

CHAPTER 33 BILLS OF SALE ACT

• Act • Subsidiary Legislation •

ACT

Amended by

Act No. 5 of 1981
Act No. 10 of 1990
Act No. 30 of 1990

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CHAPTER 33 BILLS OF SALE ACT

An Act to amend the law relating to the registration of bills of sale.

[Amended by Act No. 5 of 1981, Act No. 10 of 1990, Act No. 30 of 1990.]

[1st July, 1924.]

1. Short title

This Act may be cited as the Bills of Sale Act.

2. Interpretation

In this Act—

“bill of sale” includes bills of sale, assignments, transfers, declarations of trust without transfer, inventories of goods with receipt thereto attached, or receipts for purchase monies or goods, and other assurances of personal chattels, and also

powers of attorney, authorities, or licences to take possession of personal chattels as security for any debt, and also any agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to any personal chattels, or to any charge or security thereon, shall be conferred, but shall not include the following documents, that is to say, assignments for the benefit of the creditors of the person making or giving the same, marriage settlements, transfers or assignments of any ship or vessel or any share thereof, transfers of goods in the ordinary course of business of any trade or calling, bills of sale of goods in foreign parts or at sea, bills of lading, warehouse-keepers' certificates, warrants or orders for the delivery of goods, or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by indorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented;

"personal chattels" means goods, furniture, and other articles capable of complete transfer by delivery, and (when separately assigned or charged) fixtures and growing crops, but shall not include chattel interests in real estate, nor fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, nor growing crops when assigned together with any interest in the land on which they grow, nor shares or interests in the stock, funds, or securities of any government, or in the capital or property of incorporated or joint stock companies, nor choses in action, nor any stock or produce upon any plantation or lands which by virtue of any covenant or agreement ought not to be removed from any plantation or land where the same are at the time of making or giving of such bill of sale.

"Apparent possession.—"personal chattels" shall be deemed to be in the "apparent possession" of the person making or giving a bill of sale, so long as they remain or are in or upon any house, mill, warehouse, buildings, works, yard, land, or other premises occupied by him or her, or are used and enjoyed by him or her in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.

3. Application

This Act shall apply to every bill of sale executed on or after the first day of July, 1924 (whether the same be absolute, or subject or not subject to any trust) whereby the holder or grantee has power, either with or without notice, and either immediately or at any future time, to seize or take possession of any personal chattels comprised in or made subject to such bill of sale.

4. Attornments, etc., giving powers of distress to be subject to this Act

Every attornment, instrument, or agreement, whereby a power of distress is given or agreed to be given by any person to any other person by way of security for any present, future, or contingent debt or advance, and whereby any rent is reserved or made payable as a mode of providing for the payment of interest on such debt or advance, or otherwise for the purpose of such security only, shall be deemed to be a bill of sale, within the meaning of this Act, of any personal chattels which may be seized or taken under such power of distress:

Provided that nothing in this section shall extend to any mortgage of any estate or interest in any land, tenement, or hereditament which the mortgagee, being in possession, shall have demised to the mortgagor as his or her tenant at a fair and reasonable rent.

5. Fixtures or growing crops not to be deemed separately assigned when the land passes by the same instrument

No fixtures or growing crops shall be deemed, under this Act, to be separately assigned or charged by reason only that they are assigned by separate words, or that power is given to sever them from the land or building to which they are affixed, or from the land on which they grow, without otherwise taking possession of or dealing with such land or building, or land, if by the same instrument any freehold or leasehold

interest in the land or building to which such fixtures are affixed, or in the land on which such crops grow, is also conveyed or assigned to the same persons or person.

6. Avoidance of unregistered bill of sale

(1) Every bill of sale to which this Act applies shall be duly attested and shall be registered under this Act, within seven days after the making or giving thereof, and shall set forth the consideration for which such bill of sale was given, otherwise such bill of sale, as against all trustees or assignees of the estate of the person whose chattels, or any of them, are comprised in such bill of sale under the law relating to bankruptcy, or under any assignment for the benefit of the creditors of such person, and also as against all persons seizing any chattels comprised in such bill of sale, in the execution of any process of any court authorising the seizure of the chattels of the person by whom or of whose chattels such process shall have been issued, shall be deemed fraudulent and void so far as regards the property in or right to the possession of any chattels comprised in such bill of sale which at or after the time of filing the petition for bankruptcy or of the execution of such assignment, or of executing such process (as the case may be), and after the expiration of such seven days are in the possession or apparent possession of the person making such bill of sale or of any person against whom the process has issued under or in the execution of which such bill has been made or given, as the case may be.

(2) When a bill of sale is executed in any place outside Grenada such bill of sale shall be deemed to be registered in due time if it is registered within seven clear days after the day on which it would arrive in Grenada in the ordinary course by post if posted immediately after the execution thereof.

7. Avoidance of certain duplicate bills of sale

Where a subsequent bill of sale is executed within or on the expiration of seven days after the execution of a prior unregistered bill of sale, and comprises all or any part of the personal chattels comprised in such prior bill of sale, then, if such subsequent bill of sale is given as a security for the same debt as is secured by the prior bill of sale, or for any part of such debt, it shall, to the extent to which it is a security for the same debt or part thereof, and so far as respects the personal chattels or part thereof comprised in the prior bill, be absolutely void, unless it is proved to the satisfaction of the court having cognisance of the case that the subsequent bill of sale was *bona fide* given for the purpose of correcting some material error in the prior bill of sale, and not for the purpose of evading this Act.

8. Mode of registering bills of sale

(1) A bill of sale shall be attested and registered under this Act in the following manner—

- (a) such bill, with every schedule or inventory thereto annexed or therein referred to, and also a true copy of such bill and of every such schedule or inventory, and of every attestation of the execution of such bill of sale, together with an affidavit of the time of such bill of sale being made or given, and of its due execution and attestation, and a description of the residence and occupation of the person making or giving the same (or in case the same is made or given by any person under or in the execution of any process, then a description of the residence and occupation of the person against whom such process issued), and of every attesting witness to such bill of sale, shall be presented to and the said copy and affidavit shall be filed with the Registrar within seven clear days after the making or giving of such bill of sale;
- (b) if the bill of sale is made or given subject to any defeasance or condition or declaration of trust not contained in the body thereof, such defeasance, condition, or declaration shall be deemed to be part of the bill, and shall be written on the same paper therewith before the registration, and shall be truly set forth in the copy filed under this Act therewith as part thereof, otherwise the registration shall be void.

(2) In case two or more bills of sale are given, comprising in whole or in part any of the same chattels, they shall have priority in the order of the date of their registration respectively as regards such chattels.

(3) A transfer or assignment of a registered bill of sale need not be registered.

9. Renewal of registration

(1) The registration of a bill of sale must be renewed once at least every five years, and if a period of five years elapses from the registration or renewed registration of a bill of sale without a renewal or further renewal (as the case may be), the registration shall become void.

(2) The renewal of a registration shall be affected by filing with the Registrar an affidavit stating the date of the bill of sale and of the last registration thereof, and the names, residences, and occupations of the parties thereto as stated therein, and that the bill of sale is still a subsisting security. Every such affidavit may be in the form set forth in the First Schedule.

(3) A renewal of registration shall not become necessary by reason only of a transfer or assignment of a bill of sale.

10. Form of register

(1) The Registrar shall keep a book (in this Act called "the register") for the purposes of this Act, and shall, upon the filing of any copy of a bill of sale, enter therein in the form set forth in the Second Schedule, or in any other prescribed form, the name, residence, and occupation of the person by whom the bill was made or given (or in case the same was made or given by any person under or in the execution of process, then the name, residence, and occupation of the person against whom such process was issued, and also the name of the person or persons to whom or in whose favour the bill was given), and the other particulars shown in the said schedule or to be prescribed, and shall number all such bills registered in each year consecutively, according to the respective dates of their registration.

(2) Upon the registration of any affidavit of renewal the like entry shall be made, with the addition of the date and number of the last previous entry relating to the same bill, and the copy of the bill of sale originally filed shall be thereupon marked with the number affixed to such affidavit of renewal.

(3) The Registrar shall also keep an index of the names of the grantors of registered bills of sale with reference to entries in the register of the bills of sale given by each such grantor.

(4) Such index shall be arranged in divisions corresponding with the letters of the alphabet, so that all grantors whose surnames begin with the same letter (and no others) shall be comprised in one division, but the arrangement within each such division need not be strictly alphabetical.

11. Rectification of register

A Judge on being satisfied that the omission to register a bill of sale or an affidavit or renewal thereof within the time prescribed or the omission or mis-statement of the name, residence, or occupation of any person, was accidental or due to inadvertence, may in his or her discretion order such omission or mis-statement to be rectified by the insertion in the register of the true name, residence, or occupation, or by extending the time for such registration on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter, as he or she thinks fit to direct.

12. Entry of satisfaction

(1) A Judge may order a memorandum of satisfaction to be written upon any registered copy of a bill of sale upon being satisfied that the debt, if any, for which such bill of sale was made or given has been satisfied or discharged.

(2) The Registrar may write a memorandum of satisfaction upon any registered copy of a bill of sale on a consent to the satisfaction, signed by the person entitled to the benefit of the bill of sale, and verified by affidavit, being filed with him or her.

13. Copies may be taken, etc.

Any person shall be entitled to have an office copy or extract of any registered bill of sale, and affidavit of execution filed therewith, or registered affidavit of renewal, upon paying for the same at the like rate as for office copies of documents filed in the Supreme Court.

14. Searches and extracts

Any person shall be entitled at all reasonable times to search the register and every registered bill of sale upon payment of a fee of one dollar for every hour or part thereof employed in the search, and to make extracts upon payment of a fee of one dollar in respect of each bill of sale, affidavit or other document from which such extract is made.

15. Affidavits

Every affidavit required by or for the purposes of this Act may be sworn before the Registrar or before any magistrate.

16. Order and disposition

Chattels comprised in a bill of sale which has been and continues to be duly registered under this Act shall not be deemed to be in the possession, order, or disposition of the grantor of the bill of sale within the meaning of the Bankruptcy Act, Chapter 27.

17. Fees

There shall be paid to the Registrar the following fees—

	\$
On filing a bill of sale together with affidavit of execution	25.00
On filing the affidavit used for the purpose of re-registering a bill of sale	25.00
On filing any other document to which the above-mentioned fees do not apply	5.00
On entering satisfaction	5.00

18. Rules

The Chief Justice may make rules—

- (a) with respect to registration and procedure under this Act, and all matters incidental thereto;
- (b) amending the fees prescribed in this Act; and
- (c) with respect to any such matters as are authorised by this Act to be prescribed.



First Schedule
BILLS OF SALE ACT

Renewal of Registration
[Section 9.]

I,, of do swear that a bill of sale,

bearing date the day of (*insert the date of the bill*)
 and made between (*insert the name and descriptions of the parties*
in the original bill of sale), and a copy of which said bill was registered on the
 day of, 20 (*insert date of registration*)
 is still a subsisting security.

.....
 Sworn, etc.

Second Schedule
BILLS OF SALE ACT

Form of Register
 [Section 10.]

<i>Satisfaction entered</i>	<i>No.</i>	<i>By whom given (or against whom process issued).</i>			<i>To whom given</i>	<i>Nature of instrument</i>	<i>Date</i>	<i>Date of registration</i>	<i>Date of registration of affidavit of renewal</i>
		<i>Name</i>	<i>Residence</i>	<i>Occupation</i>					

CHAPTER 33
BILLS OF SALE ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
