not include the serial number of the goods if the security interest would otherwise be effective against the trustee pursuant to *The Personal Property Security Act, 1993*.

Effect on other interests

27(1) Nothing in this Part creates priority between enforcement charges.

(2) The priority of an enforcement charge with respect to another interest is not affected by the application of Part XII.

(3) An enforcement charge is subordinate to a right of distress pursuant to *The Landlord and Tenant Act* exercised before the enforcement charge came into existence.

(4) Except as provided in subclause 41(5)(a)(ii), an enforcement charge has priority over a right of distress pursuant to *The Landlord and Tenant Act* exercised after the enforcement charge came into existence.

(5) Clause 25(2)(b) of *The Landlord and Tenant Act* does not apply to an enforcement charge.

Compulsory discharge of registration

28(1) In this section:

- (a) **“judgment creditor”** includes any person named in a registration as a judgment creditor;
 - (b) **“judgment debtor”** includes, except in clause (2)(b), any person named in a registration as a judgment debtor.
- (2) A judgment creditor shall discharge or amend a registration if:
- (a) the judgment to which the registration relates has been satisfied, withdrawn or is not enforceable, not including a judgment that is not enforceable as a result of:
 - (i) an order staying enforcement of the judgment; or
 - (ii) an order made pursuant to section 81 of *The Queen’s Bench Act, 1998*;
 - (b) the person named in the registration is not a judgment debtor of the person named as judgment creditor;
 - (c) the court has ordered that the registration be discharged or amended; or
 - (d) property affected by an enforcement charge created by the registration has been sold by the sheriff to a person entitled to have the registration discharged or amended.
- (3) In the circumstances mentioned in subsection (2), the judgment debtor, or any person with an interest in property affected by the enforcement charge, may serve a written demand on the judgment creditor requiring discharge or amendment of the registration.
- (4) Within 15 days after a demand is served on a judgment creditor pursuant to subsection (3), the judgment creditor shall:
- (a) discharge or amend the registration; or
 - (b) apply to the court to maintain or amend the registration and provide a copy of the application to the Registrar of Personal Property Security.
- (5) If a judgment creditor fails to meet the requirements of subsection (4) within the required time, the person who served the demand pursuant to subsection (3) may register a discharge or amendment of the registration by submitting to the Registrar of Personal Property Security:
- (a) a financing change statement requesting discharge or amendment of the registration;

(b) proof, satisfactory to the Registrar of Personal Property Security, that the demand has been served on the judgment creditor; and

(c) the prescribed fee.

(6) No fee or other amount shall be charged, and no amount shall be accepted, by a judgment creditor for compliance with a demand made pursuant to subsection (3).

Applicable provisions of *The Personal Property Security Act, 1993*

29(1) Except as otherwise provided in this Act or the regulations, the following provisions of *The Personal Property Security Act, 1993* apply, with any necessary modification, to the registration of a judgment pursuant to this Part:

(a) sections 42 and 42.1;

(b) subsections 43(1) to (3), 43(6) and (8) to (12), 44(1) to (3), 45(1) and (2), 45(5) and (6) and 49(1), (2) and (4); and

(c) sections 46, 47, 48, 52 and 54.

(2) When applying the provisions mentioned in subsection (1) to the registration of a judgment pursuant to this Part, a reference to:

(a) “collateral” is deemed to be a reference to property that is subject to an enforcement charge;

(b) “debtor” is deemed to be a reference to a judgment debtor;

(c) “financing statement” is deemed to be a reference to a financing statement that registers a judgment;

(d) “secured party” is deemed to be a reference to a judgment creditor; and

(e) “security interest” is deemed to be a reference to an enforcement charge.

PART V

Initiation of Enforcement

Power of sheriff to enforce judgment

30(1) Unless otherwise ordered by the court, a judgment confers on the sheriff authority to implement enforcement measures with respect to property of the judgment debtor located anywhere in Saskatchewan.

(2) Notwithstanding subsection (1), a sheriff is not required to implement any enforcement measures unless:

(a) the sheriff has received an enforcement instruction from a judgment creditor in accordance with section 31; or

(b) the court orders that an enforcement measure be taken.

Enforcement instruction

31(1) A judgment creditor who wishes to initiate enforcement measures shall provide the following to the sheriff:

- (a) an enforcement instruction in the prescribed form containing the following:
 - (i) the name and address of the judgment creditor and the judgment debtor;
 - (ii) the name and address of the lawyer, if any, acting for the judgment creditor;
 - (iii) the amount of the judgment, including the amount of the judgment that remains unpaid at the date of the enforcement instruction and the rate of interest payable on the judgment;
 - (iv) the amount of costs to which the judgment creditor is entitled under the judgment;
 - (v) the enforcement measure that the judgment creditor requests be employed to enforce the judgment;
 - (vi) a description of property known or believed by the judgment creditor to be property of the judgment debtor, and the location of that property; and
 - (vii) any other prescribed information;
- (b) a certified copy of the judgment being enforced and any other order of the court affecting enforcement of the judgment, including any order of the court directing the sheriff to employ an enforcement measure;
- (c) if an enforcement measure requested in the enforcement instruction relates to personal property, a registry search result that:
 - (i) indicates that the judgment has been registered; and
 - (ii) is dated not earlier than five days before the date on which the enforcement instruction is given;
- (d) if an enforcement measure requested in the enforcement instruction relates to land, a land titles registry search result that:
 - (i) indicates that the judgment has been registered against a title or interest in land of the judgment debtor; and
 - (ii) is dated not earlier than five days before the date on which the enforcement instruction is given;
- (e) if the sheriff is requested to seize specified serial numbered goods, a registry search result that:
 - (i) indicates that the judgment has been registered using the serial number of the goods as the registration criteria; and
 - (ii) is dated not earlier than five days before the date on which the enforcement instruction is given;

- (f) a statement in the prescribed form that:
 - (i) states that there is no court order, action or proceeding known to the person signing the statement that would preclude enforcement of the judgment; and
 - (ii) is signed by the judgment creditor or lawyer acting for the judgment creditor;
 - (g) any other prescribed information or documentation.
- (2) Subject to the regulations, for the purposes of subclause (1)(a)(i) the name of the judgment debtor is the name of the person against whom the judgment has been issued or the name determined by the disclosure pursuant to Part III.
- (3) The validity of an enforcement instruction, or of an enforcement measure taken pursuant to an enforcement instruction, is not affected by an error in the judgment debtor's name that appears in the registration of the judgment in the registry.
- (4) An enforcing judgment creditor who has given an enforcement instruction, or supplementary enforcement instruction, to the sheriff may withdraw the enforcement instruction, or supplementary enforcement instruction.
- (5) The withdrawal of a supplementary enforcement instruction does not affect an enforcement instruction that has not been withdrawn.

Supplementary enforcement instruction

32(1) An enforcing judgment creditor who has given an enforcement instruction to the sheriff in accordance with subsection 31(1):

- (a) shall provide the sheriff with a supplementary enforcement instruction in the prescribed form after any of the following occurs:
 - (i) the sheriff makes a written demand for a supplementary enforcement instruction, including in the demand the date by which the supplementary enforcement instruction must be received by the sheriff;
 - (ii) all or any portion of the judgment has been discharged by, or on behalf of, the judgment debtor by the transfer of money or other property or by set-off;
 - (iii) enforcement of the judgment is stayed by agreement or otherwise;
 - (iv) the judgment creditor becomes aware that there has been a material change in circumstances affecting the enforcement of the judgment since the enforcement instructions were given;
 - (v) a receiver has been appointed pursuant to Part VIII; and
 - (b) may, at any other time, provide the sheriff with a supplementary enforcement instruction that amends or supplements the information provided in the original enforcement instruction.
- (2) A supplementary enforcement instruction shall include or be accompanied by any information and documentation relating to the matters mentioned in clause (1)(a) and in section 31 as may be appropriate or as requested by the sheriff.

Duration of enforcement instruction

33(1) Subject to subsections (2) and (3), an enforcement instruction expires 24 months after it was provided to the sheriff.

(2) If a supplementary enforcement instruction is provided to the sheriff with respect to an enforcement instruction before the enforcement instruction expires pursuant to subsection (1), the enforcement instruction is extended and expires 24 months after the supplementary enforcement instruction was provided to the sheriff.

(3) If the sheriff makes a written demand for a supplementary enforcement instruction pursuant to subclause 32(1)(a)(i) and the enforcing judgment creditor fails to provide a supplementary enforcement instruction within the required time, the enforcement instruction expires.

Acting on enforcement instruction

34(1) Subject to subsection (2), on receipt of an enforcement instruction, the sheriff shall take the enforcement measure requested in the enforcement instruction or ordered by the court.

(2) The sheriff is not required to take the enforcement measure requested by an enforcing judgment creditor in an enforcement instruction, if, in the opinion of the sheriff:

- (a) the enforcement measure is not reasonable or practicable;
- (b) the enforcement measure is not permitted by law; or
- (c) the requirements of this Act or the regulations have not been met.

(3) An enforcing judgment creditor is liable to pay all sheriff's fees and costs incurred in connection with any action taken in relation to an enforcement instruction given by the enforcing judgment creditor before:

- (a) withdrawal of the enforcement instruction; or
- (b) expiration of the enforcement instruction.

(4) Unless the court orders otherwise, the sheriff may refrain from taking any action in relation to an enforcement instruction until the sheriff receives from the enforcing judgment creditor an undertaking or security for payment of the sheriff's fees and costs as the sheriff may require.

(5) Unless the court orders otherwise, a sheriff may take legal proceedings to enforce an undertaking or realize on any security for payment of the sheriff's fees and costs to the extent that those fees and costs were incurred in relation to the enforcement instruction of an enforcing judgment creditor with respect to which the undertaking or security was given, in the same manner as if the undertaking or security were given under an enforceable contract between the sheriff and the person who gave the undertaking or security.

Report to be provided to enforcing judgment creditor

35 A sheriff shall provide a report to every enforcing judgment creditor, on payment of the required fee, as follows:

- (a) if the sheriff does not take the enforcement measure requested by an enforcing judgment creditor pursuant to subsection 34(2);
- (b) when the enforcing judgment creditor requests a report;
- (c) when the court orders that a report be provided to the enforcing judgment creditor;
- (d) when the enforcement measures requested have been completed; and
- (e) at any other time when the sheriff determines that a report is warranted.

Enforcing judgment creditor's liability

36 An enforcing judgment creditor does not incur liability for interfering with the possessory or property rights of another person by reason only of having given an enforcement instruction in good faith to the sheriff and requesting that an enforcement measure be taken with respect to property owned or in the possession of that person.

PART VI
Seizure

DIVISION 1
General

Universal exigibility

37(1) Except as otherwise provided in this Act, all property is subject to seizure and disposition pursuant to this Act and to an order of the court made pursuant to this Act.

(2) Subject to an order of the court, subsection (1) applies to property that the sheriff believes, on reasonable grounds, is exigible property, and the sheriff may, with respect to such property, exercise the powers and implement the enforcement measures that are authorized by this Act with respect to exigible property.

Powers of the sheriff

38(1) Except as otherwise provided in this Act, a sheriff who has seized exigible property may, subject to any exemption, exercise any power or right necessarily incidental to enforcement of a judgment with respect to the property or its disposition that the judgment debtor had at the date of seizure or acquires after the seizure until the property has been disposed of or the seizure terminated, including, but not limited to:

- (a) the power to assign or transfer an interest in property;
- (b) the power of election;
- (c) the powers of a beneficiary under a trust;
- (d) the power to give a release or discharge;

- (e) the power to collect an account;
 - (f) the power to present an instrument or security for payment and receive payment;
 - (g) the power to sue any person liable on an account, instrument or security in the name of the judgment debtor;
 - (h) the power to negotiate an instrument or security; and
 - (i) the power to take protective or conservatory measures, including effecting a registration relating to the judgment debtor's interest in the registry, the land titles registry or any other public registry.
- (2) A sheriff may apply to the court for directions relating to the implementation of an enforcement measure.
- (3) A sheriff is entitled to claim fees and costs with respect to the prescribed sheriffs' enforcement services in relation to an enforcement instruction in the prescribed amount.

Seizure – general

- 39(1)** A sheriff may seize exigible property sufficient to satisfy the following:
- (a) the amount recoverable with respect to any or all enforcement instructions;
 - (b) any amount payable to a person whose interest in or claim to exigible property or its proceeds has priority over an enforcement charge relating to an enforcement instruction.
- (2) For the purposes of subsection (1), the sheriff may seize property described in clauses 93(1)(d) and (e) when, in the opinion of the sheriff, the property or the value of the property exceeds the amount or value of property that is exempt pursuant to that section.
- (3) The validity of a seizure of property in accordance with this Part is not affected by an irregularity in any of the following:
- (a) the means by which the seizure is carried out, including a notice of seizure;
 - (b) the judgment being enforced by the seizure;
 - (c) the enforcement instruction related to the seizure; or
 - (d) the registration of the judgment being enforced by the seizure.
- (4) The validity of a seizure of property effected in accordance with this Part is not affected by an interest in or right to the property of a person other than the judgment debtor.

- (5) A sheriff may seize an interest in property that is subject to an order for exclusive possession made pursuant to *The Family Property Act* only if the enforcement charge affecting the property came into existence:
- (a) in the case of personal property, before the order is registered in the registry; or
 - (b) in the case of land, before the order is registered in the land titles registry.
- (6) Seizure of property terminates in the following circumstances:
- (a) when the sheriff releases the seizure;
 - (b) when a court makes an order terminating the seizure;
 - (c) when the seized property has been sold pursuant to an enforcement measure.
- (7) A sheriff shall not release property that has been seized unless:
- (a) all enforcing judgment creditors consent to the release;
 - (b) seizure remains in effect with respect to other exigible property the value of which the sheriff believes to be sufficient to fully discharge the amount recoverable in relation to all enforcement instructions; or
 - (c) the court orders the sheriff to release the seized property.

Retention by the sheriff

40 A sheriff who determines that property seized has a value in excess of the amount stipulated in subsection 39(1) may retain the property or the proceeds of disposition of the property, as the case may be, that has not been released from seizure, if the sheriff receives a further or supplementary enforcement instruction.

Methods of seizure

41(1) In this section, “**intangible**” means personal property that is not:

- (a) goods, chattel paper, a document of title, an instrument, money, or a security as those terms are defined in *The Personal Property Security Act, 1993*;
 - (b) a security entitlement, a futures contract, a licence or an account.
- (2) Except as otherwise specifically provided in this Part, a sheriff may seize exigible property:
- (a) if the property is tangible property by doing any of the following:
 - (i) by taking physical possession of the property in the circumstances described in subsection (4);
 - (ii) by serving a notice on the person in possession of the property or the land on which the property is situated that includes the following:
 - (A) a statement that the property is seized;
 - (B) a statement advising the person that the person is now a bailee of the sheriff;
 - (iii) by posting a notice of seizure on the property or in a conspicuous place in close proximity to the property;

- (b) if the property is intangible:
 - (i) by serving notice on the judgment debtor; or
 - (ii) by serving notice on the person whose obligation consists of the property or a portion of the property;
 - (c) if the property is a licence, other than a transferable licence associated with an intellectual property right, by serving notice on the judgment debtor and the licensor;
 - (d) if the property is a negotiable instrument, other than a security, by taking physical possession of the instrument;
 - (e) subject to section 59, if property is held by a trustee for the benefit of the judgment debtor as beneficiary pursuant to trust conditions under which the judgment debtor's entitlement to receive the property is subject only to the demand of the judgment debtor or the effluxion of a period ending within 12 months after the date of seizure, whether on demand of the judgment debtor or otherwise, by serving notice on the trustee;
 - (f) in any manner ordered by the court; and
 - (g) by taking any other steps as may be appropriate having regard to the nature of the property.
- (3) If a trustee is served with a notice of seizure pursuant to clause (2)(e):
- (a) the trustee is deemed to have received a demand for the property from the judgment debtor effective as at the time when the judgment debtor is entitled to require a distribution of trust property, whether by the terms of the trust or otherwise; and
 - (b) the trustee shall deliver the property to the sheriff when the judgment debtor is entitled to receive it if at that time the sheriff is in possession of an enforcement instruction.
- (4) When effecting a seizure, or after having seized property by means other than by taking physical possession, a sheriff may take physical possession of exigible property that is in the possession of:
- (a) a judgment debtor;
 - (b) a person who acquired the property or the right to possession of the property subject to an enforcement charge;
 - (c) a gratuitous bailee or custodian of the property who is in possession with the consent of the judgment debtor;
 - (d) a co-owner of the property;
 - (e) a trustee who is in possession of the property pursuant to the terms of a trust; or
 - (f) a landlord who has exercised a right of distress.

(5) When a sheriff seizes property with respect to which a statutory right of distress has been executed by a landlord, the sheriff shall sell the property only if the sheriff has reasonable grounds to believe that the price recoverable from the sale will be sufficient to pay:

- (a) one of the following, as the case may be:
 - (i) if the distress occurred before an enforcement charge relating to a judgment being enforced by the sheriff came into existence, the amount of rent owing when the enforcement charge came into existence and the amount of rent, to a maximum of one year's rent, owing at the date the sheriff seized the property;
 - (ii) if the distress occurred after an enforcement charge relating to a judgment being enforced by the sheriff came into existence, the amount of rent owing at the date the sheriff seized the property, to a maximum of one year's rent; and
- (b) the fees and costs of seizure and sale.

(6) When a sheriff sells property mentioned in subsection (5), the sheriff shall, after deducting the fees and costs of seizure and sale, pay to the landlord the amount mentioned in subclause (5)(a)(i) or (5)(a)(ii) as the case may be.

(7) If exigible property is seized other than by notice of seizure to the judgment debtor, notice of the seizure shall be served on the judgment debtor as soon as is practicable after the seizure.

(8) Failure to serve notice on the judgment debtor as provided in subsection (7) does not affect the validity of the seizure, notwithstanding that the judgment debtor does not know of the seizure.

Obligations on seizure

42(1) After the sheriff becomes entitled to possession of property that has been seized in a manner other than by taking physical possession of it, the property shall be held by the person in possession, including the judgment debtor, as bailee for value of the sheriff subject to:

- (a) the obligations with respect to the property specified by the sheriff in the notice of seizure or otherwise communicated by the sheriff in writing; and
- (b) the obligations of a bailee of property for value.

(2) Obligations specified by the sheriff pursuant to subsection (1) are not binding on a person in possession of the property, other than a person mentioned in subsection 41(4), to the extent that they are inconsistent with possessory rights of that person that arose before the enforcement charge relating to an enforcement instruction affecting the property came into existence.

- (3) A bailee mentioned in subsection (1), other than the judgment debtor:
- (a) is entitled to reasonable costs incurred in:
 - (i) preserving and protecting the property seized; and
 - (ii) otherwise discharging the obligations mentioned in subsection (1); and
 - (b) may, after receiving a notice of seizure, surrender physical possession of the property seized to the sheriff at a time and place approved by the sheriff.
- (4) On application, a court may order that a judgment be entered against a bailee who fails to discharge the obligations mentioned in subsection (1) in favour of an enforcing judgment creditor who gave an enforcement instruction in relation to which the seizure was made, in an amount equal to:
- (a) the value of the property seized; or
 - (b) the loss in value of the property seized as a result of the bailee's failure.

Term in licence not valid

43(1) Subject to subsection (2), a term in a licence that states that the licence is or may be terminated by a seizure of the licence is deemed to be invalid.

- (2) Subsection (1) does not apply to a licence issued by the Crown.

Entry on premises to effect an enforcement measure

44(1) For the purpose of enforcing a judgment, a sheriff may, at any reasonable time without a warrant:

- (a) subject to subsection (4), enter any land, place, premises or vehicle of the judgment debtor;
 - (b) subject to subsections (2) and (4), enter any land, place, premises or vehicle of a person other than the judgment debtor if the sheriff has reasonable grounds to believe that exigible personal property is located on the land, place or premises or in the vehicle; and
 - (c) seize any exigible personal property of the judgment debtor.
- (2) Unless the sheriff has reasonable grounds to believe that property mentioned in clause (1)(b) will be concealed, damaged, destroyed or disposed of, the sheriff shall not enter any land, place or premises or vehicle mentioned in that clause unless:
- (a) the sheriff has personally served notice of the intended seizure on the person on whose land, place, premises or in whose vehicle exigible personal property of the judgment debtor is located; and
 - (b) at least three days have passed since the date the notice was personally served on the person mentioned in clause (a).

- (3) Subject to subsection (4), a sheriff may:
- (a) use reasonable force for the purpose of gaining access to any land, place, premises or vehicle; and
 - (b) use reasonable and appropriate means to gain entry to:
 - (i) any enclosure or container located on the land, place or premises or in a vehicle; and
 - (ii) any interior room of the place or premises.
- (4) A sheriff shall not enter any place that is a private dwelling without an order issued pursuant to subsection (6) unless the owner or occupant of the private dwelling consents to the entry.
- (5) If entry pursuant to this section is refused, the sheriff may apply *ex parte* to the court, a judge of the provincial court or a justice of the peace for an order:
- (a) authorizing the sheriff to enter any land, place, premises or vehicle named in the order;
 - (b) authorizing the sheriff to seize any exigible personal property of the judgment debtor found in or on any land, place, premises or vehicle named in the order;
 - (c) authorizing the sheriff to use reasonable force, or the degree of force specified in the order, to gain access to any land, place, premises or vehicle named in the order, including any place that is a private dwelling;
 - (d) enjoining any person from interfering with the sheriff when effecting a seizure of property;
 - (e) directing a peace officer to provide physical protection to the sheriff when effecting a seizure of property;
 - (f) directing or authorizing any other thing that may be necessary to enable the sheriff to effect the enforcement measures; and
 - (g) directing payment of the costs of the application.
- (6) On an application pursuant to subsection (5), the court, judge of the provincial court or justice of the peace may issue an order on any terms and conditions that the court, judge of the provincial court or justice of the peace considers appropriate.
- (7) When any land, place, premises or vehicle entered by the sheriff has become insecure due to the enforcement action taken by the sheriff, the sheriff shall, before leaving, make the land, place, premises or vehicle reasonably secure.
- (8) Fees and costs incurred by the sheriff in making any land, place, premises or vehicle secure are costs of enforcement.

Seizure of interests under a lease, contract of sale or security agreement

45(1) In this section and section 46, a “**contract of sale**” means a contract under which the seller retains ownership of or title to the subject-matter of the contract until a condition is met and:

- (a) includes an agreement for sale of an interest in land whether or not the interest of the seller or buyer is a registered interest as provided in *The Land Titles Act, 2000*; and
 - (b) does not include a security agreement to which *The Personal Property Security Act, 1993* applies.
- (2) A sheriff may seize:
- (a) a lessor’s interest in leased property by serving a notice of seizure on the lessee, if the lessee is in possession of the property subject to the lease;
 - (b) a seller’s interest in property that is the subject-matter of a contract of sale by serving a notice of seizure on the buyer, if the buyer is in possession of the property subject to the contract of sale; or
 - (c) a secured party’s interest in property subject to a security agreement by serving a notice of seizure on the debtor, if the debtor is in possession of the property subject to the security agreement.
- (3) The notice of seizure mentioned in subsection (2) shall be personally served.
- (4) On seizure of an interest mentioned in subsection (2), the sheriff may take physical possession of the lease, contract of sale or security agreement if the lease, contract of sale or agreement is a chattel paper as defined in *The Personal Property Security Act, 1993*.
- (5) Seizure of an interest mentioned in subsection (2) also effects seizure of the payment obligations owing under the lease, contract of sale or security agreement.
- (6) On receipt of a notice of seizure of an interest mentioned in subsection (2), the lessee, buyer or debtor shall make all payments payable under the lease, contract of sale or security agreement to the sheriff or a person named by the sheriff in the notice of seizure.
- (7) The obligations of an account debtor set out in sections 62 and 63 apply to a lessee, buyer or debtor mentioned in subsection (6) with respect to the payment obligations owing under the lease, contract of sale or security agreement.
- (8) While an interest mentioned in subsection (2) is held under seizure, the sheriff may exercise the same rights and powers that the lessor, seller or secured party, as the case may be, had at the date of seizure or acquires before discharge of the seizure in relation to the property affected by the lease, contract of sale or security agreement in relation to the rights and obligations of the lessee, buyer, debtor or a third party claiming an interest in the property.

- (9) The sheriff may seize:
- (a) a lessee's interest under a lease by serving a notice of seizure on the lessee;
 - (b) a buyer's interest under a contract of sale by serving a notice of seizure on the buyer; or
 - (c) the interest of a debtor in property subject to a security agreement by serving a notice of seizure on the debtor.
- (10) The sheriff shall, as soon as is practicable after having seized property pursuant to subsection (9), serve a notice of seizure:
- (a) in the case of a seizure made pursuant to clause (9)(a), on the lessor;
 - (b) in the case of a seizure made pursuant to clause (9)(b), on the seller under the contract of sale; or
 - (c) in the case of a seizure made pursuant to clause (9)(c), on a person who has a security interest in the property.
- (11) When a seizure of property is effected as provided in this section in a manner other than by serving a notice of seizure on the judgment debtor, the sheriff shall serve on the judgment debtor a copy of the notice of seizure as soon as is practicable after the seizure.

Effect of contractual provisions on seizure

46(1) A sheriff may effect and maintain seizure of an interest mentioned in subsection 45(9) notwithstanding a contractual term in a lease, contract of sale or security agreement pursuant to which the judgment debtor's interest in or right to possession of the property being seized is or may be terminated by its seizure.

(2) When an interest mentioned in subsection 45(9) is seized and the lessor, seller or secured party seeks to exercise a contractual or statutory right to terminate the interest of the judgment debtor or to take possession of the property in which the interest is held, the sheriff may:

- (a) release the seizure, with or without conditions;
- (b) apply to the court for an order maintaining the interest of the lessee, buyer or debtor; or
- (c) in the case of seizure of the interest of:
 - (i) a lessee, apply to the court for an order directing sale of the lessee's interest by the sheriff; and
 - (ii) a buyer or debtor, apply to the court for an order directing sale of the property by the sheriff.

(3) An order for sale may be made pursuant to clause (2)(c) if the court is satisfied that the proceeds of sale will exceed the present value of the amount owing to the lessor, seller or secured party under the lease, contract of sale or security agreement together with the costs of sale of the property.

(4) Subsections (2) and (3) do not apply if an enforcement charge to which a subsisting enforcement instruction relates has priority over the lessor's or secured party's interest as provided in Part IV.

Seizure of intellectual property

47 The sheriff may seize intellectual property by serving notice of seizure on the judgment debtor and, if appropriate:

- (a) on the office in which the right or interest is registered; and
- (b) on a licensor of the right or interest.

Seizure of a fixture or crop

48(1) Subject to this section, a fixture and a crop may be seized and sold as personal property.

(2) A sheriff who seizes a fixture or a crop shall do so in accordance with section 41, and shall sell or sever and remove the fixture or crop in a manner causing no greater damage or injury to the land and to other property situated on it, and subjecting the occupier of the land to no greater inconvenience, than is necessarily incidental to the sale or severance of the fixture or crop.

(3) A person who buys a fixture or crop from the sheriff that has not been severed from the land may sever and remove the fixture or crop but is subject to the obligations with respect to severance of the fixture or crop to which the sheriff is subject pursuant to subsection (2).

(4) A person, other than the judgment debtor, who has an interest in land to which a fixture is affixed or on which a crop is growing is entitled to reimbursement for any damage to that interest caused during the severance and removal of the fixture or crop, but is not entitled to reimbursement for reduction in the value of the land resulting from the absence of the fixture or crop, or for the cost of its replacement.

(5) The amount of reimbursement for damage mentioned in subsection (4) shall be determined:

- (a) by the sheriff at the request of the person seeking reimbursement; and
- (b) if the person seeking reimbursement does not accept the amount determined by the sheriff pursuant to clause (a), by the court on application of that person.

(6) If an entitlement to reimbursement arises from the severance and removal of a fixture or crop by the sheriff, the amount of reimbursement mentioned in subsections (4) and (5) is a cost of enforcement to which subsection 110(1) applies.

(7) A person who has an interest in land that is subordinate to an enforcement charge relating to an enforcement instruction may, before the fixture or crop is sold or severed from the land, retain the fixture or crop on payment to the sheriff of the lesser of:

- (a) the amount recoverable in relation to all enforcement charges having priority over the interest of the person, with respect to which an enforcement instruction has been given to the sheriff; and
- (b) the market value of the fixture if it were severed from the land or the market value of the crop as a severed crop.

(8) A sheriff who has seized a fixture or crop shall serve on each person who appears by the records of the land titles registry to have an interest in the land to which the fixture is affixed or on which the crop is growing a notice of the intention of the sheriff to sever and remove or sell the fixture or crop, unless the amount mentioned in subsection (7) is paid on or before a specified day that is not less than 15 days after the notice is served or the court otherwise orders.

(9) A notice of intention to sever and remove or sell mentioned in subsection (8) may be served on a person at the address of the person appearing in the land titles registry, if any, or pursuant to section 121.

(10) On payment of the amount mentioned in subsection (7), the fixture or crop is released from the enforcement charge and:

(a) a person who has paid the market value of the fixture or crop shall become the owner of the judgment debtor's interest in the fixture or crop; and

(b) a person who has paid less than the market value of the fixture if it were severed from the land or the crop as a crop is deemed to have a security interest in the judgment debtor's interest in the fixture or crop, to which *The Personal Property Security Act, 1993* applies, to the extent of the amount paid and interest on that amount at the rate set for unpaid judgments, calculated from the date when payment was made to the sheriff.

(11) Subject to subsection (12), the priority of the security interest mentioned in clause (10)(b) in relation to other interests in the fixture or crop shall be determined in accordance with the provisions of *The Personal Property Security Act, 1993* relating to security interests generally.

(12) If the security interest mentioned in clause (10)(b) is registered as required by *The Personal Property Security Act, 1993* on or before the date on which the amount mentioned in subsection (7) is paid to the sheriff, the security interest shall have the priority status in relation to other interests in the fixture or crop that the enforcement charge had immediately before its release pursuant to subsection (10).

(13) If the judgment debtor is a co-owner of a crop that has been seized, the sheriff may, subject to a landlord's right of distress:

(a) seize and sell the whole crop and divide the proceeds in proportion to the interests of the judgment debtor and any other person;

(b) arrange for harvest of the crop and divide the crop, once harvested, in proportion to the interests of the judgment debtor and any other person; or

(c) sell the judgment debtor's interest in the crop to another person holding an interest in the crop at the market value of the interest as a severed crop or at a value determined on application to the court.

Seizure of jointly held property

49(1) Subject to section 50, if a judgment debtor is a co-owner of property with one or more persons, including property that is an account, the sheriff may seize or collect, and if appropriate sell, the property in its entirety and divide the proceeds in accordance with the respective interests of the owners as follows:

(a) by application of the portion attributable to the judgment debtor's interest in the property as money received as a result of seizure; and

(b) by payment of the portion attributable to the interest of a co-owner, other than the judgment debtor, to the person entitled to it.

(2) Subject to subsection (8), when a sheriff collects or seizes property as provided in subsection (1), each co-owner is deemed to own an equal, separate share in the property.

(3) Except as otherwise ordered by the court, the costs of seizure and sale of property as provided in subsection (1) shall be deducted from the portion of the sale proceeds attributable to the judgment debtor's interest in the property.

(4) If an interest in an account is seized, an account debtor who pays to the sheriff or an assignee of the sheriff an amount that represents the portion of the account set out in the notice of seizure is, to the extent of the amount paid, discharged from the obligation:

(a) to the judgment debtor; and

(b) if the amount paid exceeds the interest of the judgment debtor, to a co-owner to the extent of the excess amount.

(5) A co-owner of tangible property seized as provided in subsection (1), other than the judgment debtor, is entitled to purchase for market value the judgment debtor's interest in the property at any time before the sheriff has contracted to sell the property to another person.

(6) Within five days after the date of seizure of co-owned property, notice of a co-owner's right of purchase as provided in subsection (5) shall be served on each co-owner of the property who is known to the sheriff, other than the judgment debtor, at the address of the person appearing in the land titles registry, if any, or pursuant to section 121.

(7) On the expiry of 15 days after serving the notice mentioned in subsection (6), the sheriff may proceed to sell the property seized unless a co-owner of the property:

(a) has:

(i) served on the sheriff written notice of that person's intention to exercise the right of purchase mentioned in subsection (5); and

(ii) paid to the sheriff the market value of the judgment debtor's interest in the property or secured payment by the provision of security in a form and amount satisfactory to the sheriff; or

(b) has made an application pursuant to subsection (8).

(8) On application by the sheriff or an interested person, the court may do one or more of the following:

- (a) determine that the portion attributable to the judgment debtor's interest, or to another co-owner's interest, in property seized as provided in subsection (1) is greater or less than that determined pursuant to subsection (2);
- (b) determine that a person is not a co-owner of seized property;
- (c) determine the market value of the judgment debtor's interest in property seized as provided in subsection (1);
- (d) extend the period mentioned in subsection (7);
- (e) make any other order the court considers necessary or appropriate.

(9) The onus of proof that a person, other than the judgment debtor, holds an interest in seized property and the extent of that interest is on that person.

Partnership property

50(1) In this section, "**firm**" means firm as defined in *The Partnership Act*.

(2) This section applies to seizure of the interest of a judgment debtor in property that is partnership property within the meaning of *The Partnership Act*, if the firm is not a judgment debtor in the same proceedings.

(3) If property seized is partnership property, the sheriff and the court are not bound by any restrictions, limitations or other terms of a partnership agreement or article of the partnership relating to the judgment debtor's interest in the partnership property or the effect of judgment enforcement measures against partnership property.

(4) Within 10 days after seizure of partnership property, the sheriff shall serve a notice of the seizure on:

- (a) all partners of the judgment debtor who are identified in the records of the partnership maintained pursuant to *The Business Names Registration Act* at the address of those persons as set out in those records; and
- (b) any other person known by the sheriff to have an interest in the property.

(5) If no application is made pursuant to subsection (7) within 15 days after the date the notice mentioned in subsection (4) is served, the sheriff may proceed to sell or collect the seized property as provided in subsections 49(1) to (3).

(6) The notice mentioned in subsection (4) shall be accompanied by a statement that an application may be made to the court as provided in subsection (7).

(7) On application of the sheriff, an enforcing judgment creditor, a partner, a creditor of a partnership or any person with an interest in the property seized, the court may make one or more of the following orders:

(a) an order providing for the sale of partnership property and distribution of the proceeds of the sale in accordance with *The Partnership Act* and this Act, including an order permitting one or more of the partners, other than the judgment debtor, to exercise a right contained in the partnership agreement or articles of the partnership to purchase the judgment debtor's interest in the partnership property if the price to be paid is not less than the market value of that interest and the sale is not prejudicial to the interests of the creditors of the partnership;

(b) an order suspending seizure of the partnership property and the appointment of the sheriff or another person as receiver of the judgment debtor's share of the profits of the partnership and of any other money that is payable or to be paid to the judgment debtor or property of the partnership to be transferred to the judgment debtor while the order is in effect;

(c) if the interests of the creditors of the partnership require protection, an order dissolving the partnership and appointing a receiver of all of the property of the partnership with power to dispose of the property and distribute the proceeds in accordance with *The Partnership Act* and this Act;

(d) any other order the court considers necessary or appropriate to facilitate enforcement of the judgment and the protection of the interests of the creditors of the partnership.

(8) The sale or collection of partnership property by the sheriff or a receiver effects severance of a joint tenancy under which the partnership property is held.

(9) When an order is made pursuant to clause (7)(a), a partner's right to purchase the judgment debtor's interest in the partnership property terminates when the purchaser defaults in making any payment of the purchase price in the manner required by the terms of the order.

(10) Part VIII of this Act applies, with any necessary modification, to an order made pursuant to clause (7)(b) or (c).

DIVISION 2 Seizure of securities

Interpretation of Division

51(1) In this Division, the following terms have the same meaning as in *The Securities Transfer Act*:

- (a) appropriate person;
- (b) bearer form;
- (c) certificated security;
- (d) corporation;
- (e) endorsement;

- (f) financial asset;
- (g) instruction;
- (h) issuer;
- (i) purchase;
- (j) registered form;
- (k) securities account;
- (l) security certificate;
- (m) uncertificated security.

(2) In this Division, “**good faith**” means good faith as defined in subsection 4(2) of *The Securities Transfer Act*.

(3) In the event of conflict between a provision of this Division and any other provision of this Act, the provision of this Division prevails.

Court order

52 On application, the court may make any order by way of injunction or otherwise against a judgment debtor, issuer, securities intermediary, futures intermediary, secured creditor or other person mentioned in this Division as may be required to facilitate seizure and disposition of a security, a security entitlement or futures contract in accordance with this Act.

Seizure of securities and security entitlements

53(1) Except as otherwise provided in subsections (2) and (6), the interest of a judgment debtor in a certificated security may be seized only by actual seizure of the security certificate by a sheriff.

(2) A certificated security for which the security certificate has been surrendered to the issuer may be seized by a sheriff serving a notice of seizure on the issuer at the issuer’s chief executive office.

(3) Except as otherwise provided in subsection (6), the interest of a judgment debtor in an uncertificated security may be seized only by a sheriff serving a notice of seizure on the issuer at the issuer’s chief executive office.

(4) Except as otherwise provided in subsection (6), the interest of a judgment debtor in a security entitlement may be seized only by a sheriff serving a notice of seizure on the securities intermediary with whom the judgment debtor’s securities account is maintained.

(5) Except as otherwise provided in subsection (6), the interest of a judgment debtor in a futures contract held in a futures account may be seized only by a sheriff serving a notice of seizure on the futures intermediary with whom the judgment debtor’s futures account is maintained.

- (6) The interest of a judgment debtor in any of the following may be seized by the sheriff by serving a notice of seizure on the secured party:
- (a) a certificated security for which the security certificate is in the possession of a secured party;
 - (b) an uncertificated security registered in the name of a secured party;
 - (c) a security entitlement or futures contract maintained in the name of a secured party.

Dealing with seized securities and security entitlements

- 54(1) If a security, security entitlement or futures contract is seized, the judgment debtor loses all rights and powers to request a transfer or otherwise deal with the security, security entitlement or futures contract during the period that the seizure is in effect.
- (2) When a security or security entitlement is seized, the sheriff is deemed to be an appropriate person for the purposes of *The Securities Transfer Act*.
- (3) A sheriff who has seized a security:
- (a) may dispose of the security or otherwise realize on its value;
 - (b) is entitled to receive any information that the judgment debtor would otherwise be entitled to receive in relation to the security; and
 - (c) acquires all of the rights and powers of the judgment debtor and may take any action that could have been taken by the judgment debtor with respect to the security.
- (4) A sheriff who has seized a certificated security may present the certificated security to the issuer with a request to register a transfer.
- (5) A sheriff who has seized an uncertificated security is entitled to give an instruction to the issuer that the judgment debtor would otherwise be entitled to give in relation to a request to register a transfer of an uncertificated security.
- (6) When it appears that a security certificate has been lost, destroyed or wrongfully taken, and a dealing with the judgment debtor's interest in the security represented by the certificate requires presentation of the certificate to the issuer, the sheriff may apply to the court and the court may require the issuer to acknowledge a transfer or other disposition of the security without presentation of the security certificate if satisfactory provision is made for indemnification of the issuer against any liability the issuer may incur with respect to the security.
- (7) When a security has been seized:
- (a) the issuer must comply with any instruction, direction, request or consent given by the sheriff if the issuer would be required to comply with the instruction, direction, request, or consent were it given by the judgment debtor when the interest of the judgment debtor was not under seizure;

- (b) the issuer must not act on or comply with any instruction, direction, request or consent given by the judgment debtor during the period that the seizure is in effect;
 - (c) if the issuer is or becomes obliged to make any payment or distribution with respect to an uncertificated security that the issuer would otherwise have been obliged to make to the judgment debtor, the issuer is obliged to make the payment or distribution to the sheriff; and
 - (d) if the substance of a duty imposed on an issuer by any other Act or law is the subject of this section, compliance with this section by the issuer satisfies the duty imposed by that other Act or law.
- (8) A sheriff who has seized a security entitlement is entitled to:
- (a) receive any information that the judgment debtor would otherwise have been entitled to receive;
 - (b) make an entitlement order directed to the securities intermediary that the judgment debtor would otherwise have been entitled to make; and
 - (c) give any instructions, directions or consent, or make any request, to the securities intermediary that the judgment debtor would otherwise have been entitled to give or make.
- (9) A sheriff who has seized a futures contract is entitled to:
- (a) receive any information that the judgment debtor would otherwise have been entitled to receive; and
 - (b) give any instructions, directions or consent, or make any request, to the futures intermediary that the judgment debtor would otherwise have been entitled to give or make.
- (10) When a security entitlement has been seized:
- (a) the securities intermediary or futures intermediary must comply with any entitlement order, instruction, direction, request or consent given by the sheriff, if the securities intermediary or futures intermediary would be required to comply with an order, instruction, direction, request or consent were it given by the judgment debtor when the interest of the judgment debtor was not under seizure;
 - (b) the issuer must not act on or comply with any entitlement order, instruction, direction, request or consent given by the judgment debtor during the period that the seizure is in effect;
 - (c) if the securities intermediary or futures intermediary is or becomes obliged to make any payment or distribution with respect to a security entitlement or futures contract that the issuer would otherwise have been obliged to make to the judgment debtor, the securities intermediary or futures intermediary is obliged to make the payment or distribution to the sheriff; and
 - (d) if the substance of a duty imposed on an issuer by any other Act or law is the subject of this section, compliance with this section by the issuer satisfies the duty imposed by that other Act or law.

Interest of a judgment debtor subject to a prior entitlement order

55(1) If a notice of seizure of a security entitlement is served on a securities intermediary or futures intermediary after that person has received an order directing the transfer or redemption of the financial asset to which the security entitlement relates, and the securities intermediary or futures intermediary has entered into a commitment with a third party to implement the entitlement order, the securities intermediary or futures intermediary may complete the order without regard to the notice of seizure.

(2) If, in the circumstances described in subsection (1), the order directs that the proceeds of any transfer or redemption be paid to the judgment debtor or be credited to the judgment debtor's securities account or other account with the intermediary or paid to the judgment debtor on demand, the securities intermediary or futures intermediary shall pay the proceeds to the sheriff on receipt.

Securities of closely-held corporations

56(1) This section does not apply to a security subject to a restriction mentioned in section 168 of *The Business Corporations Act* or other Act or law having a similar effect.

(2) Except as otherwise provided in this Division, a sheriff is not affected by a restriction on or a prohibition on the sale or other disposition of or dealing with a seized security, including the preferential right of another shareholder to acquire the security contained in the bylaws, articles or internal rules of the issuer of the security or a shareholders' agreement relating to the issuer.

(3) On receipt of a written demand by the sheriff, the issuer or the judgment debtor shall disclose to the sheriff in writing all restrictions, prohibitions and preferential rights mentioned in subsection (2) not later than 10 days after the demand is received.

(4) If an issuer has been personally served with notice of the seizure of a security issued by it, the issuer shall comply with a demand served by the sheriff to provide the names and addresses of all registered holders of securities of the issuer.

(5) Within five days after the receipt by the sheriff of the information mentioned in subsection (4), the sheriff shall serve on the issuer and on each registered holder of a security of the issuer disclosed pursuant to subsection (4) a notice that:

(a) sets out the method through which the value of the security is to be ascertained; and

(b) informs the issuer and the registered holder of his or her rights pursuant to subsections (9) to (12), and of the provisions of subsections (7) and (8).

(6) The notice mentioned in subsection (5):

(a) may be served on the address of a registered holder of a security as it appears in the records of the issuer; and

(b) when served as provided in clause (a), is deemed to have been served on all holders of securities of the issuer when it has been served on all registered holders of securities of the issuer disclosed pursuant to subsection (4).

(7) Subject to subsection (8), the sheriff may sell a security that has been seized pursuant to section 53 if:

(a) no person on whom a notice was served pursuant to subsection (5) has advised the sheriff in writing within 10 days after the date on which the notice was served of the person's intention to exercise the right mentioned in subsection (9); or

(b) a person on whom a notice was served pursuant to subsection (5) has advised the sheriff in writing of the person's intention to exercise the right mentioned in subsection (9) within the required time, but has not provided evidence satisfactory to the sheriff of the person's ability to pay the value of the security seized.

(8) If the sheriff is not satisfied by evidence provided by a person mentioned in clause (7)(b) of the person's ability to pay the value of the security seized, the sheriff may serve a demand for further evidence of ability to pay and, if evidence satisfactory to the sheriff is not provided within 10 days after the date on which the demand is served, the sheriff may sell the security.

(9) Before the sale of a security by the sheriff, a person on whom notice was served pursuant to subsection (5) may pay to the sheriff the amount recoverable or the value of the security seized, determined in accordance with the method set out in the notice, whichever is the lesser amount, if the person has advised the sheriff in writing of the person's intention to do so within 10 days after the date on which the notice was served.

(10) On payment of an amount mentioned in subsection (9):

(a) the security is released from an enforcement charge relating to the amount recoverable and the sheriff shall inform the issuer that seizure of the security is discharged;

(b) a person who has paid the value of the security, determined in accordance with the method set out in the notice, is entitled to be recorded as the registered owner of the security; and

(c) a person who has paid less than the value of the security, determined in accordance with the method set out in the notice, is deemed to have a security interest in the security, to which *The Personal Property Security Act, 1993* applies, to the extent of the amount paid and interest on that amount at the rate set for unpaid judgments, calculated from the date of payment.

(11) Subject to subsection (12), the priority of the security interest mentioned in clause (10)(c) in relation to other interests in the security shall be determined in accordance with the provisions of *The Personal Property Security Act, 1993* relating to security interests generally.

(12) If the security interest mentioned in clause (10)(c) is perfected on or before the date on which the amount mentioned in subsection (9) is paid to the sheriff, the security interest shall have the priority status in relation to other interests in the security that the enforcement charge had immediately before its release pursuant to clause (10)(a).

(13) Subsections (9) and (10) do not apply when more than one person advises the sheriff of an intention to pay the amount recoverable or the value of the security within the period mentioned in clause (7)(a).

(14) If no person advises the sheriff of an intention to exercise the right mentioned in subsection (9) within the period mentioned in clause (7)(a) or if subsection (13) applies, the holder of a security may require the sheriff to offer all of that person's securities for sale, along with the security seized, on terms identical to those under which the security seized is to be sold:

(a) on tender to the sheriff of executed security transfer documents relating to all of that person's securities in the issuer; and

(b) on proof satisfactory to the sheriff of compliance with the bylaws, articles or internal rules of the issuer or the terms of a shareholders' agreement affecting the disposal of the security.

(15) When a seizure does not affect all of the securities of an issuer owned by the judgment debtor, the judgment debtor is entitled to exercise the rights of a holder of a security provided in subsection (14) with respect to the securities that have not been seized.

(16) Nothing in subsection (14) or (15):

(a) precludes the sheriff from selling only the security seized if, in the opinion of the sheriff, all of the securities offered for sale pursuant to subsections (14) and (15) cannot be sold; or

(b) permits the sheriff to sell fewer than the total number of securities of a person mentioned in subsection (14) or (15), except with the express consent of that person.

(17) When selling a security, the sheriff shall employ a method of sale that follows as closely as possible the procedure that, pursuant to the bylaws, articles or internal rules of the issuer or a shareholders' agreement, the judgment debtor would be required to follow when selling the security.

(18) A person mentioned in clause (10)(b) or (c) and a person who purchases a security in a sheriff's sale:

(a) acquires all the rights of the judgment debtor in the security or associated with it, including the right to be treated as a party to a shareholders' agreement relating to the management of the affairs of the issuer;

(b) is entitled to be registered as owner of the security in the records of the issuer in place of the judgment debtor, and the issuer of the security shall amend its records to indicate the rights of that person;

(c) is deemed to have purchased the security or acquired the security interest in a transaction that complied with the terms of a restriction, prohibition or preferential right mentioned in subsection (2);

(d) shall not be affected by a restriction, prohibition or preferential right that, contrary to the requirements of subsection (3), was not disclosed by the issuer or judgment debtor; and

(e) except as provided in clauses (c) and (d), is subject to the obligations associated with ownership of the security.

(19) On application by a person who is entitled to acquire a security seized by the sheriff or to otherwise receive a benefit under the terms of a restriction, prohibition or preferential right mentioned in subsection (2), the court may order that, when selling the security of the judgment debtor, the sheriff observe a restriction, prohibition or preferential right, or proceed on such other terms as may be required to recognize or preserve the applicant's entitlement, when:

(a) the applicant has made a substantial contribution to the operation of the issuer that has materially enhanced the value of the security of the issuer; and

(b) a sale of the judgment debtor's security in accordance with this section would unfairly deprive the applicant of an entitlement to acquire a security or receive a benefit granted or acquired in recognition of that contribution.

PART VII

Seizure of Existing and Future Accounts

Location of an account

57 For the purposes of this Act, an account is deemed to be located where it is recoverable.

Methods of seizing an account

58(1) Subject to section 64, a sheriff may seize an account by personally serving a notice of seizure on the account debtor or on the judgment debtor.

(2) When an account debtor has been served with a notice of seizure of an account or a notice that an account has been assigned by the sheriff, the account debtor is deemed to have received from the judgment debtor a demand to discharge the account immediately or at such time as the account, if payable at a future time, becomes payable:

(a) in the case of notice of seizure, by payment to the sheriff; and

(b) in the case of notice that the account has been assigned, by payment to the assignee of the sheriff.

(3) A sheriff who has seized an account by serving a notice on the account debtor shall serve a copy of the notice of seizure on the judgment debtor as soon as is practicable after the seizure.

(4) Money that is proceeds of an account seized in accordance with subsection (1) that is collected by the judgment debtor after notice of seizure of the account has been served on the judgment debtor shall be held in trust by the judgment debtor on the conditions specified by the sheriff in the notice of seizure or otherwise communicated by the sheriff in writing.

(5) A notice of seizure is effective with respect to a future account notwithstanding that the legal relationship out of which the account arose did not exist at the date the notice was served.

(6) For the purposes of subsection (5), a person on whom a notice of seizure is served as provided in subsection (1) is deemed to be an account debtor.

(7) A sheriff shall not serve a notice of seizure on a person mentioned in subsection (6) unless the sheriff has reasonable grounds to believe that a legal relationship exists between the judgment debtor and the person out of which an account is likely to arise or that such a legal relationship is likely to come into existence within a reasonable period after the notice of seizure is served.

Seizure of trust interests

59(1) An obligation of a trustee to pay money to a judgment debtor as beneficiary of a trust is deemed to be an account payable to the beneficiary on the earlier of the following events:

- (a) the day on which the conditions of payment imposed by the trust are fulfilled;
- (b) the day on which, and to the extent that, the judgment debtor is entitled to be paid in discharge of the trust obligation in whole or in part.

(2) For purposes of subsection (1), a trustee is an account debtor to whom section 58 applies.

Seizure of a deposit account

60(1) A seizure of a deposit account only affects the obligations of a deposit-taking institution that exists on the day on which the notice of seizure is served.

(2) A deposit account is an existing obligation for the purposes of subsection (1) and the account debtor must comply with section 62, even though the depositor must take a procedural step, including serving notice or presenting a passbook or a document, other than a negotiable instrument, as a condition of the depositor's entitlement to enforce the obligation.

Seizure of money owing by Crown and public agencies

61(1) Crown accounts are not subject to seizure pursuant to this Act unless specifically provided for in this Act or the regulations.

(2) An account due to a municipality is not subject to seizure pursuant to this Act.

(3) If the account debtor is the Crown, other than a Crown corporation, or is a municipality, board of education, conseil scolaire or regional health authority, the notice of seizure mentioned in section 58 shall be served in the prescribed manner.

Effect of seizure of an account

62(1) An account debtor who is served with a notice of seizure of an account shall:

(a) pay to the sheriff, or the assignee of the sheriff, within the time specified in the notice the lesser of:

(i) the amount payable at that date; and

(ii) the amount recoverable that is payable at that date as stated in the notice or otherwise stated in writing by the sheriff;

(b) if the account is not due or is a future account, pay the lesser of the following to the sheriff, or the assignee of the sheriff, when the account becomes payable:

(i) the amount that the account debtor is obligated to pay;

(ii) the amount recoverable as stated in the notice or otherwise stated in writing by the sheriff; and

(c) provide the information mentioned in section 69 in writing to the sheriff.

(2) An account debtor who is served with a notice of seizure and who is not obligated to make payment to the sheriff, or the assignee of the sheriff, as provided in this Part shall deliver to the sheriff, within 15 days after the date the notice of seizure is served, a signed statement:

(a) setting out the basis for the assertion that the person is not obligated to make payment to the sheriff;

(b) if the account is due but not payable, setting out the date or the event on which the account will become payable; and

(c) if the account is not due or is a future account, setting out the date or the event on which the account will become due and the date or event on which the account will become payable.

(3) A release or discharge of an account by a judgment debtor is ineffective after notice of seizure of the account has been served.

Assigned accounts

63(1) Notwithstanding that an account has been assigned by the judgment debtor or is subject to a security interest, an account debtor who is served with a notice of seizure of an account shall:

(a) pay to the sheriff the lesser of:

(i) the amount of the account payable; and

(ii) the amount recoverable as stated in the notice of seizure or otherwise stated in writing by the sheriff; and

(b) notify the assignee or secured party, if known to the account debtor, of the payment within 10 days after paying the account to the sheriff.

(2) Payment to the sheriff in accordance with subsection (1) is a complete defence to any action against the account debtor for failure to honour the assignment or security interest.

(3) If the assignee or secured party objects to the payment made to the sheriff pursuant to subsection (1), the assignee or secured party shall provide written notice of the objection to the sheriff within 10 days after being notified of the payment.

(4) Subject to the priority of an enforcement charge relating to a judgment being enforced by the sheriff, within five days after receiving the written notice mentioned in subsection (3), the sheriff shall:

(a) pay to the assignee or secured party the amount paid by the account debtor pursuant to subsection (1); or

(b) proceed as provided in Part IX.

Seizure of employment remuneration

64(1) Subject to subsection (2), an employment remuneration account shall only be seized in accordance with this section.

(2) A Crown employment remuneration account shall only be seized in accordance with this section and the regulations.

(3) Subject to subsection (4), a notice of seizure affecting employment remuneration must be served on the account debtor:

(a) not later than five days before the end of a pay period if the pay period is two weeks or less; and

(b) not later than 10 days before the end of a pay period if the pay period is greater than two weeks.

(4) If the account debtor is the Crown, other than a Crown corporation, or is a municipality, board of education, conseil scolaire or regional health authority, the notice of seizure affecting employment remuneration shall be served in the prescribed manner.

(5) A notice of seizure served in accordance with subsection (3) or (4) is effective for the pay period to which the notice relates and for all subsequent pay periods ending within 12 months after the date on which the notice is served unless the sheriff notifies the account debtor otherwise.

(6) A notice of seizure that is served on a day falling after the date determined pursuant to subsection (3) or (4) is not effective for the pay period within which it is served, but is effective for all subsequent pay periods ending within 12 months after the date on which the notice is served unless the sheriff notifies the account debtor otherwise.

(7) An account debtor who is served with a notice of seizure affecting employment remuneration is required to pay to the sheriff the net employment remuneration payable to the judgment debtor with respect to each pay period for which the notice of seizure is effective after deducting the amount that is exempt pursuant to section 95.

(8) An account debtor who acts in good faith and with reasonable care is not liable for loss resulting from an error in determining the amount of the judgment debtor's employment remuneration that is exempt pursuant to section 95.

(9) Unless otherwise instructed in writing by the sheriff, an account debtor shall provide to the sheriff, not later than 10 days after every pay period for which a notice of seizure is effective, a written statement for each pay period setting out:

- (a) the total amount of employment remuneration earned by the judgment debtor;
- (b) all amounts deducted by the account debtor from the employment remuneration earned by the judgment debtor; and
- (c) the amount paid to the judgment debtor.

Discharge and set-off

65(1) Payments made by an account debtor to the judgment creditor, assignee or secured party with an interest in the account before receipt of a notice of seizure or assignment by the sheriff discharges the obligation of the account debtor to the judgment debtor to the extent of the payment.

(2) Payment to the sheriff of the amount specified in a notice of seizure of an account or of the amount determined as provided by subsection 64(7) discharges the obligation of the account debtor to the extent of the amount paid.

(3) Subject to subsection (4), an account debtor is entitled to exercise a right of set-off against an account seized by the sheriff to the same extent as the account debtor could exercise a right of set-off against the claim of the judgment debtor to payment of the account.

(4) An account debtor shall not set off against an account seized by the sheriff a claim or obligation that arose after the notice of seizure is served on the account debtor unless the claim or obligation could have been set off against an assignee of the account.

Validity of claim

66 On application, the court may determine the following with respect to an account debtor who is served with a notice of seizure of an account:

- (a) whether the account debtor is under a legal obligation to honour the notice of seizure;
- (b) whether the account debtor is entitled to set off a claim or obligation against the account seized;
- (c) the amount payable by the account debtor and the time within which payment must be made.

Failure to honour seizure of an account

67(1) If an account debtor fails to comply with section 62 or 64, the court, on application, may order that a judgment be entered against the account debtor:

- (a) in favour of a judgment creditor who gave an enforcement instruction in relation to which the seizure was made:
 - (i) in the amount that the account debtor is obliged to pay to the sheriff pursuant to section 62 or 64; and
 - (ii) for the costs of the proceedings and the sheriff's fees and costs of seizure; or
- (b) in favour of:
 - (i) an assignee of the sheriff in the amount that the account debtor is obliged to pay to the assignee pursuant to section 62; and
 - (ii) the judgment creditor mentioned in clause (a) for the costs of the proceedings and the sheriff's fees and costs of seizure.

(2) No order shall be made against an account debtor pursuant to subsection (1) if:

- (a) the account debtor acted in good faith; and
- (b) the account debtor made reasonable efforts to comply with section 62 or 64.

Release of seized account by the sheriff

68(1) On request of a judgment debtor, the sheriff may release from seizure a portion of an account that has not been assigned by the sheriff as follows:

- (a) if the account is or will become payable pursuant to a lease of property by the account debtor, in an amount sufficient to permit the judgment debtor to maintain the property leased;
- (b) if the account is or will become payable pursuant to a contract with the account debtor, in an amount sufficient to permit the judgment debtor to perform the contract.

(2) If the sheriff does not release from seizure a portion of a judgment debtor's account in the circumstances mentioned in subsection (1), the judgment debtor may apply to the court for an order directing the sheriff to do so.

Requirement to provide information

69 A person who is served with a notice of seizure in accordance with section 58 shall:

- (a) disclose to the sheriff any interest that is, to the knowledge of that person, held jointly with the judgment debtor in the account;

(b) if required to do so in writing by the sheriff, disclose to the sheriff the identity of any other account debtor known to the person, including a person who:

(i) is an insurer, guarantor or indemnitor with respect to the account;
or

(ii) is an issuer of a letter of credit relating to the account; and

(c) deliver to the sheriff any contract of insurance, guarantee or indemnity or any letter of credit relating to the account.

Payment into court

70 If money is paid into court by a person in connection with legal proceedings between that person and a judgment debtor, the person is discharged from any obligations that have arisen or that could arise pursuant to sections 62 and 64 as a result of a notice of seizure served on that person by the sheriff, to the extent of the amount paid into court.

Seizure of money in court or in the possession of the sheriff

71(1) The sheriff may seize money in court:

(a) that is due to the judgment debtor at the date of seizure; or

(b) to which the judgment debtor becomes entitled within 30 days after seizure.

(2) The sheriff may effect seizure pursuant to subsection (1) by personally serving notice of seizure on the local registrar of the court.

(3) Unless the court orders otherwise, a local registrar of the court who is served with a notice of seizure pursuant to subsection (2) shall pay the amount mentioned in subsection (1) to the sheriff when it is or becomes payable to the judgment debtor.

(4) Sections 58, 62, 67 and 69 do not apply to the local registrar of the court.

(5) A sheriff may seize money in a sheriff's possession or control:

(a) that is payable to a judgment creditor pursuant to this Act, if:

(i) the judgment creditor is also a judgment debtor; and

(ii) the sheriff effecting the seizure is in possession of an enforcement instruction relating to a judgment against that judgment creditor; or

(b) that is received by the sheriff pursuant to a preservation order made against a defendant, judgment debtor or transferee if the sheriff effecting the seizure is in possession of an enforcement instruction relating to a judgment against the person who, apart from the preservation order, is entitled to the money.

- (6) The sheriff may effect seizure pursuant to subsection (5):
- (a) in the circumstances mentioned in clause (5)(a), by serving notice on the judgment debtor who is also a judgment creditor; and
 - (b) in the circumstances mentioned in clause (5)(b), by serving notice on the person who, apart from the preservation order, is entitled to the money.
- (7) If a person other than the sheriff effects a seizure, a copy of the notice of seizure mentioned in subsection (6) shall be served on the sheriff.

PART VIII Receivership

Receivership

72(1) On application by the sheriff or an enforcing judgment creditor, the court may:

- (a) appoint a receiver, with or without security, of specified exigible property or specified kinds of exigible property if the court concludes that seizure or sale of the property through enforcement measures otherwise provided in this Act would be inappropriate or inefficient because of:
 - (i) the nature or location of the property;
 - (ii) a third party interest in the property;
 - (iii) the immunity of the Crown in right of Saskatchewan or the Crown in right of Canada;
 - (iv) a logistical impediment to seizure and sale of the property resulting from the conduct of the judgment debtor or otherwise;
 - (v) potential costs and expenses of seizure and sale; or
 - (vi) any other reason;
 - (b) order the judgment debtor or other person in possession of exigible property to deliver it to a receiver appointed pursuant to this section; and
 - (c) order an account debtor to pay the account to a receiver when it is payable.
- (2) Subject to this Part and Part II, on an application pursuant to subsection (1), the court has the powers set out in subsection 65(1) of *The Queen's Bench Act, 1998*, free of the limitations pertaining to the appointment of receivers imposed by the law as it existed on the day before the coming into force of this Act.
- (3) Unless otherwise stated in the order, an order made pursuant to subsection (1) has the following effects:
- (a) it enjoins the judgment debtor from disposing of or dealing with the property other than for the purposes of meeting ordinary business and living expenses of the judgment debtor and the judgment debtor's dependants;

- (b) it enjoins a person other than the judgment debtor who is in control or possession of the property, or who may acquire control or possession of the property, from disposing of or dealing with the property other than in a manner consistent with the exercise of legal rights deriving from an interest in the property that has priority over an enforcement charge relating to a subsisting enforcement instruction;
 - (c) it empowers the receiver to collect and take possession or control of the property;
 - (d) it requires the receiver to deliver possession or control of the property to the sheriff, and to remit to the sheriff any sum collected by the receiver in excess of the receiver's costs and fees;
 - (e) it authorizes the receiver to take conservatory measures to protect the property or its value;
 - (f) it authorizes the receiver to exercise any power or right necessarily incidental to enforcement of a judgment with respect to the property or its disposition that the judgment debtor had at the date of appointment of the receiver or that the judgment debtor acquires after that date until the property has been delivered to the sheriff or the order terminates;
 - (g) it discharges any person who delivers property to the receiver or who pays an account to the receiver from the person's obligations to the judgment debtor with respect to the property delivered or the account paid.
- (4) An order made pursuant to this section may permit the judgment debtor or person in possession of the property to retain and use it in the manner set out in the order.
- (5) On an application made pursuant to this section, the court shall consider any relevant fact or matter, including the following:
- (a) any conduct of the judgment debtor or another person that is likely to make enforcement of the judgment to which the application relates difficult or costly;
 - (b) the extent to which an order would result in undue hardship to the judgment debtor, the judgment debtor's dependants or a person in possession or control of the property;
 - (c) the probable costs of a receivership in relation to the amount that is likely to be recovered by a receiver to be applied to satisfaction of the judgment to which the application relates.
- (6) The court shall not make an order pursuant to this section:
- (a) if the amount recoverable with respect to which enforcement is sought is less than the prescribed amount; or

- (b) if it relates to exigible property that, in the opinion of the court, has a value greater than is sufficient to satisfy:
 - (i) the amount recoverable with respect to which enforcement is sought;
 - (ii) the costs of obtaining the order; and
 - (iii) the costs and remuneration of the receiver.
- (7) Unless the court orders otherwise:
 - (a) property collected by or taken into the control of a receiver is deemed for the purposes of Part X to be property seized by the sheriff;
 - (b) property delivered to the possession or control of the sheriff pursuant to clause (3)(d) is deemed to be property seized by the sheriff;
 - (c) a receiver has the same protection and immunities from liability when acting as a receiver pursuant to this Act as a sheriff acting pursuant to this Act; and
 - (d) a receiver shall not sell or otherwise dispose of the property to which the appointment relates until instructed to do so by the sheriff of the judicial centre at which the order appointing the receiver was made.

Duration of order appointing receiver

- 73(1) An order appointing a receiver made pursuant to section 72 is in effect for:
 - (a) 30 days in the case of an *ex parte* application; and
 - (b) six months in the case of an application made by notice of motion.
- (2) On application to the court, the order mentioned in subsection (1) may be renewed for a further period or successive periods of the duration specified.

Role of the sheriff in receiverships

- 74(1) A receiver appointed pursuant to this Part shall provide the following to the sheriff at the judicial centre at which the order was made:
 - (a) a report regarding the administration of the receivership, as the sheriff may require;
 - (b) a copy of all records relating to the administration of property of which the receiver has taken possession or control;
 - (c) a final report and account on completion of the receiver's duties.
- (2) The sheriff may:
 - (a) instruct the receiver to sell property in accordance with Part XI;
 - (b) examine and approve the receiver's accounts and reports, fix the remuneration of the receiver, discharge the security provided by the receiver, if any, and terminate the receivership; or
 - (c) require the receiver to apply to the court for an order approving the receiver's accounts or reports, fixing the remuneration of the receiver, discharging the security provided by the receiver, or terminating the receivership.

(3) A sheriff shall serve on the judgment debtor and on all enforcing judgment creditors notice of the sheriff's intention to:

- (a) discharge the security provided by the receiver; or
- (b) terminate the receivership as provided in subsection (2).

(4) A sheriff shall not discharge the security provided by the receiver or terminate the receivership until 15 days after the date on which the last of the notices mentioned in subsection (3) has been served.

(5) A decision made by the sheriff pursuant to clause (2)(b) may be reviewed by the court on application by any interested party.

Supervision by the court

75 On application, including an application by a receiver, the court may do one or more of the following:

- (a) remove and replace a receiver;
- (b) approve a receiver's accounts or reports;
- (c) fix the remuneration of a receiver;
- (d) discharge the security given by a receiver;
- (e) terminate the receivership;
- (f) exercise its general jurisdiction over receivers.

Effect of termination of a receivership

76 On termination of a receivership, any property of the judgment debtor not delivered to the possession or control of the sheriff shall be delivered to the judgment debtor.

PART IX Third Person Claims

Assertion of third person claim

77(1) In this Part, "**third person claim**" means:

- (a) a claim of a person, other than the judgment debtor:
 - (i) to seized property stated in the claim to be property of the claimant that is not exigible under the judgment being enforced;
 - (ii) to seized property to which the claimant has a priority right pursuant to Part IV or under any other law superior to that of all the judgments being enforced by the seizure; or
 - (iii) to a superior right to possession of the seized property; or
- (b) a claim of a landlord to seized property who has a right of distress with respect to that property.

(2) This Part is subject to sections 49 and 50.

(3) A person who asserts a third person claim with respect to property seized by the sheriff or its proceeds shall serve on the sheriff who effected the seizure a notice of the claim that sets out in detail the nature and basis of the claim.

(4) A sheriff who is served with a third person claim may require the claimant to provide additional information as to the nature or basis of the claim.

Property subject to receivership

78(1) A person who asserts a third person claim with respect to property subject to an order appointing a receiver made pursuant to section 72 shall serve a notice of the claim on the receiver.

(2) A receiver on whom a notice of third person claim is served shall immediately serve the notice on the sheriff of the judicial centre at which the order appointing the receiver has been made.

(3) A notice of third person claim served on the sheriff pursuant to this section is deemed, on receipt by the sheriff, to be a notice of third person claim served on the sheriff by the claimant with respect to property seized by the sheriff.

Procedures for third person claims

79(1) Unless the court orders otherwise, on receipt of a notice of third person claim, the sheriff shall serve on all enforcing judgment creditors:

- (a) a notice advising the judgment creditor:
 - (i) that a third person claim has been served on the sheriff; and
 - (ii) that he or she may dispute the third person claim; and
- (b) a copy of the notice of third person claim.

(2) A judgment creditor who wishes to dispute the third person claim shall serve on the sheriff a notice of dispute in the prescribed form within 10 days after the judgment creditor receives the notice mentioned in subsection (1).

(3) A judgment creditor who does not serve a notice of dispute on the sheriff within the period provided in subsection (2) is deemed to have accepted the third person claim.

(4) Nothing in subsection (3) affects the rights of a judgment creditor in any proceedings other than as set out in this Part.

Release of seized property

80(1) If a notice of dispute is not served in accordance with subsection 79(2), the sheriff shall:

- (a) if the property subject to a third person claim has been seized by the sheriff, release the property from seizure;
- (b) if the property subject to a third person claim is in the possession or control of a receiver appointed pursuant to section 72, instruct the receiver to release the property; and
- (c) if the property is subject to a third person claim as described in clause 77(1)(b), proceed in accordance with subsections 41(5) and (6).

(2) Subject to section 115, no action may be brought against the sheriff or a receiver who releases property as provided in subsection (1) with respect to the seizure of the property or any action taken with respect to the property pursuant to an order made pursuant to section 72.

Interpleader

81(1) The sheriff shall serve a notice of intention to interplead on:

- (a) a judgment creditor who has served a notice of dispute of a third person claim in accordance with subsection 79(2); and
- (b) the person asserting the third person claim.

(2) A notice of intention to interplead mentioned in subsection (1) shall indicate that the validity of the third person claim will be determined through interpleader proceedings pursuant to *The Queen's Bench Rules* unless the third person claim or all notices of dispute of the third person claim are withdrawn within five days after the notice of intention to interplead is served.

(3) The sheriff shall apply for an interpleader order if:

- (a) the notice of withdrawal of the third person claim mentioned in subsection (2) is not served within the required period; or
- (b) the notice of withdrawal for all notices of dispute of the third person claim mentioned in subsection (2) is not served within the required period.

(4) If notice of the withdrawal of the third person claim or of a notice of dispute is served on the sheriff after the expiry of the period mentioned in subsection (2) or if, on or before the hearing of the application for an interpleader order, the claim is otherwise withdrawn by the person asserting the third person claim or accepted by a judgment creditor who served a notice of dispute, the court may order the person asserting the third person claim or judgment creditor to pay the costs of the other parties and the sheriff's fees and costs.

(5) Each judgment creditor who served a notice of dispute of a third person claim and who has not withdrawn the notice of dispute is a party to the application for an interpleader order.

(6) Pending the outcome of the interpleader proceedings, the sheriff may permit the person asserting a third person claim, or another person, to have possession or control of property claimed if that person provides security, including a bond, in an amount and form that the sheriff considers reasonable.

(7) If a bond or security is taken as provided by subsection (6), the sheriff is deemed to remain in possession or control of the property during the currency of the bond or security and the obligor under the bond is deemed to be the sheriff's bailee and is obliged to deliver possession or control of the property to the sheriff on demand.

(8) On application of the sheriff or a receiver in possession or control of property subject to a third person claim, the court may order sale of the property before the hearing or completion of interpleader proceedings relating to the property if the property is perishable, cannot be stored or is disproportionately costly to store or is likely to significantly decline in value before an interpleader order is issued.

(9) If property is sold pursuant to an order of the court as provided in subsection (8):

- (a) the sale shall be conducted in accordance with Part XI as a sale of property described in section 101; and
- (b) the proceeds of sale, less the sheriff's fees and costs of seizure and sale, shall stand in lieu of the property for the purposes of determining the third person claim pursuant to this Part.

Onus of proof in interpleader proceedings

82(1) Unless the court orders otherwise, the following rules apply with respect to the determination of the validity of a third person claim in interpleader proceedings pursuant to this Part:

- (a) if at the date of seizure or the date a receiving order affecting the property was made the property subject to the claim was in the possession or control of the judgment debtor, the onus of proof that the claim is valid is on the claimant;
- (b) if at the date of seizure or the date a receiving order affecting the property was made the property subject to the claim was in the possession or control of a person other than the judgment debtor, or was under joint possession or control of another person and the judgment debtor or an agent of the judgment debtor, the onus of proof that the claim is not valid is on the judgment creditor serving notice of dispute of the claim; and
- (c) if the property subject to the claim is an account, the onus of proof that the claim is valid is on the claimant.

(2) Notwithstanding clause (1)(b), the court may direct that the claimant prove the validity of the third person claim if:

- (a) property subject to a third person claim was in the possession or control of the claimant at the date of seizure or the date a receiving order affecting the property was made; and
- (b) the circumstances give rise to a reasonable inference that the claimant and the judgment debtor have colluded to delay or prevent enforcement of a judgment against the property.

Failure to assert third person claim in timely manner

83(1) A person who serves notice of a valid third person claim after fees and costs of disposition of the property seized have been incurred by the sheriff is obligated to pay to the sheriff the amount of those fees and costs as a condition of release of the property from seizure.

(2) The sheriff is deemed to have a security interest in the property mentioned in subsection (1) to secure the amount of the fees and costs mentioned in that subsection.

- (3) A person who does not serve a notice of third person claim, or a person who serves notice of a third person claim against property seized by the sheriff after the property is sold or disposed of, may not assert the claim against any of the following persons notwithstanding that the claim is valid:
- (a) the sheriff;
 - (b) a receiver who assumed possession or control of the property pursuant to an order made pursuant to this Act;
 - (c) a buyer from the sheriff; or
 - (d) a successor in interest of a buyer mentioned in clause (c).
- (4) If a person serves notice of a third person claim in the circumstances mentioned in subsection (3):
- (a) the claim is deemed to be a claim to the proceeds of sale or disposition of the property subject to the claim; and
 - (b) if the claim is valid, the person is entitled to the proceeds, after deduction of the fees and costs of seizure and disposition, that have not been distributed in accordance with this Act, to the extent of the value of the person's interest in or right to possession of the property.
- (5) Sections 77 to 82 apply, with any necessary modification, to a third person claim mentioned in subsection (4).
- (6) When proceeds of sale or disposition are payable to a person mentioned in subsection (4) pursuant to section 80 or as a result of interpleader proceedings taken pursuant to section 81, on application of the sheriff or the person, the court:
- (a) shall make an order determining the amount of the proceeds of sale or disposition to which the person is entitled by virtue of the person's interest in or right to possession of the property sold or disposed of; and
 - (b) may order payment of the proceeds of sale or disposition to the person without deduction of any, or a portion, of the fees and costs of seizure and disposition, to the extent that the third person claim could not reasonably have been asserted before those fees and costs were incurred.
- (7) Nothing in subsection (3) or (4) affects:
- (a) a security interest in property seized that is perfected by registration;
 - (b) an interest in the property seized that is registered in the personal property registry as required by *The Personal Property Security Act, 1993* or other registry within Saskatchewan the records of which are readily accessible to the public; or
 - (c) a registered interest in land.
- (8) Subsection (7) applies only to an interest that is registered not less than 15 days before the date set for sale or disposition of the seized property.

PART X Exemptions

Interpretation of Part

84 In this Part, “**dependant**” means the spouse of a judgment debtor and any child of the judgment debtor who is under 18 years of age and includes any other person:

- (a) who is, in whole or in part, dependent on a judgment debtor’s income; or
- (b) who was, in whole or in part, dependent on a deceased judgment debtor’s income at the time of the judgment debtor’s death.

Crown subject to exemptions

85 The Crown is subject to the exemptions set out in this Part.

Exemption entitlement

86(1) A judgment debtor that is an individual is entitled to:

- (a) the exemptions set out in this Part; and
- (b) except as otherwise set out in this Part, the exemptions set out in any other Act.

(2) Except as otherwise provided in this Part, the exemption entitlement of a judgment debtor is determined as follows:

- (a) if property of the judgment debtor has been seized, as of the date of seizure of the property; or
- (b) if an order has been made appointing a receiver pursuant to section 72, as of the date of the order.

Exemption entitlement re dependants of deceased judgment debtor

87 A dependant of a deceased judgment debtor is entitled to make an exemption claim on property of that deceased judgment debtor, including any insurance proceeds, indemnity payment, compensation payment or sale proceeds mentioned in section 94 that could have been claimed as exempt by the deceased judgment debtor if the judgment debtor were not deceased.

Onus of proof

88 If a judgment debtor claims an exemption, the onus of proof that the judgment debtor is entitled to the exemption is on the judgment debtor.

Waiver of exemption

89(1) Any waiver or release given by a judgment debtor of the judgment debtor’s exemption rights pursuant to this Part is void.

(2) The failure of a judgment debtor to make an exemption claim as provided in section 90 within the period mentioned in that section does not constitute a waiver of the right to claim an exemption.

Exemption claim

90(1) The sheriff shall not seize property of a judgment debtor that the sheriff believes is or is likely to be exempt.

(2) On seizure of property by the sheriff, or on the assumption of possession or control of property by a receiver, the sheriff shall serve on the judgment debtor:

- (a) a written notice that includes the following:
 - (i) a description of the types of property that are exempt from seizure;
 - (ii) a description of the judgment debtor's right of selection described in subsection 93(3);
 - (iii) a statement outlining the procedure for claiming an exemption;
 - (iv) any other prescribed information; and
- (b) a form of notice of exemption claim.

(3) Within five business days after receiving the notice mentioned in subsection (2), a judgment debtor who intends to exercise a right of exemption shall serve on the sheriff a signed notice of exemption claim.

(4) Within 10 days after receiving a notice of exemption claim, the sheriff shall accept or reject the claim and shall notify the judgment debtor and any enforcing judgment creditor of the sheriff's decision.

(5) On receipt of the notification by the sheriff pursuant to subsection (4), the judgment debtor or judgment creditor may apply to the court to review the decision of the sheriff to accept or reject the exemption claim.

(6) Subject to subsections (7) and (8), if the sheriff accepts an exemption claim provided in accordance with subsection (3), the sheriff shall release the property claimed from seizure.

(7) If a notice of exemption claim is served by a judgment debtor after the period specified in subsection (3) but before the property has been sold and the sheriff accepts the exemption claim, the property claimed shall be released from seizure when any fees and costs incurred by the sheriff in preparation for sale of the property have been paid by the judgment debtor.

(8) The sheriff is deemed to have a security interest in the property mentioned in subsection (7) to secure the amount of the fees and costs mentioned in that subsection.

(9) A judgment debtor who serves a notice of exemption claim on the sheriff after the sale of the property claimed and before a distribution of its proceeds as provided in Part XII:

- (a) is precluded from asserting an exemption right with respect to the property; and
- (b) if the exemption claim is accepted by the sheriff, is entitled to the proceeds of the sale to the same extent as if the judgment debtor had sold the property pursuant to section 94, after deducting the sheriff's fees and costs incidental to the sale.

Exemption claims by dependant

91 If it appears to the sheriff that a person in possession of property of the judgment debtor may be entitled to make an exemption claim with respect to the property pursuant to section 87, the sheriff shall serve on the person the notice mentioned in subsection 90(2).

Limitation of actions re sheriff

92 No action may be brought against a sheriff or a receiver appointed pursuant to an order pursuant to section 72 to recover for loss or damage suffered by the judgment debtor as a result of a seizure or sale of exempt property.

Exempt property

93(1) Subject to the regulations, the following personal property and land of a judgment debtor is exempt:

- (a) clothing, including jewelry, with a cumulative value that does not exceed the prescribed amount;
- (b) medical and dental aids or other devices required or ordinarily used by the judgment debtor or a dependant of the judgment debtor due to physical or mental disability;
- (c) household furnishings, utensils, equipment and appliances;
- (d) domestic animals that are kept solely as pets with a cumulative value that does not exceed the prescribed amount;
- (e) one motor vehicle with a value that does not exceed the prescribed amount;
- (f) items of tangible personal property, other than a motor vehicle, required for use by the judgment debtor to earn income for the support of the judgment debtor and his or her dependants;
- (g) money, and property or income acquired through the investment of money:
 - (i) that can be separately identified as being received or as having been received by the judgment debtor pursuant to a legal entitlement to compensation for physical or mental injury; and
 - (ii) that is being used or will be used to meet the reasonable and ordinary living expenses of the judgment debtor and his or her dependants or to provide medical or other care facilities for the judgment debtor or his or her dependants;
- (h) employment income in the amount set out in section 95;
- (i) prepaid funeral services for, or a burial plot intended for the interment of, the judgment debtor, a dependant of the judgment debtor or a member of the judgment debtor's family;

- (j) property of the judgment debtor that is of such a low value that the sheriff believes that the costs of seizure and sale are likely to be approximately equal to or greater than the amount of the proceeds that will be available for satisfaction of the amount recoverable;
 - (k) the homestead, provided it is not more than 160 acres;
 - (l) an interest in one house, house trailer or equivalent facility, and the land on which it is permanently situated, with a value that does not exceed the prescribed amount;
 - (m) if money or an account has been seized, the portion that, combined with income of the judgment debtor that is exempt pursuant to section 95 or 96, is required to maintain the judgment debtor and his or her dependants for a period of one month following the date of seizure, up to the prescribed amount.
- (2) A house, house trailer or equivalent facility claimed pursuant to clause (1)(l) is exempt from seizure and sale pursuant to this Act for as long as it is maintained by the judgment debtor as an active residence.
- (3) If a judgment debtor's property consists of more than one motor vehicle mentioned in clause (1)(e), the judgment debtor may select the motor vehicle for which he or she wishes to claim an exemption.
- (4) If a judgment debtor fails to respond to a notice provided pursuant to subsection 90(2) within the period mentioned in subsection 90(3), or if a judgment debtor fails to indicate pursuant to subsection (3) which motor vehicle is claimed as exempt, the sheriff shall make the selection and that selection is deemed to have been made by the judgment debtor.
- (5) The selection by a sheriff pursuant to subsection (4) is final and may not be appealed.
- (6) If the sheriff seizes and sells a motor vehicle of the judgment debtor, the sheriff shall pay to the judgment debtor from the proceeds of the sale an amount not exceeding the prescribed amount mentioned in clause (1)(e).
- (7) Notwithstanding clause (1)(e), on application by a judgment debtor, the court may permit the judgment debtor to retain a motor vehicle to meet the judgment debtor's or his or her dependants' reasonable educational or health needs, including a motor vehicle specially equipped to accommodate the needs of the judgment debtor or his or her dependants due to physical or mental disability.
- (8) This section does not apply to any judgment debtor who is a farmer as that term is defined in Part V of *The Saskatchewan Farm Security Act*.

Proceeds of exempt property

94(1) For the purposes of this section:

(a) **“equivalent item of property”** means, in the case of an item mentioned in clause 93(1)(c) or (f), a similar item of property available in the market that fulfils the function of the item in a minimally reasonable manner;

(b) **“security interest”** means a security interest, the enforcement of which is not affected by an exemption entitlement of the judgment debtor.

(2) On application, the court may order seizure and sale of an item of property of the judgment debtor described in clause 93(1)(c) or (f) if the value of the item is significantly in excess of the value of an equivalent item of property.

(3) In an order pursuant to subsection (2), the court shall direct that, out of the proceeds of sale of the item, the judgment debtor be given a sum sufficient to replace the item sold with an equivalent item of property.

(4) In an application pursuant to subsection (2), the onus of proof that the value of an item of property is not significantly in excess of the value of an equivalent item of property is on the judgment debtor claiming the exemption.

(5) Subject to subsection (10), if an exempt item of property of the judgment debtor is damaged, destroyed or expropriated, any insurance proceeds, indemnity payments or compensation payments may be retained by the judgment debtor as exempt property for the purpose of:

(a) repairing the property damaged;

(b) subject to clause (c) and subsection (6), replacing destroyed or expropriated property; or

(c) in the case of an item mentioned in clause 93(1)(c) or (f), replacing the property destroyed or expropriated with an equivalent item of property.

(6) If an exempt item of property of the judgment debtor mentioned in clause 93(1)(l) is damaged, destroyed or expropriated, any insurance proceeds, indemnity payments or compensation payments may be retained by the judgment debtor:

(a) in the case of damage to the item, in an amount sufficient to restore the item; and

(b) in the case of the destruction or expropriation of the item, in an amount sufficient to replace the item up to the prescribed amount.

(7) Subject to subsection (12), if an exempt item of property is sold by the judgment debtor:

(a) subject to clauses (b) and (c), the sale proceeds may be retained by the judgment debtor to replace the item;

- (b) in the case of an item mentioned in clause 93(1)(c) or (f), the sale proceeds may be retained by the judgment debtor in an amount sufficient to replace the item sold with an equivalent item of property; and
 - (c) in the case of an item mentioned in clause 93(1)(l), the sale proceeds may be retained by the judgment debtor in an amount sufficient to replace the item up to the prescribed amount.
- (8) If exempt property of the judgment debtor that is subject to a security interest is sold by a person enforcing the security interest, and that security interest has priority over all enforcement charges affecting the exempt property, the sale proceeds shall be allocated in the following order:
- (a) to the holder of the security interest to the extent of the sum secured and any costs to which that person is entitled;
 - (b) the balance remaining, if any, to the sheriff to be paid, subject to the rights of persons against whom exemptions may not be asserted pursuant to this Act:
 - (i) in the case of an item mentioned in clause 93(1)(c) or (f), to the judgment debtor in an amount not exceeding an amount required to replace the property sold with an equivalent item of property;
 - (ii) in the case of an item mentioned in clause 93(1)(l), to the judgment debtor in an amount sufficient to replace the item up to the prescribed amount;
 - (iii) in the case of an item mentioned in clause 93(1)(e), to the judgment debtor in an amount not exceeding the prescribed amount mentioned in clause 93(1)(e); and
 - (iv) except as provided in subclauses (i) to (iii), to the judgment debtor.
- (9) If exempt property of the judgment debtor that is subject to a security interest is sold by a person enforcing the security interest, and that security interest is subordinate to an enforcement charge affecting the exempt property, the sale proceeds shall be allocated in the following order:
- (a) to the sheriff to the extent of the sum required to satisfy the amount recoverable with respect to each enforcement charge having priority over the security interest;
 - (b) to the holder of a security interest to the extent of the sum secured and any costs to which that person is entitled;
 - (c) subject to the rights of persons against whom exemptions may not be asserted pursuant to this Act, to the judgment debtor, except as provided in clauses (a) and (b).

(10) From the amount allocated to the sheriff pursuant to clause (9)(a), the sheriff shall pay, subject to the rights of persons against whom exemptions may not be asserted pursuant to this Act:

(a) in the case of an item mentioned in clause 93(1)(c) or (f), to the judgment debtor an amount not exceeding an amount required to replace the property sold with an equivalent item of property;

(b) in the case of an item mentioned in clause 93(1)(l), to the judgment debtor an amount sufficient to replace the item up to the prescribed amount;

(c) in the case of an item mentioned in clause 93(1)(e), to the judgment debtor an amount not exceeding the prescribed amount mentioned in clause 93(1)(e); and

(d) except as provided in clauses (a) to (c), to the judgment debtor.

(11) If a sheriff or a receiver sells exempt property of a judgment debtor free from a security interest, the order of allocation set out in subsection (8) or subsections (9) and (10) applies, as the case may be.

(12) Money that is exempt as provided in this section remains exempt for a period of six months from the date on which it is received by the judgment debtor if it is separately identifiable either in specie or in a separate account with a deposit-taking institution.

(13) A judgment debtor is deemed to have replaced exempt property if the money received pursuant to this section:

(a) remains identifiable as provided in subsection (12); and

(b) is used to make lease payments under a lease of an equivalent item of property or an item mentioned in clause 93(1)(l).

(14) The sheriff shall determine the amount of insurance proceeds, indemnity payment, compensation payment or sale proceeds with respect to an item mentioned in clause 93(1)(c) or (f) required to repair the item or to replace a destroyed, expropriated or sold item with an equivalent item of property.

(15) On application of the judgment debtor, judgment creditor or sheriff, the court may determine what constitutes an amount that is required with respect to an item mentioned in clause 93(1)(c) or (f) to repair the item or to replace the destroyed, expropriated or sold item with an equivalent item of property.

(16) The amount of money that is exempt as provided in this section is an amount that reflects the judgment debtor's property interest in the item damaged, destroyed, expropriated or sold.

Employment remuneration exemption

95(1) Except as otherwise provided in this Act or any other Act, a judgment debtor is entitled to an employment remuneration exemption as provided in this section.

(2) The employment remuneration of a judgment debtor that is exempt from seizure in a pay period is the prescribed amount.

(3) A judgment debtor may apply to the court to increase the employment remuneration exemption to account for special circumstances of the judgment debtor or his or her dependants.

(4) An enforcing judgment creditor or sheriff may apply to the court to decrease the employment remuneration exemption of a judgment debtor to account for property received by or available to the judgment debtor that is not employment remuneration.

(5) On hearing an application, the court may:

(a) in the case of an application made pursuant to subsection (3), declare that the judgment debtor's employment remuneration is exempt in an amount greater than the amount determined pursuant to subsection (2); or

(b) in the case of an application made pursuant to subsection (4), declare that the judgment debtor's employment remuneration is exempt in an amount less than the amount determined pursuant to subsection (2).

Exemption of other income

96(1) When a judgment debtor receives income that is not employment remuneration, the judgment debtor is entitled to an income exemption in an amount that approximates the exemption to which the judgment debtor would be entitled if all income received by the judgment debtor were employment remuneration.

(2) Subject to the regulations, the amount of the exemption to which a judgment debtor is entitled pursuant to subsection (1) shall be determined by the sheriff who, for the purposes of that determination, shall:

(a) fix the period to which income is deemed to relate;

(b) take into consideration any taxes or other amounts relating to the income that the judgment debtor is legally required to pay; and

(c) include as income the market value of all goods and services that the judgment debtor has received or is entitled to receive from a person in lieu of money.

(3) If a judgment debtor receives employment remuneration in addition to income mentioned in subsection (1), the cumulative value of the exemption claimed pursuant to this section and section 95 shall not exceed the value of the exemption permitted pursuant to section 95.

(4) Subsections 95(3) to (5) apply, with any necessary modification, to an exemption provided pursuant to this section.

Non-exempt property

97(1) In this section:

- (a) **“identifiable property”** includes property acquired by the judgment debtor as a result of conversion, breach of fiduciary obligation or fraud and property that can be directly connected by evidence to that property;
 - (b) **“traceable property”** means property that can be traced in equity or at law from identifiable property.
- (2) Unless the court orders otherwise, exempt property shall not include any of the following:
- (a) inventory of a business;
 - (b) property that has been abandoned by the judgment debtor and not reclaimed before the date of seizure;
 - (c) property that the judgment debtor has voluntarily surrendered from his or her possession or control, other than for repair or short term storage or use, to a person who is not a dependant of the judgment debtor;
 - (d) if the judgment being enforced is a judgment in an action arising from the conversion, breach of fiduciary obligation or fraud, any identifiable or traceable property acquired by the judgment debtor as a result of that conversion, breach of a fiduciary obligation or fraud.
- (3) Unless the court orders otherwise, a judgment debtor is not entitled to claim any exemptions pursuant to this Act if the judgment being enforced is:
- (a) a judgment for damages resulting from physical injury intentionally inflicted on the judgment creditor by the judgment debtor; or
 - (b) an order or judgment of a court against the judgment debtor made pursuant to paragraph 738(1)(b) of the *Criminal Code*.

PART XI**Disposition of Seized Property****Manner of disposition**

98(1) Seized property shall be disposed of by the sheriff:

- (a) in a manner that is likely to realize the maximum proceeds reasonably recoverable under the circumstances, including by sale or lease; and
- (b) if the kind of property or the circumstances are such that a particular manner of disposition is prescribed, in the prescribed manner.

(2) On application, the court may, with respect to all or part of property seized by the sheriff:

- (a) order that property be disposed of for any price obtainable if the sheriff is unable to dispose of the property for an amount that the sheriff believes is a reasonable price; or
- (b) prohibit disposition if:
 - (i) it is unlikely that a disposition will produce sufficient proceeds to discharge the costs of obtaining the judgment and the costs of enforcement;
 - (ii) the property produces income or is likely to produce income that can be applied to satisfy the amount recoverable; or
 - (iii) for any other reason the court concludes that the disposition should not occur.

Disposal of property on judgment debtor's premises

99(1) Subject to section 44, if personal property to be disposed of by the sheriff is of a kind that cannot be readily moved from the judgment debtor's premises or for which adequate storage facilities are not readily available or are excessively costly, the sheriff may dispose of the property on the premises where it is located, but shall not cause the person in possession of the premises any greater inconvenience or expense than is necessarily incidental to the process of disposition.

(2) Subject to section 44, if property to be disposed of by the sheriff is land occupied by the judgment debtor or another person, the sheriff and an agent retained by the sheriff for purposes of disposing of the land shall be entitled to any access to the land and premises on that land that is reasonably incidental to the process of disposition.

(3) When the property seized is a document of title, the sheriff may dispose of the document of title or the goods covered by it.

(4) After seizing property, the sheriff may dispose of the property in its existing condition or after minor repair or preparation for disposition, the costs of which are deemed to be costs incurred in carrying out enforcement measures for which the sheriff has a claim pursuant to subsection 110(1).

Notice of disposition of seized property

100(1) Not less than 10 days before the date set for disposition of seized property, the sheriff shall serve notice in the prescribed form on the judgment debtor and on any other person who is known by the sheriff to have a security interest in the property or to be the owner of the property, other than a co-owner, or a seller or lessor mentioned in subsection 45(10).

(2) The notice mentioned in subsection (1) shall contain the following information:

- (a) a description of the property to be disposed of;
- (b) a statement of the amount recoverable in relation to all judgments against the judgment debtor with respect to which enforcement instructions have been provided to the sheriff;

- (c) an estimate of the amount of the applicable fees and costs associated with the seizure and disposition of the property;
 - (d) a statement that the property will be released from seizure on payment of the amounts due pursuant to clause (b) and the fees and costs mentioned in clause (c) that have been incurred;
 - (e) the method of disposition to be employed by the sheriff;
 - (f) any other prescribed information.
- (3) On receipt of payment of the amount stated in clause (2)(b), and the fees and costs mentioned in clause (2)(c) that have been incurred, the sheriff shall:
- (a) release the property from seizure; and
 - (b) discharge the registration creating the enforcement charges relating to the judgments mentioned in clause (2)(b).

Notice of disposition not required

101 The sheriff may dispose of property seized without serving the notice mentioned in section 100 if:

- (a) the property is perishable;
- (b) the sheriff believes, on reasonable grounds, that the property will decline substantially in value if it is not disposed of immediately after seizure;
- (c) the seized property is personal property of which the cost of care and storage is disproportionately large in relation to its value;
- (d) with respect to a person other than the judgment debtor, the sheriff is unaware of the residence or mailing address of the person; or
- (e) for any other reason, the court on *ex parte* application of the sheriff is satisfied that a notice is not warranted.

Disposition of a licence or intellectual property

102(1) If property seized is a licence, the property may be disposed of only in accordance with the conditions under which the licence was granted or which otherwise pertain to it.

(2) If property seized is intellectual property, disposition of the property occurs when the statutory requirements for a valid assignment of the property have been met.

Effect of disposition by the sheriff

103(1) If property is disposed of by the sheriff in accordance with this Act, the sheriff is deemed, for the purposes of this Part, to have received an enforcement instruction from the judgment creditor who holds the enforcement charge created by the earliest of the registrations creating enforcement charges affecting the property.

(2) Except as otherwise provided in this Act, or any other Act or law, a person who acquires an interest in property in good faith pursuant to a disposition by the sheriff takes the property free from the following, whether or not the requirements of this Part have been complied with by the sheriff:

- (a) the interest of the judgment debtor;
- (b) an interest subordinate to that of the judgment debtor;
- (c) any enforcement charge affecting the property;
- (d) an interest in personal property subordinate to an enforcement charge as provided in this Act;
- (e) an interest in land subordinate to an enforcement charge as provided in *The Land Titles Act, 2000*.

(3) A person mentioned in subsection (2) is entitled to discharge the registration of any of the interests mentioned in clauses (2)(a) to (e).

(4) The sheriff does not give any warranty or undertaking, express or implied:

- (a) as to any aspect of the property sold; or
- (b) as to the capacity of the sheriff to pass title or ownership to the person who acquires an interest in the property.

(5) An express warranty or undertaking given by a sheriff is void.

Disposition of land

104 Unless a court orders otherwise, an interest in land of a judgment debtor who is an individual shall not be disposed of by the sheriff:

- (a) until the expiry of 12 months from the date of seizure; and
- (b) except with leave of the court granted on an application made pursuant to this clause, and for the purposes of the application, sections 3 and 4 of *The Land Contracts (Actions) Act* apply, with any necessary modification, to an application made pursuant to this clause.

Transfer to a buyer of land

105(1) A sheriff who has seized land and who has complied with the requirements of this Act may apply pursuant to *The Land Titles Act, 2000* for registration of a transfer to a buyer from the sheriff of the title or interest acquired by the buyer as provided in section 103.

(2) An application for registration as provided in subsection (1) is deemed to have the same effect as if the application for registration had been made by the registered owner of the title or holder of the interest sold by the sheriff.

(3) Unless notified of a court order that provides otherwise, on receipt of an application for registration pursuant to subsection (1) executed by a sheriff, and on provision of any other information or fulfilment of such other requirements as may be required pursuant to *The Land Titles Act, 2000*, the Registrar of Titles shall register the title or interest of the buyer.

(4) On registration of the title of the buyer as provided in subsection (3), all interests to which the title of the judgment debtor was subject that are subordinate to an enforcement charge as provided by *The Land Titles Act, 2000* shall be discharged.

(5) If the sheriff has sold an interest in land that has not been registered, a transfer executed by the sheriff in the prescribed form is sufficient to convey the interest in land to the buyer.

(6) If the sheriff has sold land for which a title has not been issued pursuant to *The Land Titles Act, 2000*, a transfer executed by the sheriff in the prescribed form is sufficient to convey the land to the buyer.

(7) Sections 36 and 156 of *The Land Titles Act, 2000* do not apply to a sale of land or an interest in land pursuant to this Part.

Discharge of registration

106(1) On payment of the amount recoverable pursuant to all judgments relating to enforcement charges having priority over the interest of an owner of the seized property, the sheriff shall discharge the registrations creating those enforcement charges.

(2) A discharge of a registration mentioned in subsection (1) shall be deemed to be a discharge of the registration by the judgment creditor who effected the registration.

PART XII

Distribution of Proceeds of Seized property

Fund to be constituted

107(1) A fund shall be constituted by the sheriff in connection with a judgment debtor in the following circumstances:

(a) when the sheriff has been given an enforcement instruction relating to property of the judgment debtor and money is received by the sheriff as described in subsection (2) or (3);

(b) when the sheriff has not been given an enforcement instruction relating to property of the judgment debtor, or has an enforcement instruction relating to the property that has expired, but money is received by the sheriff:

(i) as a result of the sale of property of the judgment debtor by a person holding a security interest, charge or lien having priority over an enforcement charge affecting the property; or

(ii) in the circumstances described in subsection (3).

(2) Subject to subsection (5), the fund mentioned in subsection (1) shall comprise the following:

(a) money received by the sheriff in relation to an enforcement charge, whether or not the money is received as a result of an enforcement measure with respect to the judgment debtor's property;

- (b) money that is otherwise identified in this Act or any other Act or law as distributable or allocated to an amount recoverable from the judgment debtor, or any portion of that money;
 - (c) the portion of the proceeds of a sale of property of the judgment debtor pursuant to a security interest, charge or lien having priority over an enforcement charge affecting the property in excess of the amount required to discharge the obligation to which the security interest, charge or lien relates, whether paid to the sheriff pursuant to section 94 or otherwise;
 - (d) the portion of the proceeds of sale of property subject to a landlord's right of distress, after deducting the amount to which the landlord is entitled;
 - (e) money received by the sheriff in relation to a judgment or order, other than an order pursuant to section 117, that is:
 - (i) issued in favour of a judgment creditor against a person other than the judgment debtor by reason of that person's failure to perform an obligation imposed by this Act with respect to the enforcement of a judgment against the judgment debtor; or
 - (ii) issued pursuant to subsection 110(8) or 111(16).
- (3) Subject to subsection (5), a judgment creditor who receives any of the following payments after giving an enforcement instruction to the sheriff shall deliver any funds received to the sheriff, regardless of whether the enforcement instruction is a subsisting enforcement instruction at the time payment is received:
- (a) a payment of part or all of the amount recoverable from any source;
 - (b) a payment pursuant to a judgment or order described in clause (2)(e), other than an order pursuant to section 117.
- (4) The application of this Part is not affected by:
- (a) the source of money received by the sheriff or a designation or allocation of money made by the person paying it; or
 - (b) the priority of any enforcement charge relative to any other interest in property of the judgment debtor, including a mortgage, security interest, lien or charge.
- (5) The fund shall not include:
- (a) an amount payable to or received by:
 - (i) a recipient pursuant to *The Enforcement of Maintenance Orders Act, 1997*; or
 - (ii) the Crown pursuant to *The Income Tax Act, 2000*, *The Revenue and Financial Services Act* or any other prescribed Act;

- (b) an amount payable to a claimant as provided in clause 83(4)(b);
- (c) the amount recovered from seizure of property in enforcing a judgment mentioned in clause 97(3)(a) or (b) that would otherwise have been exempt, which amount, subject to subsection 110(1), shall be paid to the person in whose favour the judgment or order mentioned in the relevant clause was issued;
- (d) the amount recovered from seizure of property in enforcing a judgment mentioned in clause 97(2)(d), which amount, subject to subsection 110(1), shall be paid to the person in whose favour the judgment mentioned in clause 97(2)(d) was issued; or
- (e) any prescribed amount.

Distribution of fund

108(1) Subject to subsections (2) and (3), a fund shall be distributed 20 days after the first receipt of money by the sheriff to whom an enforcement instruction relating to the judgment debtor has been provided.

(2) If the fund does not exceed the prescribed amount at the end of the 20-day period mentioned in subsection (1), and two or more judgment creditors have entitlements as provided in section 110 that exceed the amount of the fund, the sheriff may extend the period for an additional 15 days.

(3) The 20-day period mentioned in subsection (1) may be extended:

- (a) by the sheriff for a period not exceeding 90 days from the date the first amount is received:
 - (i) if the sheriff has seized future accounts under circumstances in which the seizure will result in the receipt of periodic payments to the sheriff;
 - (ii) if an order has been made pursuant to section 81 of *The Queen's Bench Act, 1998* that provides for periodic payments to the sheriff or a judgment creditor; or
 - (iii) if the sheriff has served a notice as provided in section 109 or a demand for information as provided in subsection 110(5); and
- (b) by the court on application by the sheriff.

(4) If, after the expiry of the period mentioned in subsections (1) to (3), a new fund is constituted as a result of the receipt by the sheriff of additional money attributable to an amount recoverable from the judgment debtor, the new fund shall be distributed in accordance with subsections (1) to (3).

Notice of distribution

109 When a fund is constituted, the sheriff shall serve on any person who has a registered judgment in the registry and who has not given an enforcement instruction to the sheriff a notice stating that:

- (a) the sheriff is in receipt of money constituting a fund relating to the judgment debtor;
- (b) all enforcement charges affecting property disposed of by the sheriff are released by the disposition; and
- (c) the fund remaining after satisfaction of the claims mentioned in subsection 110(1) and clauses 110(3)(a) to (h) will be distributed only to judgment creditors who become enforcing judgment creditors before the end of the period mentioned in subsection 108(1), (2) or (3), as the case may be.

Distribution

110(1) The fees and costs of a sheriff and a receiver incurred in carrying out enforcement measures constitute a claim having priority over any other claim.

(2) The claim for fees and costs mentioned in subsection (1) may be satisfied by payment from the fund to which the fees and costs are related to the sheriff, receiver, judgment creditor or other person who paid the fees and costs.

(3) Except as otherwise provided, and subject to any entitlement of a person other than a judgment creditor to money in a fund, the fund constituted pursuant to this Part remaining after payment of the fees and costs mentioned in subsection (1) shall be distributed in the following order:

- (a) 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;
- (b) the amount of taxable court costs, other than fees and costs described in subsection (1) or clause (a), incurred in applications to the court, including interpleader proceedings, that resulted in money being paid into the fund, which amount shall be paid to the judgment creditor or other person who paid the costs;
- (c) the amount of taxable court costs ordered by the court to be paid out of the fund pursuant to subsection 111(16);
- (d) the amount recovered in relation to a judgment that, pursuant to any other Act or law, is given priority over all judgments mentioned in this section, which amount shall be paid to the person who obtained the judgment;
- (e) the amount recoverable by judgment creditors who were parties to interpleader proceedings, to the extent of the sum received by the sheriff as a result of the proceedings;

- (f) the prescribed amount, or any other amount that a court may order, which shall be paid to each judgment creditor who gave an enforcement instruction that led directly to receipt by the sheriff of money in the fund;
 - (g) the amount recoverable of each judgment with respect to which the sheriff has a subsisting enforcement instruction at the end of the period mentioned in section 108;
 - (h) any amount remaining, which, unless it has been seized by the sheriff, shall be paid to the person entitled to it.
- (4) If the amount of the fund mentioned in a clause of subsection (3) is inadequate to discharge the total amounts payable to persons mentioned in that clause, the amount shall be allocated to each person in the proportion that the person's entitlement bears to the total of all entitlements that should be considered in relation to the available amount pursuant to that clause.
- (5) A sheriff may serve a written demand on each judgment creditor, or other person entitled to or claiming an interest in the fund, to provide the following information, by affidavit, in the prescribed form:
- (a) the amount recoverable under the judgment creditor's judgment or the amount and basis of the person's claim;
 - (b) any amount paid in full or partial satisfaction of an amount recoverable after an enforcement instruction relating to the judgment has been given to the sheriff;
 - (c) the factual basis of a claim to a priority in the distribution of money in the fund;
 - (d) any other information required by the sheriff to discharge the sheriff's obligations pursuant to this Part.
- (6) A person who fails to respond to a demand made pursuant to subsection (5) within 10 days after the date on which the demand is served is presumed to have waived a right to share in the distribution of the fund to which the demand relates.
- (7) If information provided to the sheriff pursuant to subsection (5) is incorrect:
- (a) a distribution is not invalidated; and
 - (b) the sheriff incurs no liability for making a distribution in reliance on it.
- (8) On application to the court by a person affected, the court may direct the entry of judgment in favour of the applicant against a judgment creditor or other person who provided inaccurate information in response to a demand from a sheriff pursuant to subsection (5):
- (a) in the amount the judgment creditor or person received under a distribution to which the judgment creditor or person was not entitled; and
 - (b) if the judgment creditor or person provided the information knowing it to be inaccurate, in any additional amount by way of punitive damages as the court considers appropriate.

Objection to distribution

111(1) On the expiry of the relevant period mentioned in section 108, the sheriff shall prepare a distribution statement in the prescribed manner describing the intended manner of distribution of the fund.

(2) If the cumulative amount of entitlements to money in the fund as set out in subsection 110(3) exceeds the funds available for distribution, the sheriff shall serve a copy of the distribution statement on:

- (a) the judgment debtor;
- (b) all enforcing judgment creditors; and
- (c) any person with a security interest in property that has given rise to the fund whose interest has been affected by disposition of the property or will be affected by distribution of the fund if, before the expiry of the period mentioned in section 108:
 - (i) in the case of a security interest in personal property, the person has perfected the security interest within the meaning of *The Personal Property Security Act, 1993*; and
 - (ii) in the case of land, the person has registered an interest in the land in the land titles registry.

(3) A person who, pursuant to the distribution described in the distribution statement, would receive less than full payment of the person's claim may object to the distribution by serving a notice of objection on the sheriff:

- (a) within 10 days after the date on which the distribution statement was served; or
- (b) within any further time that the court may order.

(4) A judgment debtor may object to a distribution described in a distribution statement served pursuant to subsection (2) by serving a notice of objection on the sheriff:

- (a) within 10 days after the date on which the distribution statement was served; or
- (b) within any further time that the court may order.

(5) A notice of objection served in accordance with subsection (3) or (4) must state the reason for the objection.

(6) A notice of objection may state an objection to the amount of the fund allocated to a person in the distribution statement or to a person's entitlement to participate, but may not raise substantive grounds of defence to an action on which the judgment is based, or grounds for the appeal of such a judgment.

(7) A notice of objection is effective if it complies with subsections (5) and (6) and is served within the required period.

(8) If a notice of objection correctly asserts that a distribution statement discloses an error in calculation or a clerical error, the sheriff may amend the distribution statement accordingly.

(9) If the sheriff does not receive an effective notice of objection, the sheriff shall proceed to distribute the fund as provided in the distribution statement.

(10) A sheriff who receives an effective notice of objection may, on the expiry of 10 days from the date the distribution statement was served pursuant to subsection (2), or any further time that the court may order, distribute, in accordance with the distribution statement or amended distribution statement, as much of the fund as can be distributed without precluding recognition of the objection asserted in the notice in a subsequent or final distribution.

(11) A sheriff who receives an effective notice of objection from a person other than the judgment debtor shall proceed to distribute the fund unless, before the expiry of 30 days from the date the distribution statement was served pursuant to subsection (2), the sheriff is served with a notice of motion commencing an application to the court for an order determining the validity of the objection.

(12) On the expiry of the time specified in subsection (3) or (4), as the case may be, a person named in a distribution statement who has not served a notice of objection, or, in the case of a person other than the judgment debtor, has served a notice but has not made an application to the court as provided in subsection (11), is deemed to have consented to the terms of the distribution statement.

(13) If an effective notice of objection has been served by the judgment debtor and the sheriff has determined that the objection is valid, the sheriff shall serve a notice to that effect on any person affected by the determination of the objection.

(14) A person affected by a notice of objection served by a judgment debtor who does not make an application to the court within 10 days after the date on which the notice mentioned in subsection (13) is served is deemed to have accepted the validity of the objection.

(15) In an application mentioned in subsection (11) or (14) or in an application by the sheriff or the judgment debtor, the court may:

- (a) confirm the contents of a distribution statement; or
- (b) order the sheriff to amend a distribution statement.

(16) On making an order pursuant to subsection (15), the court may:

- (a) if the application is successful, order that the costs of the application be paid to the applicant out of the fund;
- (b) if the application is not successful, order the applicant to pay the costs of the proceedings and any additional amount to a person affected as the court determines is appropriate to compensate for costs incurred and loss suffered due to a delay in distribution of the fund caused by the application; and
- (c) if the court finds that an objection was made by a judgment debtor in bad faith, order that judgment be entered against the judgment debtor in favour of a person affected in an amount that the court determines is appropriate to compensate for costs incurred and loss suffered due to a delay in distribution of the fund caused by the application to the court.

(17) Unless the court orders otherwise, notice of an application made pursuant to this section shall be served on the persons on whom a distribution statement must be served pursuant to subsection (2).

PART XIII
General

Appeal

112(1) An order of the court made pursuant to this Act may be appealed to the Court of Appeal with leave of a judge of the Court of Appeal.

(2) An application for leave to appeal pursuant to subsection (1) must be made within 15 days after the date of the order for which leave to appeal is being sought or within any further time that a judge of the Court of Appeal may allow.

Interest on judgments

113(1) Every judgment shall carry interest at the prescribed rate from the time of entry of the judgment until the judgment is satisfied.

(2) For the purposes of enforcing a judgment pursuant to this Act, interest at the rate mentioned in subsection (1) is included in the judgment.

General supervisory power of court

114 On an application of a sheriff, a receiver, a judgment creditor, a judgment debtor, a dependant of a judgment debtor or a person with an interest in property affected by an enforcement measure pursuant to this Act, the court may make one or more of the following orders:

- (a) any order that is necessary to ensure compliance with this Act or to facilitate enforcement of a judgment, including a binding declaration of a right and an order for injunctive relief;
- (b) an order giving directions to any person regarding the exercise of rights or the discharge of duties or functions pursuant to this Act;
- (c) an order temporarily staying the enforcement or exercise of rights provided in this Act;
- (d) an order directing a police authority with jurisdiction in the locality where an enforcement measure is or will be carried out to take appropriate steps to protect the sheriff, or a person executing functions delegated to that person by the sheriff, while taking the enforcement measure;
- (e) an order to ensure protection of the interest of any person in property;
- (f) an order extending the time for doing anything that, pursuant to this Act, is to be done within a specified period;
- (g) an order requiring a person to pay costs incurred in connection with actions performed or proceedings taken pursuant to this Act;
- (h) an order directing the reinstatement of a person or any other remedy as may be appropriate when the court finds that the principal reason for the person's dismissal, layoff or demotion or for the limitation of the person's opportunity to work was the seizure of the person's employment remuneration pursuant to this Act;
- (i) an order determining priorities between enforcement charges and security interests.

Standard of conduct

115 Any person authorized by this Act to perform a function or duty or exercise a right or power, including a sheriff and a receiver, shall do so in good faith and in a commercially reasonable manner.

Interference with the sheriff, receiver, etc.

116(1) On application, the court may order that judgment be entered in favour of a person affected against any person who, without lawful justification or reasonable belief of lawful justification, interfered with or delayed the performance of a function pursuant to this Act by a sheriff, an agent of a sheriff, a receiver, a judgment creditor or an agent of a judgment creditor, in an amount equal to:

- (a) any additional costs incurred by the applicant, the sheriff, an agent of the sheriff, a receiver, a judgment creditor or an agent of the judgment creditor as a result of the interference or delay;
- (b) the value of exigible property that could have been seized or sold if the interference or delay had not occurred; and
- (c) costs of the application.

(2) No person shall, without lawful justification or reasonable belief of lawful justification, interfere with or hinder a sheriff, an agent of a sheriff or a receiver in carrying out functions pursuant to this Act.

Liability for failure to comply with Act

117 On application, the court may order that judgment be entered in favour of a person who has suffered loss or damage as a result of another person's failure, without lawful justification or reasonable belief of lawful justification, to comply with this Act:

- (a) in a prescribed amount as deemed damages;
- (b) in any further amount as is appropriate to compensate for the loss or damage; and
- (c) in an amount equal to the costs of the application.

Crown bound

118(1) Subject to section 120, the Crown is bound by this Act in exercising any rights or remedies as an enforcing judgment creditor.

(2) The Crown is otherwise bound by this Act only where expressly stated.

(3) Notwithstanding subsections (1) and (2), nothing in this Act:

- (a) prevents the Crown from collecting a debt through proceedings otherwise available to the Crown under its prerogative, at law, or pursuant to any other enactment;
- (b) requires the Crown to disclose any information that is required to be held in confidence pursuant to section 70 of *The Revenue and Financial Services Act*; and
- (c) requires the Crown to disclose personal information that is protected from disclosure pursuant to *The Freedom of Information and Protection of Privacy Act* or *The Health Information Protection Act*.

What constitutes knowledge

119 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 is delivered in writing to the corporation's registered office or attorney for service; and
- (d) 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.

Conflict with any other Act

120(1) In this section, "**other Act**" means an Act providing for the enforcement of a judgment, including an order for child or spousal maintenance or support.

(2) If there is a conflict between any provision of this Act and any other Act, the other Act prevails over the provision of this Act.

Service

121(1) Subject to subsection (2) and except where otherwise provided in this Act, 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 the 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 where, 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.

Offences and penalties

122(1) Every person who contravenes subsection 4(4), 15(3) or 116(2) is guilty of an offence and liable on summary conviction:

- (a) for a first offence:
 - (i) in the case of an individual, to a fine of not more than \$1,500; and
 - (ii) in the case of a corporation, to a fine of not more than \$10,000; and
 - (b) for a second or subsequent offence:
 - (i) in the case of an individual, to a fine of not more than \$10,000; and
 - (ii) in the case of a corporation, to a fine of not more than \$100,000.
- (2) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the corporation has been prosecuted or convicted.

Limitation on prosecution

123 No prosecution for a contravention of this Act is to be commenced more than two years after the date on which the offence is alleged to have been committed.

Immunity

124(1) Subject to subsection (2), no action or proceeding lies or shall be commenced against the Crown, the minister, a sheriff, the Registrar of Titles, the Registrar of Personal Property Security or the Information Services Corporation if that person is acting pursuant to the authority of this Act or the regulations, 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.

(2) Sections 52 and 54 of *The Personal Property Security Act, 1993* apply to any registrations made in the registry.

Regulations

125 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) for the purposes of subclause 2(1)(c)(vi), prescribing any other amount to be included in the definition of amount recoverable;
- (c) for the purposes of clause 2(1)(ff), prescribing additional amounts to be deducted from the employment remuneration of the judgment debtor;
- (d) for the purposes of section 4:
 - (i) respecting who the sheriff may authorize to perform a function pursuant to that section, including placing limits on the functions that may be performed by a person authorized by the sheriff; and
 - (ii) respecting the entry into agreements by the sheriff respecting an authorization pursuant to that section on any terms and conditions that the sheriff considers necessary;
- (e) prescribing an amount for the purpose of clauses 72(6)(a), 94(7)(c) and 107(5)(e), subsection 108(2) and clauses 110(3)(f) and 117(a);
- (f) respecting the examinations to be conducted pursuant to section 14, including:
 - (i) the persons who may be examined;
 - (ii) the time and place of an examination;
 - (iii) the persons before whom an examination may be conducted;
 - (iv) the procedure with respect to the conduct of an examination;

- (v) the expenses to be paid to the judgment debtor;
- (vi) the assessment of costs against the judgment debtor;
- (vii) the frequency of examination of a judgment debtor; and
- (viii) prescribing further information to be provided by a person who conducts an examination, including to whom the information is to be provided and the manner in which that information is to be provided;
- (g) prescribing the manner in which a judgment creditor may register a judgment in the registry, including the manner in which exigible property of the judgment debtor must be described;
- (h) prescribing any forms required for the purposes of this Act;
- (i) prescribing the form in which information required by this Act is to be provided;
- (j) for the purposes of subclause 31(1)(a)(vii), prescribing additional information to be included in an enforcement instruction;
- (k) for the purposes of clause 31(1)(g), prescribing additional information or documentation that must be provided to the sheriff by a judgment creditor initiating enforcement measures;
- (l) respecting the name of the judgment debtor to be used for the purposes of subclause 31(1)(a)(i);
- (m) prescribing additional information that must be included in a written notice for the purposes of subclause 90(2)(a)(iv);
- (n) for the purposes of section 93:
 - (i) prescribing an amount that any property held as exempt pursuant to clauses 93(1)(a) to (m) shall not exceed;
 - (ii) prescribing additional property or categories of property as exempt for the purposes of subsection 93(1), including prescribing an amount that the property held as exempt shall not exceed;
 - (iii) respecting the application of Part X to property held as exempt pursuant to subsection 93(1) and the limits imposed pursuant to subclauses (i) and (ii);
- (o) for the purposes of section 95, prescribing the amount of employment remuneration that is exempt from seizure;
- (p) respecting the exemption set out in section 96;
- (q) prescribing the manner of disposition of certain property for the purposes of clause 98(1)(b);

- (r) prescribing any other Act for the purposes of clause 107(5)(a);
- (s) prescribing additional information to be included in a notice of disposition of seized property;
- (t) prescribing the manner in which a distribution statement is to be prepared by the sheriff;
- (u) prescribing the sheriffs' enforcement services for which a sheriff is entitled to claim fees and costs and the amount of those fees and costs;
- (v) respecting the management of funds constituted pursuant to section 107 by the sheriff before distribution;
- (w) prescribing a rate of interest for the purposes of section 113;
- (x) respecting the service of documents;
- (y) authorizing the Registrar of Personal Property Security or the Registrar of Titles to take any steps deemed necessary with respect to a registration in the personal property registry, the land titles registry or the registry;
- (z) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (aa) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART XIV Transitional and Conversion

Interpretation of Part

126 In this Part:

- (a) **“former Act”** means *The Absconding Debtors Act, The Attachment of Debts Act, The Creditors' Relief Act, The Executions Act or The Exemptions Act*;
- (b) **“former law”** means the law in force on the day before section 1 of this Act comes into force.

Application of Part

127 This Part applies, with any necessary modification, to any process issued pursuant to the *Federal Court Act* (Canada) for the purposes of enforcing a judgment.

Registration of former judgment

128(1) Except as otherwise provided in this Part, a judgment issued before section 1 of this Act comes into force that is registered as provided in Part IV is deemed to be a judgment to which this Act applies.

(2) Without limiting the generality of subsection (1), and subject to subsection (3), a writ of execution against goods issued on a judgment that was issued before section 1 of this Act comes into force and registered as provided in section 2.2 of *The Executions Act* is deemed to be an enforcement charge to which this Act applies, except as otherwise provided in this Part.

(3) Subsection (2) does not apply to a writ of execution and is deemed to have never applied to a writ of execution if:

(a) the judgment creditor named on a writ of execution serves a notice on the registry, in the prescribed form, stating that subsection (2) does not apply to the writ of execution; and

(b) the notice mentioned in clause (a) is served on the registry before the expiry of 60 days from the day on which section 1 of this Act comes into force.

(4) Without limiting the generality of subsection (1), a maintenance order that was issued and registered in the personal property registry before section 1 of this Act came into force is deemed to be an enforcement charge to which this Act applies, except as otherwise provided in this Part.

Court orders

129(1) Subject to section 133 and subsections (2) and (3), an order of the court made before section 1 of this Act comes into force that relates to judgment enforcement continues in force and may be enforced and otherwise dealt with as if made pursuant to this Act as far as it is reasonable to do so.

(2) Unless the court orders otherwise in an application made pursuant to section 72, the former law continues to apply to a receivership order made before section 1 of this Act comes into force.

(3) Unless the court orders otherwise in an application made pursuant to Part II, the former law continues to apply to an injunction or other equitable relief in the form of a *mareva* injunction or otherwise granted before section 1 of this Act comes into force.

Writs of execution re personal property

130(1) Except as otherwise provided in this Part, if a writ of execution affecting personal property was issued and delivered to the sheriff before section 1 of this Act comes into force, it ceases to have any effect on the day that section 1 of this Act comes into force.

(2) After section 1 of this Act comes into force, the former law continues to govern the binding effect of the writ mentioned in subsection (1) and the effect of registration of the writ pursuant to section 2.2 of *The Executions Act* with respect to rights arising before section 1 of this Act comes into force.

(3) If the sheriff has seized property under a writ of execution mentioned in subsection (1) before section 1 of this Act comes into force, subject to section 135, the former law continues to apply to the extent necessary to permit the sheriff to complete the execution.

(4) Subsections (1) to (3) apply to a writ of execution based on a maintenance order affecting personal property.

Writs of execution re land

131(1) If an interest based on a writ of execution affecting land is registered in the land titles registry as provided by *The Land Titles Act, 2000* before section 1 of this Act comes into force:

- (a) the writ of execution continues in force; and
- (b) subject to section 135, the provisions of the former law continue to apply to the extent necessary to permit the sheriff to complete the execution.

(2) The former law applies to an interest in land acquired before section 1 of this Act comes into force that came into existence before, or was subject to a lien and charge as provided in section 22 of *The Executions Act* or section 173 of *The Land Titles Act, 2000* when, section 1 of this Act came into force.

(3) Subsections (1) and (2) apply to a writ of execution based on a maintenance order affecting land.

Conversion of writs of execution re land

132(1) An interest based on a writ of execution affecting land that is registered in the land titles registry before section 1 of this Act comes into force is deemed to be an interest that creates an enforcement charge pursuant to subsection 173(1) of *The Land Titles Act, 2000*.

(2) An interest based on a maintenance order affecting land that is registered in the land titles registry before section 1 of this Act comes into force is deemed to be an interest that creates an enforcement charge pursuant to subsection 173(1) of *The Land Titles Act, 2000*.

Garnishment and attachment

133 The former law applies to garnishment or attachment and the rights of persons affected by garnishment or attachment of a debt due, accruing due or payable or any right to payment that is bound by a garnishee summons issued before section 1 of this Act comes into force.

Preservation of priority rights re collateral

134 Subsection 20(1) of *The Personal Property Security Act, 1993*, as that subsection existed on the day before the coming into force of section 1 of this Act, continues to apply after section 1 of this Act comes into force to collateral that was seized under the former law to enforce a judgment that was issued before section 1 of this Act comes into force.

Proceeds of enforcement

135 Money levied as provided in section 6, 7 or 31 of *The Creditors' Relief Act* or paid to a sheriff for distribution pursuant to that Act that has not been distributed pursuant to that Act before section 1 of this Act comes into force shall constitute a fund or part of a fund pursuant to section 107.

Regulations to facilitate conversion

136(1) Notwithstanding any other provision of this Act or any other Act or law, the Lieutenant Governor in Council may make regulations for the purposes of this Part:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act, including words or expressions defined in this Act, and defining, enlarging or restricting the meaning of any word or expression differently for different provisions in this Act;
 - (b) suspending the application of any provision of this Act or of any other Act or law that deals with matters regulated by this Act;
 - (c) prescribing new or additional procedures and requirements that must be complied with to effect a registration of a judgment pursuant to this Act;
 - (d) exempting any person or category of persons from complying with all or any provision of this Act or any other Act or law that deals with matters regulated by this Act and prescribing terms and conditions that the person or category of persons must comply with to be eligible for exemption;
 - (e) amending or varying the rules respecting priority of enforcement charges;
 - (f) declaring that provisions of a former Act apply to enforcement charges;
 - (g) authorizing the Registrar of Personal Property Security or the Registrar of Titles to take any steps deemed necessary with respect to a registration in the personal property registry, the land titles registry or the registry;
 - (h) respecting any additional matter or thing that the Lieutenant Governor in Council considers necessary to facilitate the conversion process pursuant to this Act.
- (2) Subject to subsection (3), if there is any conflict between the regulations made pursuant to this section and any other Act or law, the regulations made pursuant to this section prevail.
- (3) If there is any conflict between regulations made pursuant to this section and regulations made pursuant to section 125 after the regulations made pursuant to this section are enacted, the regulations made pursuant to section 125 prevail.
- (4) Regulations made pursuant to this section may be made retroactive to a day not earlier than the day on which section 1 of this Act comes into force.

PART XV
Consequential

DIVISION 1
General

References in other enactments

137(1) In this section:

- (a) **“enactment”** means an Act or a regulation as defined in *The Interpretation Act, 1995*;
 - (b) **“former Act”** means *The Absconding Debtors Act, The Attachment of Debts Act, The Creditors’ Relief Act, The Executions Act* or *The Exemptions Act*.
- (2) This section applies to any enactment insofar as that other enactment permits or requires something to be done that is governed by this Act.
- (3) When applying another enactment to a matter governed by this Act:
- (a) a reference in that other enactment to a former Act is deemed to be a reference to this Act;
 - (b) a reference in that other enactment to seizure under a writ of execution, writ of *fieri facias* or a similar term or process is deemed to be a reference to the enforcement of a judgment by seizure;
 - (c) a reference in that other enactment to garnishment of debts or attachment of debts or a similar term or process is deemed to be a reference to the enforcement of a judgment by seizure;
 - (d) a reference in that other enactment to equitable execution or a charging order or a similar term or process is deemed to be a reference to the enforcement of a judgment by seizure;
 - (e) a reference in that other enactment to distress, other than distress for rent by a landlord, is deemed to be a reference to the enforcement of a judgment by seizure; and
 - (f) a reference in that other enactment to a procedure in a former Act is to be adapted as far as it can be adapted to conform to a procedure established in this Act, and the procedure established in this Act must be followed as far as it can be adapted.

DIVISION 2
The Arbitration Act, 1992

S.S. 1992, c.A-24.1, section 57 amended

138 Subsection 57(2) of *The Arbitration Act, 1992* is amended by striking out “section 30 of *The Executions Act*” and substituting “*The Enforcement of Money Judgments Act*”.

DIVISION 3
The Assignment of Wages Act

R.S.S. 1978, c.A-30 amended

139 *The Assignment of Wages Act* is amended in the manner set out in this Division.

Section 5 amended

140 **Subsection 5(1) is amended by striking out** “under subsection 22(2) of *The Attachment of Debts Act*” **and substituting** “pursuant to sections 95 and 96 of *The Enforcement of Money Judgments Act*”.

Section 6 amended

141 **Subsection 6(1) is amended by striking out** “under subsection (2) of section 22 of *The Attachment of Debts Act*” **and substituting** “pursuant to sections 95 and 96 of *The Enforcement of Money Judgments Act*”.

DIVISION 4
The Builders' Lien Act

S.S. 1984-85-86, c.B-7.1 amended

142 *The Builders' Lien Act* is amended in the manner set out in this Division.

Section 15 amended

143 **Section 15 is amended by adding** “seizures,” **after** “judgments,”.

Section 70 amended

144 **Subsection 70(1) is amended by adding** “seizures,” **after** “judgments,”.

DIVISION 5
The Cemeteries Act, 1999

S.S. 1999, c.C-4.01, section 49 amended

145 **Section 49 of *The Cemeteries Act, 1999* is amended by striking out** “under a writ of execution” **and substituting** “pursuant to *The Enforcement of Money Judgments Act*”.

DIVISION 6
The Cities Act

S.S. 2002, c.C-11.1, section 315 amended

146(1) Section 315 of *The Cities Act* is amended in the manner set out in this section.

(2) Subsection (1) is amended:

(a) **by striking out** “A writ of execution” **and substituting** “A judgment”;
and

(b) **by striking out** “the writ” **and substituting** “the judgment”.

- (3) Subsection (2) is amended:
 - (a) by striking out “writ” and substituting “judgment”; and
 - (b) by striking out “execution” and substituting “judgment”.
- (4) Subsection (3) is amended in the portion preceding clause (a):
 - (a) by striking out “execution” and substituting “judgment”; and
 - (b) by striking out “writ” and substituting “judgment”.
- (5) Subclause (4)(b)(i) is amended by striking out “writ” and substituting “judgment”.
- (6) Clause (5)(c) is amended by striking out “execution” and substituting “judgment”.
- (7) Subsection (6) is amended by striking out “execution and all fees on the execution” and substituting “judgment and all fees and costs related to it”.
- (8) Subsection (7) is amended:
 - (a) in the portion preceding clause (a) by striking out “an execution” and substituting “a judgment enforcement”; and
 - (b) in clause (a) by striking out “writ” and substituting “judgment”.

DIVISION 7

The Condominium Property Act, 1993

S.S. 1993, c.C-26.1 amended

147 *The Condominium Property Act, 1993* is amended in the manner set out in this Division.

Section 2 amended

148 Subclause 2(1)(n.2)(x) is amended by striking out “writ of execution” and substituting “judgment”.

Section 107 amended

149 Section 107 is amended by striking out “paragraph 10 of section 2 of *The Exemptions Act*” and substituting “clause 93(1)(k) of *The Enforcement of Money Judgments Act*”.

Section 109 amended

150 Section 109 is amended by striking out “a writ of execution respecting”.

DIVISION 8

The Controverted Municipal Elections Act

R.S.S. 1978, c.C-33, section 34 amended

151 Section 34 of *The Controverted Municipal Elections Act* is amended by striking out “by writs of execution” and substituting “as a judgment of the court”.

DIVISION 9
The Crown Minerals Act

S.S. 1984-85-86, c.C-50.2, section 16.01 amended

152 The following subsections are added after subsection 16.01(2) of *The Crown Minerals Act*:

“(3) Notwithstanding *The Enforcement of Money Judgments Act*, amounts owed pursuant to this Act have priority over the claims of all enforcing judgment creditors, whether or not the Crown is also an enforcing judgment creditor with respect to those amounts.

“(4) In subsection (3), ‘**enforcing judgment creditor**’ means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*”.

DIVISION 10
The Financial Administration Act, 1993

S.S. 1993, c.F-13.4, section 42 amended

153 Subsection 42(1) of *The Financial Administration Act, 1993* is amended by adding “*The Enforcement of Money Judgments Act* or” after “Notwithstanding”.

DIVISION 11
The Fraudulent Preferences Act

R.S.S. 1978, c.F-21 amended

154 *The Fraudulent Preferences Act* is amended in the manner set out in this Division.

Section 6 amended

155 Section 6 is amended by adding “seizure,” after “judgment,”.

Section 13 amended

156(1) Subsection 13(2) is repealed and the following substituted:

“(2) If the proceeds are seizable pursuant to *The Enforcement of Money Judgments Act*, the proceeds may be seized and distributed among creditors pursuant to that Act”.

(2) Subsection 13(3) is amended by striking out “Whether the proceeds are or are not of a character seizable under execution” and substituting “Whether or not the proceeds are seizable pursuant to *The Enforcement of Money Judgments Act*”.

DIVISION 12
The Freehold Oil and Gas Production Tax Act

S.S. 1982-83, c.F-22.1 amended

157 *The Freehold Oil and Gas Production Tax Act* is amended in the manner set out in this Division.

Section 10.1 amended

158 The following subsections are added after subsection 10.1(2):

“(3) Notwithstanding *The Enforcement of Money Judgments Act*, amounts owed pursuant to this Act have priority over the claims of all enforcing judgment creditors, whether or not the Crown is also an enforcing judgment creditor with respect to those amounts.

“(4) In subsection (3), ‘**enforcing judgment creditor**’ means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*”.

Section 32.5 amended

159 The following subsections are added after subsection 32.5(2):

“(3) Notwithstanding *The Enforcement of Money Judgments Act*, amounts owed pursuant to this Act have priority over the claims of all enforcing judgment creditors, whether or not the Crown is also an enforcing judgment creditor with respect to those amounts.

“(4) In subsection (3), ‘**enforcing judgment creditor**’ means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*”.

DIVISION 13
The Highways and Transportation Act, 1997

S.S. 1997, c.H-3.01, section 38 amended

160 Subsection 38(6) of *The Highways and Transportation Act, 1997* is amended by striking out “under writs of execution” and substituting “under judgment enforcement”.

DIVISION 14
The Homesteads Act, 1989

S.S. 1989-90, c.H-5.1, section 19 amended

161(1) Section 19 of *The Homesteads Act, 1989* is amended in the manner set out in this section.

(2) Subsection (1) is amended by striking out “section 6 of *The Exemptions Act*” and substituting “section 87 of *The Enforcement of Money Judgments Act*”.

(3) Subsection (2) is amended by striking out “under execution”.

DIVISION 15
The Hotel Keepers Act

R.S.S. 1978, c.H-11, new section 13

162 Section 13 of *The Hotel Keepers Act* is repealed and the following substituted:

“Judgment enforcement exemptions do not apply

13 Property exempt from seizure under judgment enforcement is not exempt from seizure when the judgment being enforced is a judgment obtained by a hotel, boarding house or lodging house keeper with respect to an indebtedness incurred for board or lodging supplied by that hotel, boarding house or lodging house keeper”.

DIVISION 16
The Income Tax Act

R.S.S. 1978, c.I-2, section 36 amended

163 Section 36 of *The Income Tax Act* is amended by striking out “a writ of execution issued out of the court” and substituting “enforcement instructions for a judgment”.

DIVISION 17
The Income Tax Act, 2000

S.S. 2000, c.I-2.01 amended

164 *The Income Tax Act, 2000* is amended in the manner set out in this Division.

Section 114 amended

165 Subsection 114(2) is amended by striking out “a writ of execution issued out of the court” and substituting “enforcement instructions for a judgment”.

New section 114.1

166 The following section is added after section 114:

“Priority re amounts owed

114.1(1) In this section, ‘**enforcing judgment creditor**’ means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*.

(2) Notwithstanding *The Enforcement of Money Judgments Act*, amounts owed to the Crown pursuant to this Act have priority over the claims of all enforcing judgment creditors, whether or not the Crown is also an enforcing judgment creditor with respect to those amounts”.

DIVISION 18
The Labour Standards Act

R.S.S. 1978, c.L-1 amended

167 *The Labour Standards Act* is amended in the manner set out in this section.

New section 55.1

168 **Section 55.1 is repealed and the following substituted:**

“Dispute of liability by third party

55.1(1) If a third party disputes his or her liability to an employer, the third party may apply to a judge of the Court of Queen’s Bench to set aside the third party demand, and the application is deemed to be an application pursuant to section 66 of *The Enforcement of Money Judgments Act*.

(2) For the purposes of subsection (1):

- (a) the third party demand is deemed to be a notice of a seizure of an account;
- (b) the third party is deemed to be an account debtor;
- (c) the director, acting on behalf of employees, is deemed to be a judgment creditor; and
- (d) the employer is deemed to be a judgment debtor.

(3) Part VII of *The Enforcement of Money Judgments Act* applies, with any necessary modification, when a third party disputes his or her liability pursuant to subsection (1)”.

Section 56 amended

169 **Subsection 56(1.2) is amended by adding “enforcement charge, judgment,” after “charge,”.**

New section 81

170 **Section 81 is repealed and the following substituted:**

“Prohibition against discharging employee for garnishee proceedings

81 No employer shall discharge or lay off any employee by reason of the fact alone that a notice of a seizure of an account issued pursuant to *The Enforcement of Money Judgments Act* or a notice of continuing garnishment or notice of garnishment pursuant to *The Enforcement of Maintenance Orders Act, 1997* was served on the employer with respect to that employee”.

DIVISION 19
The Land Titles Act, 2000

S.S. 2000, c.L-5.1 amended

171 *The Land Titles Act, 2000* is amended in the manner set out in this section.

Section 2 amended

172 **Subsection 2(1) is amended:**

- (a)** by repealing subclause (b)(vi);
- (b)** in subclause (b)(vii) by striking out “, the abstract directory or the writ registry” and substituting “or the abstract directory”;
- (c)** by repealing subclause (j)(i) and substituting the following:
 - “(i) in the case of a judgment, the execution creditor named in the judgment”;
- (d)** by repealing subclause (m)(i) and substituting the following:
 - “(i) in the case of a judgment, the execution debtor named in the judgment”;
- (e)** by adding the following after clause (t):
 - “(t.1) ‘**judgment**’ means a judgment as defined in *The Enforcement of Money Judgments Act*;
 - “(t.2) ‘**judgment registry**’ means the registry as defined in *The Enforcement of Money Judgments Act*”;
- (f)** by repealing clause (u.1) and substituting the following:
 - “(u.1) ‘**land registry**’ means the land titles registry, the abstract directory and the grant directory”; and
- (g)** by repealing subclauses (nn)(vi) and (vii).

Section 3 amended

173 **Subsection 3(2) is amended by striking out** “insofar as a writ or maintenance order has effect or may have effect in that area”.

Section 4 amended

174 **Clause 4(4)(b) is amended by striking out** “writ” and substituting “judgment”.

Section 47 amended

175 **Clause 47(3)(c) is repealed and the following substituted:**

- “(c) any interest based on a judgment that is registered in the judgment registry in accordance with *The Enforcement of Money Judgments Act* and Part XVIII where there is an exact match between:
 - (i) the name of the judgment debtor; and
 - (ii) the name of the registered owner on the new title”.

Section 53 amended**176 Subsection 53(2) is repealed and the following substituted:**

“(2) Where permitted by law, an interest registered pursuant to subsection (1) is subject to any interest based on a judgment that is registered in the judgment registry in accordance with *The Enforcement of Money Judgments Act* and Part XVIII where there is an exact match between:

- (a) the name of the judgment debtor; and
- (b) the name of the interest holder on the interest registered pursuant to subsection (1)”.

Section 60 amended**177 Clause 60(4)(b) is repealed and the following substituted:**

“(b) any interest based on a judgment that is registered in the judgment registry in accordance with *The Enforcement of Money Judgments Act* and Part XVIII where there is an exact match between:

- (i) the name of the judgment debtor; and
- (ii) the name of the interest holder on the assigned interest”.

Section 85 amended**178 Clauses 85(f) and (g) are repealed and the following substituted:**

“(f) occasioned by the failure of the Registrar to register an interest based on a judgment against a title of any registered owner or against an interest of any interest holder under a name that is different in any way from the name by which he or she is described in the judgment;

“(f.1) occasioned by an error in the registration of a judgment in the judgment registry after the coming into force of *The Enforcement of Money Judgments Act*;

“(g) occasioned by the registration by the Registrar of an interest based on a judgment against a title owned or interest held by a person who is not the person named in the judgment”.

Section 106.1 amended**179 Clause 106.1(b) is amended by striking out “, the writ registry”.****Section 117 amended****180 Clause 117(1)(b) is amended by striking out “, the writ registry”.****New section 160.2****181 Section 160.2 is repealed and the following substituted:****“Transfer of mortgage to judgment creditor**

160.2 Subject to *The Enforcement of Money Judgments Act*, a sheriff who has seized a mortgage belonging to the judgment debtor may apply to the Registrar, in the prescribed manner, to register an assignment of the mortgage to the judgment creditor, if the judgment creditor has agreed to accept the assignment at the sum actually due on and secured by the mortgage as money collected”.

New heading to Part XVIII

182 The heading following section 160.5 is struck out and the following substituted:

**“PART XVIII
Judgments and Maintenance Orders”.**

Part XVIII, Division 1 repealed

183 Division 1 of Part XVIII is repealed.

New section 165.1

184 The following section is added before section 166:

“Application

165.1(1) In this Part, **‘personal property registry’** means the Personal Property Registry continued pursuant to section 42 of *The Personal Property Security Act, 1993*.

(2) This Division continues to operate for the purpose of converting writs and maintenance orders that were filed in the general record to the writ registry, and for that purpose the definition of ‘writ’ and ‘writ registry’, as those terms were defined in this Act on the day before the coming into force of this section, continue to apply.

(3) If a writ or maintenance order is converted from the general record to the writ registry pursuant to this Division, any resulting interest registered in the writ registry, the personal property registry or the land titles registry is subject to conversion in accordance with *The Enforcement of Money Judgments Act*”.

Section 167 amended

185 Subsection 167(6) is amended by striking out “section 179” and substituting “section 173”.

Part XVIII, new Division 3

186 Division 3 of Part XVIII is repealed and the following substituted:

**“DIVISION 3
Registration of Judgments and Maintenance Orders**

“Interpretation of Division

169.1 In this Division:

- (a) **‘amount recoverable’** means amount recoverable as defined in *The Enforcement of Money Judgments Act*;
- (b) **‘enforcement charge’** means an enforcement charge created pursuant to subsection 173(1);
- (c) **‘judgment’** includes a maintenance order.

“Registration of judgment in judgment registry required

170 On or after the coming into force of section 1 of *The Enforcement of Money Judgments Act*, no interest based on a judgment is to be registered in the land titles registry until the judgment is first registered in the judgment registry.

“Request to register interest based on judgment against title or interest

171(1) After a judgment is registered in the judgment registry, an application to register an interest based on that judgment in the land titles registry may be made in accordance with section 52 and, for that purpose, Part VIII applies.

(2) The Registrar shall register an interest mentioned in subsection (1) against those titles or interests identified by the applicant.

(3) The registration of an interest pursuant to this section is effective until the registration is removed in accordance with this Act.

“Automatic registration of interest based on judgment against after-acquired title or interest

172(1) On and after the registration of a judgment in the judgment registry against the name of a debtor, any title subsequently issued, or interest subsequently registered in the land titles registry, in the exact name of the debtor must include and be subject to the registration of an interest based on the judgment.

(2) An interest registered in accordance with subsection (1) has priority against other registered interests according to the time the interest is registered against the title or interest, and not according to:

- (a) the date the judgment was issued;
- (b) the time the judgment was submitted to the judgment registry;
- (c) the time the judgment was registered in the judgment registry; or
- (d) the time the application to register an interest based on the judgment was submitted to the land titles registry.

“Effect of registration of judgment in land titles registry

173(1) After an interest based on a judgment is registered in the land titles registry against a title or against another interest, while that judgment is in force, the interest creates an enforcement charge with respect to the amount recoverable on the land included in the title or the supporting interest of the judgment debtor existing at the date of registration.

(2) An enforcement charge created pursuant to subsection (1) is an interest for the purposes of clause 14(a).

“Termination of enforcement charge

173.1(1) An enforcement charge terminates on the earliest of the following:

- (a) the date on which the registration of the interest creating the enforcement charge expires;
- (b) the date on which the registration of the interest creating the enforcement charge is discharged;
- (c) the date on which all amounts recoverable have been paid;
- (d) the date on which the judgment to which the registration of the interest relates is withdrawn or becomes otherwise unenforceable.

(2) Unless the court orders otherwise, clause (1)(d) does not apply:

- (a) to a judgment that is not enforceable as a result of:
 - (i) an order staying enforcement of the judgment; or
 - (ii) an order made pursuant to section 81 of *The Queen’s Bench Act, 1998*; or
- (b) to the extent that a charge relates to amounts mentioned in subclauses 2(1)(c)(ii) to (vi) of *The Enforcement of Money Judgments Act*.

“Priority of enforcement charge

173.2(1) Subject to subsections (2) and (3), an enforcement charge has priority over:

- (a) an unregistered interest; and
- (b) a subsequently registered interest.

(2) Section 27 applies to an interest creating an enforcement charge.

(3) Subsection 45(4) of *The Enforcement of Maintenance Orders Act, 1997* applies to an enforcement charge based on the registration of a maintenance order.

“Joint tenancy and exemptions

173.3(1) An enforcement charge applies to:

- (a) any title or interest held by joint tenancy until the joint tenancy is terminated; and
- (b) land declared by *The Enforcement of Money Judgments Act* or Part V of *The Saskatchewan Farm Security Act* to be free from seizure on a judgment.

(2) Nothing in subsection (1) authorizes the sheriff to sell any land declared by *The Enforcement of Money Judgments Act* or Part V of *The Saskatchewan Farm Security Act* to be free from seizure on a judgment.

(3) The registration in the land titles registry of an interest based on a judgment does not of itself suspend or sever a joint tenancy in any land in which the judgment debtor and another person or other persons hold title as joint tenants.

- (4) An enforcement charge against an interest or title that is held by the judgment debtor as a joint tenant with a person who is not a judgment debtor continues in effect notwithstanding the death of the judgment debtor, whether or not the joint tenancy is with survivorship.
- (5) An enforcement charge mentioned in subsection (4) affects the land only to the extent of the value, as of the date of the judgment debtor's death, of the deceased judgment debtor's interest as a severed interest.
- (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 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.
- (7) Nothing in this Part creates priority between enforcement charges, whether created pursuant to *The Enforcement of Money Judgments Act* or this Part.
- (8) The priority of an enforcement charge with respect to another interest is not affected by the application of Part XII of *The Enforcement of Money Judgments Act*.
- (9) A trustee in bankruptcy of a judgment debtor succeeds to the interest of a judgment creditor under an enforcement charge registered before invocation of the bankruptcy.

“Satisfaction or withdrawal of judgment from the judgment registry

- 174(1) If the Registrar is advised in the prescribed manner that a judgment has been satisfied or withdrawn, the Registrar may request the removal of the judgment from the judgment registry.
- (2) If a judgment is no longer in force, the Registrar may request the removal of the judgment from the judgment registry.
 - (3) Before requesting the removal of a judgment from the judgment registry pursuant to subsection (1) or (2), the Registrar shall comply with any prescribed procedures.
 - (4) If a judgment is removed from the judgment registry, any interest based on that judgment that is registered in the land titles registry must also be removed.

“Summary discharge of judgment from the land titles registry

- 175(1) On receipt of an application for registration of a discharge of an interest based on a judgment, the Registrar may discharge the registration of the interest from the land titles registry if the person making the application satisfies the Registrar that he or she is not the person named in the instrument on which the interest is based.
- (2) An application pursuant to this section must be made in the prescribed manner”.

Sections 176 to 181 repealed

187 Sections 176 to 181 are repealed.

Part XVIII, new Division 5

188 Division 5 of Part XVIII is repealed and the following substituted:

“DIVISION 5
General Rules respecting Judgments

“Order of registering interests based on judgments

183 If two or more judgments are registered in the judgment registry and are to be automatically registered in the land titles registry against the same title or interest, the judgments are to be registered in the land titles registry, as registrable interests, based on the order of registration of the judgments in the judgment registry”.

Part XVIII, Division 6 repealed

189 Division 6 of Part XVIII is repealed.

Section 187 amended

190 Subsection 187(1) is amended:

- (a) in clause (p) by striking out “writ” wherever it appears and in each case substituting “judgment”;
- (b) in clause (r) by striking out “writ” and substituting “judgment”;
- (c) in clause (cc) by striking out “writ” wherever it appears and in each case substituting “judgment”; and
- (d) in clause (ee) by striking out “writ” and substituting “judgment”.

DIVISION 20
The Landlord and Tenant Act

R.S.S. 1978, c.L-6 amended

191 *The Landlord and Tenant Act* is amended in the manner set out in this Division.

New section 40

192 Section 40 is repealed and the following substituted:

“Liability of growing crops seized and sold under judgment for accruing rent

40 If all or any part of the standing crops of the tenant of any land are seized and sold by a sheriff pursuant to *The Enforcement of Money Judgments Act*, those crops, so long as they remain on the land in default of sufficient distress of the goods and chattels of the tenant, are liable for the rent that may accrue and become due to the landlord after the seizure and sale, and to the remedies by distress for recovery of that rent, notwithstanding any bargain and sale or assignment of those crops that may have been made or executed by the sheriff”.

Section 63 repealed

193 Section 63 is repealed.

DIVISION 21
The Limitation of Civil Rights Act

R.S.S. 1978, c.L-16 amended

194 *The Limitation of Civil Rights Act* is amended in the manner set out in this Division.

Section 4 amended

195(1) Subsection 4(1) is amended:

(a) **by striking out** “a writ of execution, issued under the judgment, has been filed in the land titles office” **and substituting** “an interest based on the judgment has been registered in the land titles registry”; **and**

(b) **by striking out** “writ shall not affect any of the lands of the judgment debtor declared by *The Exemptions Act* to be free from seizure by virtue of writs of execution” **and substituting** “interest based on the judgment shall not affect any of the lands of the judgment debtor declared by *The Enforcement of Money Judgments Act* to be free from seizure”.

(2) Subsection 4(2) is amended by striking out “writ” and substituting “interest based on the judgment”.

Section 37 amended

196 Section 37 is amended:

(a) **by striking out** “*The Exemptions Act* to be free from seizure by virtue of writs of execution, no execution” **and substituting** “*The Enforcement of Money Judgments Act* to be free from seizure, no enforcement measures”; **and**

(b) **by striking out** “and execution had not issued thereunder”.

Section 38 amended

197 Subsection 38(1) is amended by striking out “execution under the judgment or, if a writ of execution has issued, staying seizure or sale thereunder, upon” **and substituting** “enforcement under the judgment on”.

DIVISION 22
The Mineral Resources Act, 1985

S.S. 1984-85-86, c.M-16.1, section 10.4 amended

198 The following subsections are added after subsection 10.4(2) of *The Mineral Resources Act, 1985*:

“(3) Notwithstanding *The Enforcement of Money Judgments Act*, amounts owed pursuant to this Act have priority over the claims of all enforcing judgment creditors, whether or not the Crown is also an enforcing judgment creditor with respect to those amounts.

“(4) In subsection (3), ‘enforcing judgment creditor’ means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*”.

DIVISION 23
The Mineral Taxation Act, 1983

S.S. 1983-84, c.M-17.1 amended

199 *The Mineral Taxation Act, 1983* is amended in the manner set out in this Division.

Section 36 amended

200 Subsection 36(1) is amended by adding "*The Enforcement of Money Judgments Act* or" after "Notwithstanding".

New section 36.1

201 The following section is added after section 36:

"Priority re amounts owed

36.1(1) In this section, '**enforcing judgment creditor**' means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*.

(2) Notwithstanding *The Enforcement of Money Judgments Act*, all amounts owed to the Crown with respect to taxes imposed by this Act, and all interest, penalties and other amounts payable pursuant to this Act with respect to those taxes:

(a) have priority over the claims of all enforcing judgment creditors of the taxpayer, whether or not the Crown is also an enforcing judgment creditor with respect to those amounts; and

(b) in the case of the assets of the taxpayer mentioned in section 36, also have the priority granted by that section".

DIVISION 24
The Municipal Board Act

S.S. 1988-89, c.M-23.2 amended

202 *The Municipal Board Act* is amended in the manner set out in this Division.

Section 20 amended

203 Subsection 20(13) is amended:

(a) by striking out "make a levy under any specified writ of execution" and substituting "take a specified judgment enforcement measure"; and

(b) by striking out "levies under writs of execution" and substituting "judgment enforcement measures".

Section 25 amended

204 Subsection 25(1) is amended by striking out "a levy be made under a writ of execution" and substituting "judgment enforcement measures be taken".

Section 55 amended

205 Subsection 55(2) is amended by striking out "writ of execution against the goods of the party required by the order to make payment issued out of Her Majesty's Court of Queen's Bench for Saskatchewan" and substituting "judgment against the goods of the party required by the order to make payment issued out of the Court of Queen's Bench".

Section 56 amended

206(1) Subsection 56(2) is amended by striking out “writ of execution issued out of Her Majesty’s Court of Queen’s Bench for Saskatchewan” and substituting “judgment issued out of the Court of Queen’s Bench”.

(2) Subsection 56(3) is amended by striking out “writ of execution issued out of Her Majesty’s Court of Queen’s Bench for Saskatchewan” and substituting “judgment issued out of the Court of Queen’s Bench”.

DIVISION 25

The Municipal Employees’ Pension Act

R.S.S. 1978, c.M-26, section 53 amended

207 Subsection 53(1) of *The Municipal Employees’ Pension Act* is amended by adding “seized,” before “attached”.

DIVISION 26

The Municipalities Act

S.S. 2005, c.M-36.1, section 353 amended

208(1) Section 353 of *The Municipalities Act* is amended in the manner set out in this section.

(2) Subsection (1) is amended:

(a) by striking out “A writ of execution” and substituting “A judgment”; and

(b) by striking out “the writ” and substituting “the judgment”.

(3) Subsection (2) is amended:

(a) by striking out “writ” and substituting “judgment”; and

(b) by striking out “execution” and substituting “judgment”.

(4) Subsection (3) is amended in the portion preceding clause (a):

(a) by striking out “execution” and substituting “judgment”; and

(b) by striking out “writ” and substituting “judgment”.

(5) Subclause (4)(b)(i) is amended by striking out “writ” and substituting “judgment”.

(6) Clause (5)(c) is amended by striking out “execution” and substituting “judgment”.

(7) Subsection (6) is amended by striking out “execution and all fees on the execution” and substituting “judgment and all fees and costs related to it”.

(8) Subsection (7) is amended:

- (a) in the portion preceding clause (a) by striking out “an execution” and substituting “a judgment enforcement”; and**
- (b) in clause (a) by striking out “writ” and substituting “judgment”.**

DIVISION 27

The New Generation Co-operatives Act

S.S. 1999, c.N-4.001, section 215 amended

209 Subsection 215(3) of *The New Generation Co-operatives Act* is amended by striking out “to attachment” and substituting “of seizure”.

DIVISION 28

The Northern Municipalities Act

S.S. 1983, c.N-5.1 amended

210 *The Northern Municipalities Act* is amended in the manner set out in this Division.

Section 130 amended

211 Subsection 130(4) is amended by striking out “attachment” and substituting “judgment enforcement”.

Section 270 amended

212(1) Subsection 270(1) is amended:

- (a) by striking out “A writ of execution” and substituting “A judgment”; and**
- (b) by striking out “the writ” and substituting “the judgment”.**

(2) Subsection 270(2) is amended:

- (a) by striking out “writ” and substituting “judgment”; and**
- (b) by striking out “execution” and substituting “judgment”.**

(3) Subsection 270(3) is amended:

- (a) by striking out “execution” and substituting “judgment”; and**
- (b) by striking out “writ” and substituting “judgment”.**

(4) Subsection 270(4) is amended by striking out “writ” and substituting “judgment”.**(5) Subsection 270(5) is amended:**

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

“(a) add a column to the tax roll headed:

‘Judgment rate in *A.B. v. The Northern Municipality of (as the case may be)*’, adding a similar column if there is more than one judgment”; **and**

- (b) in clause (c) by striking out “execution” and substituting “judgment”.**

(6) Subsection 270(6) is amended by striking out “execution” wherever it appears and in each case substituting “judgment”.

(7) Subsection 270(8) is amended:

(a) by striking out “an execution” and substituting “judgment enforcement”; and

(b) by striking out “writ” and substituting “judgment”.

DIVISION 29

The Oil and Gas Conservation Act

R.S.S. 1978, c.O-2, section 53.2 amended

213 The following subsections are added after subsection 53.2(3) of *The Oil and Gas Conservation Act*:

“(4) Notwithstanding *The Enforcement of Money Judgments Act*, amounts owed pursuant to this Act have priority over the claims of all enforcing judgment creditors, whether or not the Crown is also an enforcing judgment creditor with respect to those amounts.

“(5) In subsection (4), ‘enforcing judgment creditor’ means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*”.

DIVISION 30

The Partnership Act

R.S.S. 1978, c.P-3, section 25 amended

214 Subsection 25(1) of *The Partnership Act* is amended by striking out “A writ of execution shall not issue” and substituting “Enforcement measures shall not be taken”.

DIVISION 31

The Personal Property Security Act, 1993

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

215 *The Personal Property Security Act, 1993* is amended in the manner set out in this Division.

Section 14 amended

216 Subsection 14(2) is repealed and the following substituted:

“(2) Unless the parties otherwise agree, a secured party is released from an obligation to make future advances when the collateral becomes subject to an enforcement charge that has priority over the security interest”.

Section 20 amended

217 Subsection 20(1) is repealed.

Section 21 amended

218 Section 21 is amended in the portion preceding clause (a) by striking out “is not effective against a judgment creditor pursuant to subsection 20(1) or” and substituting “is subordinate to an enforcement charge or is not effective against”.

Section 22 repealed

219 Section 22 is repealed.

Section 35 amended

220(1) Subsection 35(5) is amended by striking out “Subject to subsection (6), the” and substituting “The”.

(2) Subsection 35(6) is repealed.

Section 36 amended

221(1) Subsection 36(7) is repealed and the following substituted:

“(7) A security interest mentioned in subsection (3) or (6) is subordinate to an enforcement charge affecting the land after the goods are affixed to the land and before an interest based on the security interest is registered in accordance with section 49”.

(2) Subsection 36(8) is amended by striking out “interest of a creditor or a sheriff” and substituting “enforcement charge”.

Section 37 amended

222(1) Subsection 37(5) is repealed and the following substituted:

“(5) A security interest mentioned in subsection (3) is subordinate to an enforcement charge affecting the land after the crops become growing crops and before an interest based on the security interest is registered in accordance with section 49”.

(2) Subsection 37(6) is amended in the portion preceding clause (a) by striking out “interest of a creditor or a sheriff” and substituting “enforcement charge”.

Section 38 amended

223(1) Subsection 38(5) is repealed and the following substituted:

“(5) A security interest mentioned in subsection (2) or (4) is subordinate to an enforcement charge if the security interest is not perfected or a registration relating to the security interest exists at the time the enforcement charge affects the whole”.

(2) Subsection 38(6) is amended by striking out “interest of a creditor or a sheriff” and substituting “enforcement charge”.

Section 55 amended

224 The following subsections are added after subsection 55(7):

“(8) Notwithstanding anything contained in this or any other Act or any agreement to the contrary, but subject to subsection (14), a debtor has the right to claim as exempt from seizure and sale under a security agreement or this Part the items of personal property that the debtor would be entitled to claim as exempt from enforcement of a money judgment pursuant to clauses 93(1)(a) to (f), (j) and (l) of *The Enforcement of Money Judgments Act* if the debtor were a judgment debtor.

“(9) On seizure of property mentioned in subsection (8), the secured party shall serve on the debtor a written notice containing:

- (a) a description of the debtor’s right:
 - (i) to claim the seized property as exempt from seizure and sale; and
 - (ii) to claim payments mentioned in subsection (13); and
- (b) a statement outlining the procedure for claiming an exemption.

“(10) Within five business days after receiving the notice mentioned in subsection (9), a debtor who intends to exercise a right of exemption shall serve on the secured party a signed notice of exemption claim.

“(11) Within 10 days after receiving a notice of exemption claim, the secured party shall:

- (a) accept or reject the claim; and
- (b) notify the debtor of the secured party’s decision.

“(12) If the secured party accepts an exemption claim, the secured party shall release the property claimed from seizure.

“(13) If an item of property that the debtor is entitled to claim as exempt as provided in subsection (8) is damaged, destroyed or expropriated, any insurance proceeds, indemnity payments or compensation payments may be claimed by the debtor as exempt property for the purpose of:

- (a) repairing the property damaged; or
- (b) replacing the destroyed or expropriated property.

“(14) Except in the case of food, clothing and bedding, nothing in subsections (8) to (13) applies to a purchase money security interest in property”.

Section 58 amended

225 Clause 58(2)(b) is amended by striking out “a writ of execution” and substituting “the enforcement of a judgment”.

Section 63 amended

226 Subsection 63(2) is amended:

- (a) by striking out “or” after clause (d); and
- (b) by adding the following clause after clause (d):

“(d.1) an order addressing a dispute arising in connection with rights mentioned in subsections 55(8) to (14)”.

DIVISION 32

The Proceedings against the Crown Act

R.S.S. 1978, c.P-27, section 19 amended

227 Subsection 19(6) of *The Proceedings against the Crown Act* is amended by adding “, seizure” after “execution”.

DIVISION 33

The Public Employees Pension Plan Act

S.S. 1996, c.P-36.2, section 23 amended

228 Subsection 23(1) of *The Public Employees Pension Plan Act* is amended by adding “seized,” before “attached”.

DIVISION 34

The Residential Tenancies Act, 2006

S.S. 2006, c.R-22.0001, new section 31

229 Section 31 of *The Residential Tenancies Act, 2006* is repealed and the following substituted:

“Security deposits not subject to enforcement measures

31 No security deposit held by a landlord for a tenant is subject to seizure, garnishment, attachment or claim by any person”.

DIVISION 35

The Revenue and Financial Services Act

S.S. 1983, c.R-22.01 amended

230 *The Revenue and Financial Services Act* is amended in the manner set out in this Division.

Section 48.1 amended

231 Section 48.1 is amended:

- (a) by repealing subsection (1) and substituting the following:

“(1) In this section:

- (a) ‘**director**’ includes a former director;
- (b) ‘**judgment**’ means a certificate that has been issued by the minister and filed with the court pursuant to section 63”;

- (b) in clause (3)(a) by striking out “writ of execution” wherever it appears and in each case substituting “judgment”;
- (c) in clause (6)(b) by striking out “writ of execution” wherever it appears and in each case substituting “judgment”;
- (d) in subsection (7) by striking out “writ of execution” and substituting “judgment”; and
- (e) in clause (10)(b) by striking out “writ of execution” wherever it appears and in each case substituting “judgment”.

New section 52.1

232 The following section is added after section 52:

“Priority re amounts owed

52.1(1) In this section, ‘**enforcing judgment creditor**’ means enforcing judgment creditor as defined in *The Enforcement of Money Judgments Act*.

(2) Notwithstanding *The Enforcement of Money Judgments Act*, amounts owed to the minister pursuant to a revenue Act:

- (a) have priority over the claims of all enforcing judgment creditors of the collector or taxpayer, whether or not the minister is also an enforcing judgment creditor with respect to those amounts; and
- (b) in the case of amounts deemed to be held in trust for Her Majesty by a collector pursuant to section 48, also have the priority granted by that section”.

DIVISION 36

The Saskatchewan Farm Security Act

S.S. 1988-89, c.S-17.1 amended

233 *The Saskatchewan Farm Security Act* is amended in the manner set out in this Division.

Section 21 amended

234(1) Subsection 21(1) is repealed and the following substituted:

“(1) Notwithstanding *The Enforcement of Money Judgments Act* or *The Land Titles Act, 2000*, no farm land shall be sold by a sheriff under judgment enforcement against lands unless, on application by the judgment creditor, the court orders that this subsection does not apply”.

(2) Subsection 21(3) is amended by striking out “section 23 of *The Executions Act*” and substituting “*The Enforcement of Money Judgments Act* or *The Land Titles Act, 2000*”.

(3) Subsection 21(4) is amended in the portion following clause (b) by striking out “execution” and substituting “judgment”.

(4) Subsection 21(7) is amended:

(a) in clause (a) by striking out “a writ of execution” and substituting “judgment enforcement”;

(b) in clause (c) by striking out “a writ of execution” and substituting “judgment enforcement”; and

(c) in clause (d) by striking out “execution creditor under a writ of execution” and substituting “judgment creditor under judgment enforcement”.

Section 66 amended

235 Section 66 is amended:

(a) in the portion preceding clause (a) by striking out “by virtue of writs of execution” and substituting “under judgment enforcement”;

(b) by repealing clauses (a) and (b) and substituting the following:

“(a) clothing, including jewelry, with a cumulative value that does not exceed the prescribed amount;

“(a.1) medical and dental aids or other devices required or ordinarily used by the farmer or a dependant of the farmer due to physical or mental disability;

“(b) household furnishings, utensils, equipment and appliances;

“(b.1) domestic animals that are kept solely as pets with a cumulative value that does not exceed the prescribed amount”;

(c) in clause (g):

(i) by striking out “, to the extent of \$4,500”; and

(ii) by adding “with a value that does not exceed the prescribed amount” after “calling or profession”;

(d) by adding the following clause after clause (g):

“(g.1) employment income in the amount set out in section 95 of *The Enforcement of Money Judgments Act*”;

(e) by adding the following after clause (j):

“(j.1) money, and property or income acquired through the investment of money:

(i) that can be separately identified as being received or as having been received by the farmer pursuant to a legal entitlement to compensation for physical or mental injury; and

(ii) that is being used or will be used to meet the reasonable and ordinary living expenses of the farmer and his or her dependants or to provide medical or other care facilities for the farmer or his or her dependants;

“(j.2) prepaid funeral services for, or a burial plot intended for the interment of, the farmer, a dependant of the farmer or a member of the farmer’s family”;

and

(f) by adding the following clause after clause (l):

“(l.1) property of the farmer that is of such a low value that the sheriff believes that the costs of seizure and sale are likely to be approximately equal to or greater than the amount of the proceeds that will be available for satisfaction of the amount recoverable”.

Section 67 amended

236 Subsection 67(2) is amended in the portion following clause (b) by striking out “by virtue of writs of execution” and substituting “under judgment enforcement”.

Section 68 amended

237 Subsection 68(1) is amended by striking out “by writ of execution”.

Section 69 amended

238 Section 69 is amended:

(a) in the portion preceding clause (a) by striking out “execution creditor” and substituting “judgment creditor”;

(b) in clause (b) by striking out “a writ of execution” and substituting “judgment enforcement”; and

(c) in the portion following clause (b) by striking out “writ of execution” and substituting “judgment enforcement”.

Section 109 amended

239 The following clause is added after clause 109(d.1):

“(d.2) prescribing an amount for the purposes of clauses 66(a), (b.1) and (g)”.

DIVISION 37

*The Securities Transfer Act***S.S. 2007, c.S-42.3, sections 47 to 51 repealed**

240 Sections 47 to 51 of *The Securities Transfer Act* are repealed.

DIVISION 38

*The Superannuation (Supplementary Provisions) Act***R.S.S. 1978, c.S-64, section 48.1 amended**

241 Subsection 48.1(1) of *The Superannuation (Supplementary Provisions) Act* is amended by adding “seized,” after “assigned,”.

DIVISION 39
The Tax Enforcement Act

R.S.S. 1978, c.T-2, section 20 amended

242(1) Section 20 of *The Tax Enforcement Act* is amended in the manner set out in this section.

(2) The following subsection is added before subsection (1):

“(0.1) In this section, ‘**enforcement charge**’ means an enforcement charge as defined in *The Enforcement of Money Judgments Act*”.

(3) Subsection (1) is repealed and the following substituted:

“(1) A creditor who has an enforcement charge affecting title to a parcel of land against which an interest based on a tax lien has been registered may redeem the land under the conditions mentioned in subsection 19(1), and may file the receipt for the redemption money with the sheriff, who shall add the amount of the redemption money to the sum remaining unpaid on the judgment”.

(4) Subsection (2) is amended by striking out “, and the sheriff in his return to the writ shall refer to the amount and to the manner of its addition”.

DIVISION 40
The Thresher Employees Act

R.S.S. 1978, c.T-12, section 3 amended

243 Subsection 3(1) of *The Thresher Employees Act* is amended by adding “seizures,” after “assignments,”.

DIVISION 41
The Threshers’ Lien Act

R.S.S. 1978, c.T-13, section 2 amended

244 Subsection 2(3) of *The Threshers’ Lien Act* is amended by striking out “all writs of execution” and substituting “any judgment enforcement”.

DIVISION 42
The Traffic Safety Act

S.S. 2004, c.T-18.1, section 158 amended

245(1) Section 158 of *The Traffic Safety Act* is amended in the manner set out in this section.

(2) Subsection (19) is amended by striking out “pursuant to a writ of execution issued”.

(3) Clause (20)(c) is amended by striking out “under a writ of execution issued”.

DIVISION 43
The Workers' Compensation Act, 1979

S.S. 1979, c.W-17.1 amended

246 *The Workers' Compensation Act, 1979* is amended in the manner set out in this Division.

Section 153 amended

247 Subsection 153(3) is amended:

(a) in clause (a) by striking out “a writ of execution issued upon a judgment entered with respect to that assessment is returned with a certificate from a sheriff or his deputy” **and substituting** “a judgment is entered with respect to that assessment and a certificate from a sheriff or his or her deputy is provided”; **and**

(b) in the portion following clause (b) by striking out “the issue of a writ or”.

Section 165 amended

248 Section 165 is amended by adding “, seized” **after** “charged”.

PART XVI
Repeal and Coming into Force

R.S.S. 1978, c.A-2 repealed

249 *The Absconding Debtors Act* is repealed.

R.S.S. 1978, c.A-32 repealed

250 *The Attachment of Debts Act* is repealed.

R.S.S. 1978, c.C-46 repealed

251 *The Creditors' Relief Act* is repealed.

R.S.S. 1978, c.E-12 repealed

252 *The Executions Act* is repealed.

R.S.S. 1978, c.E-14 repealed

253 *The Exemptions Act* is repealed.

Coming into force

254 This Act comes into force on proclamation.