

# LAW REFORM COMMISSION OF BRITISH COLUMBIA

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## Backgrounder

### LRC 23—Report on Personal Property Security

Date: October 1975

This report is concerned with a new legal framework for personal property security interests in British Columbia. Lenders typically take an interest in the personal property (that is, property other than land) of borrowers. These interests are intended to act as security for repayment of the loan, and for performance of other obligations related to the loan. Security interests come in various forms, and at the time this report was written there was a sizable number of types of security interests. These types included conditional sales, chattel mortgages, pledges, floating charges, and assignments of book debts, among others. Each of these types of security interest had developed its own legal framework. The rules applicable to a given security interest tended to highly technical and often out-of-touch with contemporary developments in commercial lending. Further, the legal frameworks for various security devices were not integrated into a harmonious system. Conflicts and priority disputes between competing security interests proved to be especially difficult to resolve under this state of the law.

This report recommends fundamental reform of the personal property security system. The reforms recommended are based on a model developed first in the United States as Article 9 of the Uniform Commercial Code. Article 9 has inspired the Canadian Bar Association's *Model Uniform Personal Property Security Act* (Model Act), the Uniform Law Conference of Canada's *Uniform Personal Property Security Act* (Uniform Act), and Ontario's *Personal Property Security Act* (which had been passed by the legislature at the time of this report, but was not in force). In the commission's view, this approach overcomes the main defects of the law as it stood at the time of the report, by creating a unified, logical, and modern system governing personal property security.

The report contains 18 chapters. After two brief chapters (which introduce the legal issues, describe the various types of security interests, examine the defects of the law at the time of the report, and set out the models for reform), the substantive chapters of the report begin. These chapters contain a close and thorough examination of the Model Act. They make a large number of specific recommendations, geared toward what is needed to implement the Model Act in British Columbia. This discussion is informed by consideration of ap-

proaches found in the other models for reform, such as Article 9, the Uniform Act, and the Ontario Act.

### **Further Developments**

See *Personal Property Security Act*, S.B.C. 1989, c. 36 (now *Personal Property Security Act*, R.S.B.C. 1996, c. 359).