

MOBILE HOME ACT

[Part to be proclaimed]

CHAPTER 281**Interpretation****1. In this Act**

“collector” includes a person appointed as a collector of taxes under the *Municipal Act*, the *Taxation (Rural Area) Act*, the *Vancouver Charter* or any other Act that authorizes the assessment and levy of taxes on real property;

“court” means the Supreme Court;

“debtor” means a person who undertakes or is required

(a) to pay money; or

(b) to observe, perform or satisfy a covenant, condition or obligation under a security instrument in respect of a mobile home and includes an assignee under section 34;

“fixtures” means goods that are installed in or affixed to a mobile home;

“instrument” includes a document in writing by which property in a mobile home may be transferred or acquired, or which creates, transfers or relates to a security interest in a mobile home;

“mobile home” means any structure, whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried, and to provide

(a) a dwelling house or premises;

(b) a business office or premises; or

(c) accommodation for any other purpose,
unless exempted by this Act or the regulations;

“mobile home dealer” means a person who acquires, disposes of, exchanges, trades, leases or otherwise deals in mobile homes in the ordinary course of his business or pursuant to a scheme or plan for profit;

“owner” means a person entitled to be registered in the register as the owner of a mobile home, whether entitled in his own right or in a representative capacity or otherwise, but does not include a secured party;

“perfect” means register in the register under this Act, but where used in section 5 in reference to another jurisdiction, means perfected under the law of the jurisdiction in which the security interest is created;

“property” means any right, title or interest of an owner in a mobile home;

“register” means the records kept at the mobile home registry office under this Act;

“registrar” means the Registrar of Mobile Homes;

“salesman” means a person employed by a mobile home dealer or by an agent as defined in the *Real Estate Act* either generally or in a particular case to do anything referred to in the definition of agent under that Act;

“secured party” means a person who has a security interest under a security instrument registered under this Act and includes an assignee under section 33;

“security instrument” means an instrument in writing that creates or provides for a security interest in a mobile home and includes, without limiting the generality of the foregoing,

- (a) a chattel mortgage, conditional sale, equipment trust, debenture, floating charge, pledge, trust deed or trust receipt;
 - (b) an assignment, lease or consignment intended as security;
 - (c) an assignment of a security instrument;
 - (d) [a debt, judgment, lien or other claim to or on a mobile home, created, effected or given for any purpose whatsoever, whether by voluntary act of the owner or under any enactment or law, in favour of or for the benefit of the Crown, a municipality or any other governmental agency; and]
 - (e) a certificate filed by the collector under section 53;
- “security interest” means any right, title or interest in a mobile home that secures or purports to secure
- (a) the payment of money; or
 - (b) the observance, performance or satisfaction of a covenant, condition or obligation
- by a debtor.

1977-40-1 [bracketed paragraph (d) to be proclaimed]; 1978-29-1.

PART 1

Application of Part

2. This Part applies to every transaction, regardless of its form, that has the effect of transferring property in or creating a security interest in a mobile home that is not exempted by this Act or the regulations.

1977-40-2.

Sale of Goods Act

3. The *Sale of Goods Act* applies except in so far as it is inconsistent with this Act.

1977-40-3.

Defects in documents

4. An instrument, agreement or other document to which this Act applies is not invalidated or rendered ineffective by reason only of a defect, irregularity, omission or error in it or in its execution unless, in the opinion of the court, the defect, irregularity, omission or error has actually misled a person whose interest is affected.

1977-40-4.

Conflict of laws

5. (1) Subject to this section, where a mobile home is subject to a security interest at the time it comes into the Province, the validity of the security interest in the Province shall be determined by the law, including the conflict of law rules, of the jurisdiction in which the security interest was created.

(2) A security interest perfected under the law of the jurisdiction in which it was created ceases to have effect in the Province 10 days after the mobile home comes into the Province unless the security interest is perfected in the Province.

(3) A security interest that has ceased to have effect in the Province under subsection (2) may be perfected in the Province at any time, but it is effective from the time it is perfected.

(4) If a jurisdiction does not provide, by registration or recording in that jurisdiction, for perfection of a security interest, a security interest created in that jurisdiction that attaches to a mobile home before it is brought into the Province has no effect in the Province unless it is perfected in the Province.

1977-40-5, 1978-29-2

Prior registration under other Acts

6. (1) Subject to subsection (2) and section 5, a person who acquires property in or a security interest in a mobile home takes free and clear from a prior security interest that is not perfected, notwithstanding that the security interest is registered under the *Chattel Mortgage Act*, the *Company Act* or the *Sale of Goods on Condition Act*.

(2) Except for a floating charge registered under the *Company Act*, a security interest that complies with and is registered under the *Chattel Mortgage Act*, *Sale of Goods on Condition Act*, or the *Company Act* prior to April 1, 1978 ceases to be effective unless a true copy of the instrument creating it is registered under this Act before the earlier of

(a) April 1, 1979; or

(b) its registration is required to be renewed under the *Chattel Mortgage Act* or the *Sale of Goods on Condition Act*.

(3) A security interest that has ceased to be effective by the operation of subsection (2) may be perfected by registration under this Act, but it is effective from the time it is perfected.

(4) Subject to subsection (5), a security interest that complies with and is registered under the *Chattel Mortgage Act*, *Company Act* or *Sale of Goods on Condition Act* prior to April 1, 1978 that is subsequently registered in the mobile home registry office in the time limit in subsection (2) takes its priority from the time of registration under those Acts and not from the time of registration under this Act.

(5) A security interest by way of a floating charge that is registered under the *Company Act* is effective as a floating charge but it shall not constitute a perfected security interest until it has been registered under this Act at the time and in the manner permitted by the regulations.

1977-40-6, 1978-29-3

Deemed registration

7. (1) The registration of a bill of sale or a conditional sale under this Act shall be deemed effective registration under and in compliance with sections 6, 7 and 8 of the *Chattel Mortgage Act* or sections 3, 4 and 5 of the *Sale of Goods on Condition Act*, as the case may be, regardless of the time of registration and continues to be effective without renewal under those Acts.

(2) Where a mobile home is registered under this Act, section 58 of the *Sale of Goods Act* and section 30 of the *Sale of Goods on Condition Act* do not apply to a sale, pledge or other disposition of the mobile home by a mercantile agent, trader or other person.

1978-29-7

Goods and chattels in mobile home

8. (1) A bill of sale or conditional sale that attaches to goods before they become fixtures in a mobile home and that has been registered under the *Chattel Mortgage Act*

or the *Sale of Goods on Condition Act* shall, on the filing of a notice in the prescribed form in the register within 20 days after the goods become fixtures, have priority in respect of those goods over the claim of every secured party in respect of that mobile home; but ceases to have priority at the end of that period unless the notice is so filed.

(2) Where a person, by virtue of subsection (1), has priority in respect of goods over the claim of a secured party in respect of the mobile home in which they are affixed, he may, on default, remove the goods from the mobile home if he reimburses the first secured party for the cost of repairing physical damage to the mobile home caused by the removal of the goods. The secured party entitled to reimbursement may refuse permission to remove the goods until he is given adequate security for that reimbursement.

(3) A secured party having a security interest in a mobile home that is subordinate to a bill of sale or conditional sale by virtue of subsection (1) may retain the goods in the mobile home on payment of the amount owing under the bill of sale or conditional sale, and is entitled to add the amount paid to the principal money owing on the claim, or to deduct the amount from rent, purchase price or other money payable under the instrument. The amount added shall bear interest at the rate provided in the instrument and, if no rate is provided, at 8% a year from the date of payment.

1977-40-8.

Subordination

9. Subject to section 25, a secured party may, in the security instrument or otherwise, subordinate his security interest in a mobile home to any other security interest in the same mobile home.

1977-40-9.

Future advances secured

10. A security instrument may secure future advances or other value.

1977-40-10.

Mobile home affixed to land

11. (1) Where a security interest is perfected under this Act either before or after the mobile home is affixed to land other than land in a mobile home park, the secured party may, at any time, file in the land title office for the district in which the land is situated a notice in the prescribed form setting out the

- (a) name and address of the registered owner of the land and of the secured party;
- (b) registration number, year of manufacture, make and model of the mobile home;
- (c) amount secured;
- (d) description of the land to which the mobile home is or will be affixed, sufficient for identification in the land title office; and
- (e) other information as prescribed.

(2) The notice shall be signed by the secured party or his agent and there shall be attached to the notice a copy of the security instrument.

1977-40-11(1,2); 1978-29-5; 1978-25-334.

Land registrar's entry

12. On deposit of the notice in the land title office and payment of the fee, the registrar of titles shall file the notice and make reference to it by entry in the proper register against the title of the land to which the notice relates; or, if the title has not been registered, he shall file the notice and enter the particulars in an index to be kept in his office, to be known as the mobile home security index.

1977-40-11(3); 1978-25-334.

Effect of entry

13. Notwithstanding the *Land Title Act*, where a security interest in a mobile home is perfected under this Act, or has been noted on the register under section 39 and the mobile home affected by it is subsequently affixed to land, a notice under section 11 is, if filed in the land title office within 30 days after the mobile home became affixed to the land, deemed to be actual notice of the security instrument to every person who is an owner, purchaser, lessee, mortgagee or encumbrancer of the land, whether or not he is registered in the books of the land title office as, or became, before or after the filing of the notice, the owner, purchaser, lessee, mortgagee or encumbrancer. The security instrument continues to have the same effect as if the mobile home were not so affixed.

1977-40-11(4); 1978-29-5; 1978-25-332,334.

Effect of later entry

14. Notwithstanding the *Land Title Act*, where a security interest is perfected under this Act, or noted on the register under section 39,

- (a) before the mobile home became affixed to land, but the notice is not filed in the time limit in section 13; or
 - (b) after the mobile home became affixed to land,
- a notice under section 11 shall, on being filed in the land title office, be deemed to be actual notice of the security instrument to every person who became an owner, purchaser, lessee, mortgagee or encumbrancer after filing of the notice.

1977-40-11(5); 1978-25-332,334; 1978-29-5.

Retaking possession

15. (1) Where a security interest is perfected under this Act, or has been noted on the register under section 39, before the mobile home affected by it became affixed to land, and if the notice is filed in the time limit in section 13, the secured party may retake possession of the mobile home or remove it from the land if

- (a) he has given, to every registered owner of the land within the meaning of the *Land Title Act*, a notice in writing of his intention to do so; and
- (b) each person notified fails, during the 20 days after the giving of the notice or a longer period the court may fix, to pay the amount owing on the mobile home.

(2) Where a security interest is perfected under this Act, or noted on the register under section 39,

- (a) before the mobile home became affixed to land, but the notice is not filed in the time limit in section 13; or
 - (b) after the mobile home became affixed to land,
- and a notice under section 11 is filed in the land title office in accordance with section 11, the secured party shall not retake possession of the mobile home or remove it from the land unless

- (c) each person who became an owner, purchaser, lessee, mortgagee or encumbrancer of the land, other than the owner of a registered easement or right of way, before the notice under section 11 was filed has consented to the retaking or removal;
- (d) he has given, to each registered owner of the land within the meaning of the *Land Title Act*, a notice in writing of his intention to retake possession of or to remove the mobile home; and
- (e) each person who became an owner, purchaser, lessee, mortgagee or encumbrancer of the land after the filing of the notice under section 11 has, for a period of 20 days after the giving of the notice under this subsection to him, or for a longer period the court may fix, failed to pay the amount owing on the mobile home.

1977-40-11(6,7); 1978-25-326; 1978-25-334; 1978-29-5.

Notice

16. (1) A notice under section 15 shall be signed by the secured party or his agent and shall set out the particulars referred to in section 11, and in addition shall

- (a) state the amount owing under the security instrument;
- (b) contain a demand for payment of that amount by a day mentioned, not less than 20 days after giving the notice; and
- (c) contain a statement of the intention to retake possession of or to remove the mobile home unless the amount owing is paid in the time mentioned.

(2) The notice may be given personally or by mailing it by prepaid registered mail addressed to the person at his last known address. Where the notice is mailed, it is deemed given on the date it would be received in the ordinary course of mail.

(3) Notwithstanding subsection (2), a notice under section 15 may in any case be given by a form of substituted service directed by the Registrar of Titles and for that purpose the powers vested in the Registrar of Titles by the *Land Title Act* apply.

1977-40-11(8,9,10); 1978-25-332.

Owner's rights

17. (1) Every owner, purchaser, lessee, mortgagee or encumbrancer of the land, whether so registered under the *Land Title Act* or not, has the right as against the secured party to pay the amount owing in the time mentioned in a notice under section 15. On exercise of that right, the secured party's right to retake possession and remove the mobile home for that default ceases.

(2) A secured party who takes possession of or removes the mobile home from the land shall exercise his right of removal in a manner that causes no greater damage or injury to the land or to other property situated on it, or puts the owner or occupier of the land to any greater inconvenience than is necessarily incidental to the taking or removal.

1977-40-11(11,12); 1978-25-332.

Discharge, cancellation

18. (1) The Registrar of Titles in whose office a notice has been filed under section 11 shall, on receipt of a cancellation of it in the prescribed form or of a true copy of the certificate of discharge certified by the registrar, and on payment of the fee but subject to the production of any further evidence that he requires, cancel an entry in his office of a notice filed under section 11.

(2) The Registrar of Titles may, on the application of the registered owner of the land, cancel an entry of the notice under section 11 on the register, if, after a notice to the secured party that the Registrar of Titles directs, the secured party fails to show satisfactory cause why the entry should not be cancelled.

(3) On cancellation of the entry in whole or in part by the Registrar of Titles, sections 13 and 14 cease to apply in respect of the mobile home to which the cancellation extends.

1977-40-11(13,14,15); 1978-29-5.

Conditional sale legislation

19. The filing of a notice in the land title office under sections 11 and 12 is deemed an effective filing under and in compliance with sections 11, 12, 13, 14, 16 and 17 of the *Sale of Goods on Condition Act* and continues to be effective without renewal under section 15 of that Act.

1978-25-334; 1978-29-5.

Mobile home registry office

20. (1) The minister shall establish a registration system, including an office to be known as the mobile home registry office for the purpose of this Act.

(2) The mobile home registry office shall be located at or near the City of Victoria.

1977-40-12.

Registry employees

21. (1) The business of the mobile home registry office and the registration system shall be conducted and supervised by the registrar, with other employees as necessary, all appointed under the *Public Service Act*.

(2) The registrar may, in writing, delegate his authority.

1977-40-13.

Seal

22. The registrar shall have a seal of office in a form the minister approves.

1977-40-14.

No action against employees

23. The registrar or a person acting under his authority shall not be liable personally in a proceeding about any act or matter done or omitted in good faith in the exercised or purported exercise of his powers or duties under this Act, a regulation or an order, or for costs of the proceeding.

1977-40-15.

Certificate of registrar

24. (1) On request of any person and payment of the prescribed fee, the registrar shall issue a certificate stating

- (a) the registration number, year of manufacture, make and model of the mobile home;
- (b) the registered location of the mobile home;

- (c) the name and address of the registered owner of the mobile home;
 - (d) the registration number of any security instrument, registered at the time stated in the certificate, in which the registered owner or any other person is shown as a debtor, the date and time of its registration and the name of the secured party; and
 - (e) other prescribed information.
- (2) The registrar shall make available for inspection any document pertaining to a mobile home referred to in the register.
- (3) The registrar shall furnish a certified copy of any document referred to in subsection (2).
- (4) A certificate issued under subsection (1) is evidence of its contents.
- (5) A certified copy furnished under subsection (3) is evidence of the contents of the document so certified.

1977-40-16.

Effect of failure to register

25. (1) Except as against the person making it, an instrument taking effect after April 1, 1978 purporting to transfer property in a mobile home, or to create, transfer, subordinate or give notice of a security interest in a mobile home, shall not be effective to transfer property in a mobile home or to create, subordinate or give notice of a security interest in it unless it is registered under this Act.

(2) Subsection (1) does not affect the right of a person acquiring an interest under a security instrument or of a person under section 5 (2) to apply to have the instrument registered and to use the names of all parties to it in any proceedings incidental to the registration, whether or not a party has died or becomes legally incapacitated.

(3) This section is subject to the *Land Title Act*.

1977-40-17; 1978-29-6.

Application for registration

26. (1) All instruments required to be registered under this Act must be submitted for registration at the mobile home registry office in the prescribed manner with the prescribed registration fee.

(2) Registration is effective from the time the prescribed particulars are submitted for registration and a registration number is assigned to the registration.

(3) A registrar shall not register

- (a) a transfer or agreement to transfer a mobile home or an interest in it;
 - (b) a security interest or assignment of a security interest in a mobile home;
- or

(c) any other security instrument,
unless the mobile home is registered under this Act.

[(4) A microfilm copy made by or under the authority of the registrar of an instrument registered under this Act shall stand in the place of and have the same effect as the instrument that was registered.]

[(5) Where a registered instrument has been photocopied on microfilm, the registrar may return the registered instrument to the person who applied to register it.]

1977-40-18,21(6); [subsections (4) and (5), enacted 1979-22-28, to be proclaimed].

Decals

27. (1) An application for registration shall be made to the registrar in the prescribed form and the registrar shall, on being satisfied that

- (a) the person named in the application as owner is entitled to be so registered;
- (b) the application conforms to subsection (2); and
- (c) the prescribed fee has been paid,

register the name of the owner of the mobile home and the interest claimed by him as owner, and assign a registration number to the mobile home.

(2) The application must set out

- (a) the full name and address of the owner;
- (b) the year of manufacture and the make and model of the mobile home;
- (c) the location of the mobile home; and
- (d) other information that may be prescribed.

(3) On registration of a mobile home, the registrar shall issue one or more decals bearing its registration number and the owner of the mobile home shall affix them, in the prescribed location, to the mobile home.

1977-40-21(2,3,4).

Effect of registration of security instrument

28. Subject to sections 11 to 19, registration of a security instrument for a mobile home under this Act gives notice, after the time registration is effective, to every person dealing with the mobile home, of the interest of the secured party in it and the contents of the instrument creating or giving notice of that interest.

1977-40-19; 1978-29-7.

Priority

29. Subject to sections 5 and 6, when 2 or more security interests are entered on the register affecting the same mobile home, the security instruments have, as between themselves, priority according to time of registration, subject to a contrary intention appearing in them or from a registered instrument.

1977-40-20; 1978-29-8.

Offence

30. A person who knowingly makes a false statement in an application under section 31, 32 or 33 commits an offence and is liable to a fine not exceeding \$2,000.

1977-40-21(5).

Registration of transfer

31. (1) Where property in a mobile home is transferred, a person may apply to register the transfer by making application in the prescribed form, paying the prescribed fee and filing the instrument of transfer, or a true copy of it, signed by the registered owner.

(2) The application must set out the

- (a) full name and address of the owner and of the transferee;
- (b) date of execution of the transfer instrument;
- (c) registration number, year of manufacture, make, model and location of the mobile home; and
- (d) other information as prescribed.

(3) The registrar, on being satisfied that the transfer filed is sufficient to transfer to or vest in the applicant a good safeholding and marketable title to the interest transferred and that the application conforms to subsection (2), shall register the interest claimed by the applicant in the register.

1977-40-22.

Registration of security interests

32. (1) Where a security interest is created, a person may apply to register the security interest by making application in the prescribed form, paying the prescribed fee and filing the security instrument, or a true copy of it, signed by the debtor.

(2) The application must set out the

- (a) full name and address of the debtor and of the secured party;
- (b) date of execution of the security agreement;
- (c) registration number, year of manufacture, make, model and location of the mobile home; and
- (d) other information, as prescribed.

(3) The registrar, on being satisfied that the application conforms to subsection (2), shall register the security instrument and the interest claimed by the secured party in the register.

(4) A security instrument in respect of a mobile home shall not be registered unless the mobile home is registered under this Act, but the secured party may register the mobile home in the name of the owner.

(5) An error that is not misleading and is of a clerical nature or is in an immaterial or not essential part of the instrument does not invalidate or destroy the effect of the registration.

1977-40-21(7),23.

Registration of assignments

33. (1) Where a security interest is assigned a person may apply to register the assignment by making application in the prescribed form, paying the prescribed fee and filing the instrument of assignment, or a true copy of it, signed by the secured party.

(2) The application must set out the

- (a) full name and address of the debtor, the secured party of record and the assignee;
- (b) registration number given at the time of registration of the security instrument or, if the assignment is presented for registration at the same time as the security instrument, the registration number of the security instrument that is then endorsed on it;
- (c) registration number, year of manufacture, make, model and location of the mobile home; and
- (d) other information as prescribed.

(3) The registrar, on being satisfied that the application conforms to subsection (2), shall register in the register the assignment and the interest claimed by the assignee.

(4) An assignment of a security interest shall not be registered unless the security instrument has been registered under this Act.

1977-40-24.

Assignment by debtor

34. Where a security interest has been perfected and the debtor, with the consent of the secured party, assigns his interest in the mobile home, the assignee becomes the debtor.

1977-40-25.

Discharge

35. (1) On payment and performance of all obligations under a security instrument, the secured party shall discharge it. On written request to the secured party, made personally or by registered mail by a person having an interest in the mobile home, the secured party shall sign and deliver personally or by registered mail to the person requesting it a certificate of discharge in the prescribed form, together with unregistered assignments by the secured party, if any, of the security instrument.

(2) Where a secured party agrees to give a partial discharge of a security instrument on part payment or performance of certain of the obligations specified in it, the secured party shall, on payment or performance of those obligations and on written request made to the secured party, personally or by registered mail by a person having an interest in the mobile home, sign and deliver personally or by registered mail to the person requesting it a release in the prescribed form.

(3) Where the secured party, without reasonable excuse, fails, on request, to deliver the discharge, unregistered assignments or release in 30 days after the request, he shall pay \$100 to the person making the request and any damages resulting from the failure. Any amount not so paid is recoverable in a Supreme, County or Provincial Court.

(4) On application to the court, the court may order

(a) security for, or payment into court of, the amount claimed by the secured party, together with costs the court may fix, and order that the security instrument be discharged or released, as the case may be; or

(b) on any ground the court considers proper, that the security instrument be discharged or released, as the case may be.

(5) A certificate of discharge, release or an order for discharge or release of a security instrument under this section may, on application to the registrar in the prescribed form and on payment of the prescribed fee, be registered.

1977-40-26.

Extension of time of registration, etc.

36. (1) Where this Act provides a time limit for doing an act, the registrar may, on application made before or after the expiration of the time, on terms and with notice, if any, that he may order, extend the time for compliance on being satisfied that no interest of any other person is likely to be prejudiced by the extension.

(2) If it subsequently appears to a court that an act or thing done within the extended period has prejudiced the rights that a person acquired before the act or thing was done, the act or thing shall be conclusively presumed not to have been done in conformity with this Act.

(3) A copy of an order made under this section shall, for purposes of registration, be attached to the instrument to which the order relates.

1977-40-27.

Power of registrar to cancel or correct instruments and registrations

37. (1) Where the registration of an instrument, or an entry, memorandum or endorsement on an instrument or the register

(a) has been made in error or has been omitted on an instrument or the register; or

(b) was wrongfully or fraudulently obtained,

the registrar may, on the application of any person or on his own initiative, and on evidence he considers sufficient, without prejudicing rights conferred for value, cancel the registration, entry, memorandum or endorsement, correct the error or make the entry, memorandum or endorsement omitted.

(2) The registrar has, for the purpose of this section, the powers, privileges and protection of a commissioner under sections 9, 15 and 16 of the *Inquiry Act*.

(3) In the correction of an error on an instrument or the register, the registrar shall not erase or render illegible the original writing, entry, memorandum or endorsement so corrected or supplied.

(4) An instrument and the register so corrected and every entry, memorandum or endorsement so corrected or supplied, have validity and effect as if the error or omission had not existed, and a cancellation of the registration of an instrument, entry, memorandum or endorsement under this section has validity and effect from the making of the cancellation, entry, memorandum or endorsement.

(5) The registrar may, where he considers it is necessary for the prevention of fraud or improper dealing, decline to

(a) register a mobile home or an instrument purporting to transfer property in, create a security interest in or assign a security interest in a mobile home; or

(b) issue a transport permit.

1977-40-28.

Interim applications

38. (1) The registrar may make a preliminary inspection of an application and an instrument or other document presented with it.

(2) The registrar may summarily reject an instrument where

(a) it does not qualify in substance or in form for registration or filing;

(b) it is not on sufficiently durable paper;

(c) it is illegible in any respect, including the signature of a party, witness or an official authorized to take an affidavit or acknowledgment;

(d) it, not being an original, is in whole or in part not a certified true copy;

(e) the supporting application or other document is incomplete or not in proper form; or

(f) he discovers obvious defects in property or the interest claimed.

1978-29-9.

Interim application in order

39. (1) If the application and the instruments presented with it appear to be in good order, the registrar shall receive the application.

(2) The registrar may note an application in the register as an interim application and, in that case, shall endorse the particulars of it, including the date and time it was received, on a certificate issued by him under section 24.

(3) Where there is an interim application that affects a mobile home, the registrar shall not accept a subsequent application to register a transfer of property in or a security interest in the mobile home until the interim application is registered or withdrawn.

(4) Notwithstanding subsection (3), the registrar may accept a subsequent application as an interim application by noting it in the register as an interim application and, in that case, he shall endorse the particulars of it, including the date and time it was received, on a certificate issued under section 24.

(5) Where an application has been noted in the register as an interim application and no other interim application is dependent on it, it may, on terms the registrar considers proper, be withdrawn by the applicant at any time before registration.

(6) Where an instrument accompanying an interim application is not registered or withdrawn within one year after the particulars of it are noted on the register, the registrar may, by giving 45 days notice in writing to the applicant and to a subsequent applicant, require that cause be shown why the application should not be cancelled and if, in the opinion of the registrar, no sufficient cause is shown at the end of that period, he shall cancel the application unless the applicant or subsequent applicant has applied to the court under section 58 (4).

(7) Where 2 or more interim applications to register a security interest are noted on the register affecting the same mobile home, the security instruments accompanying them have, as between themselves, but subject to a contrary intention appearing from the instrument or from a registered instrument, priority according to the time of notation on the register.

(8) For the purposes of this section, “applicant” means, in the case of an application to register

- (a) a security instrument, the intended secured party; and
- (b) a transfer of property in a mobile home, the transferor.

1978-29-9.

Financing statements

40. [(1) Subject to the regulations, where a person has agreed to extend credit to another on the security of a mobile home, he may file a financing statement in the prescribed form at any time before the security instrument is made or the security interest attaches.

(2) A financing statement under this section shall set out

- (a) a description of the mobile home sufficient to identify it on the register;
- (b) the name and address of the intended debtor and of the intended secured party;
- (c) a statement of the principal amount of the credit to be extended and the nature of the security instrument the intended debtor has agreed to make;
- (d) other information as prescribed.

(3) On payment of the prescribed fee, the registrar shall file the financing statement, make reference to it in the proper register and give written notice of it to the intended debtor.

(4) On filing the financing statement, the registrar shall not register a transfer of property in the mobile home to a person other than the intended debtor or register a security instrument affecting the mobile home other than the instrument described in the financing statement.

- (5) A financing statement under this section
 - (a) may be withdrawn at any time by the person who filed it giving written notice to the registrar;
 - (b) expires on written withdrawal, 20 days after the day it was filed, or on registration of the security instrument it describes, whichever first occurs.
- (6) Subject to the regulations, a financing statement may be transmitted to the registrar by telegram, telex or any method of transmitting visually recorded messages.
- (7) A person who files a financing statement under this section without the written consent of the intended debtor and, if different, the owner, is liable in a Supreme, County or Provincial Court proceeding for damages sustained by the person whose consent was not obtained and that resulted from the filing of the financing statement.
- (8) On filing of a financing statement, the registrar shall not file another financing statement affecting the same mobile home unless the first financing statement has been withdrawn or has expired.

1978-29-9, to be proclaimed].

PART 2

Moving mobile home

41. (1) Unless exempted by the regulations, no person shall move a mobile home unless

- (a) the mobile home is registered under this Act;
 - (b) a transport permit in the prescribed form authorizing the mobile home to be moved has been issued by the registrar; and
 - (c) the mobile home is moved to the location, and in accordance with the terms and conditions, set out in the transport permit.
- (2) On application in the prescribed form of
- (a) an owner of a mobile home, or agent of the owner;
 - (b) a landlord under an order of the rentalsman under section 13 (3) of the *Residential Tenancy Act*, or in the exercise of the right conferred on him under section 41 (1) of the *Residential Tenancy Act*;
 - (c) a secured party; or
 - (d) any other person under an order of a court,
- and on payment of the prescribed fee, the registrar shall,
- (e) on being satisfied by a certificate issued under section 50, that the taxes in respect of the mobile home have been paid; and
 - (f) where the application is for a transport permit to remove a mobile home from the Province, on being satisfied that no grants or mortgages have been made under the *Provincial Home Acquisition Act* or the *Home Purchase Assistance Act* for the mobile home and for which the Crown is entitled to repayment,

issue a transport permit to the applicant authorizing the mobile home to be moved to the location and in accordance with the terms and conditions set out in the transport permit.

(3) Where an application is made by a landlord under subsection (2) (b), the registrar shall not decline to issue a transport permit by reason only that the taxes on the mobile home are due, in default, in arrears or delinquent, so long as the collector of the taxing authority to which the taxes are payable has consented in writing to the issue of the transport permit and the consent has been filed.

(4) A collector shall not unreasonably withhold his consent under subsection (3) so long as he is satisfied that the mobile home will not be transported out of the taxing jurisdiction.

1977-40-29(1,2,3,4); 1977-76-24; 1978-29-10.

Security interest

42. Where a security interest is registered under this Act in respect of which an application is made under section 41, the registrar shall give written notice of the application to all secured parties, specifying the name of the applicant, the location to which the mobile home is to be transported and other information he considers advisable.

1977-40-29(5).

Transport permits, etc.

43. (1) No person shall move a mobile home to a location in the Province other than the location designated in the transport permit issued by the registrar under section 41.

(2) Unless otherwise stated on its face, a transport permit shall expire 30 days after the date it was issued.

(3) The registrar may, subject to the regulations, issue a transport permit subject to any conditions he considers necessary to facilitate the transportation of a mobile home from one location to another, and where a transport permit is issued subject to conditions, no person shall move the mobile home otherwise than in accordance with the conditions.

(4) Sections 41 to 43 do not apply to the transportation of a mobile home that is exempted by regulation.

(5) A person who moves a mobile home in contravention of sections 41, 42 or 43 commits an offence and is liable to a fine not exceeding \$2,000.

1977-40-29(6,7,8,9).

Sale or transport prohibited

44. (1) No person shall import into the Province, sell, offer for sale or move a mobile home that is not registered under this Act.

(2) Every person who fails to register a mobile home, or imports, sells, offers for sale or moves a mobile home in contravention of this section commits an offence and is liable to a fine not exceeding \$2,000.

(3) This section does not apply to a mobile home

(a) owned by the Crown, a Crown corporation or agency or by a municipality and occupied by or for the purposes of the Crown, Crown corporation or agency or the municipality;

(b) licensed and equipped to travel on a public highway, that is occupied by bona fide tourists for recreation purposes; or

(c) exempted by regulation.

1977-40-30.

Decals

45. (1) Where a decal issued under section 27 is stolen, lost, defaced, mutilated or destroyed, the registrar shall, on application by the owner or his agent in the

prescribed form, stating the circumstances of the theft, loss, defacement, mutilation or destruction, and on payment of the prescribed fee, issue a new decal.

(2) An owner who fails to affix, or knowingly fails to keep affixed in the prescribed manner a decal, issued under section 27 or this section, to the mobile home in respect of which the decal is issued commits an offence and is liable to a fine not exceeding \$200.

1977-40-31.

Exemption from Act

46. (1) Subject to the regulations, the registrar may, on the application of a person or on his own initiative, order that a mobile home, or a class of mobile home, be exempt from this Act, or a provision of it, on terms and conditions he imposes and he may vary or rescind the order in whole or in part.

(2) A person may, in the prescribed form and on payment of the prescribed fee, apply to the registrar for an order under this section.

(3) Where an order is made under this section, the registrar shall record the exemption of the mobile home by notation in the register.

(4) An order shall not be made under this section unless each person having a perfected security interest in the mobile home has consented to the order being made and the consents have been filed with the registrar.

1978-29-11.

Caution

47. (1) A person who has commenced, or is a party to a proceeding, and is making a claim to, or to an interest in, a mobile home, may file a caution in the prescribed form together with a true copy of the writ, notice or pleading in which he claims an interest.

(2) On receipt of a caution under this section, the registrar shall register it in the same manner in which a security instrument is registered under this Act.

(3) A caution expires 2 months after it is registered unless within that period the court, on application, orders that the caution be

(a) cancelled; or

(b) continued until

(i) further order; or

(ii) the expiry of a period fixed by the court for the determination of that person's rights under the caution.

(4) The person who registered a caution may withdraw it at any time by notice in writing to the registrar, but the court, on application, may order that person to pay compensation and costs to the owner.

1977-40-33.

PART 3

No grants unless registered

48. [Notwithstanding the *Home Purchase Assistance Act* and the *Home Owner Grant Act*, or any other Act or law, no person who is the purchaser or owner of a mobile home shall be entitled to receive a grant, loan or other financial assistance under any of those Acts, unless the mobile home in respect of which the grant or financial assistance is sought is registered under this Act.

1977-40-34, to be proclaimed].

Access to register by taxing authority

49. (1) The officers of any taxing authority are entitled, without charge, to search the register in respect of mobile homes situated on land over which it has authority, for the purposes of taxation, assessment and incidental matters; and for that purpose any person approved by the registrar and employed by the taxing authority shall be admitted into the mobile home registry office.

(2) Where the officers of a taxing authority so request and the state of business in the mobile home registry office permits, the registrar may furnish any information in the register required by them at a charge to be fixed in each case by the registrar, on the basis of reasonable compensation to the office for the cost of furnishing the information.

1977-40-35.

Tax certificate required before transport permit issued

50. (1) Unless the regulations otherwise provide, the registrar shall not issue a transport permit under section 41 of this Act unless the application is accompanied by a subsisting certificate of the collector having taxing authority over the mobile home certifying that no taxes

- (a) on the mobile home are in arrears or delinquent; and
- (b) imposed or deemed to have been imposed for the current year are unpaid, or where a tax notice in respect of the mobile home has not been mailed, a deposit has been paid to the collector under section 51 (1).

(2) Subject to section 51 (1), on request for a certificate for the purpose of subsection (1), a collector shall, if no current taxes in respect of the mobile home referred to in the request are unpaid, and if no taxes are in arrears or delinquent, provide without fee a certificate for the purpose of that subsection to the person making the request and the certificate shall be marked "For Transport Purposes" with the date on which the certificate will expire.

1977-40-36.

Payment before certificate

51. (1) Notwithstanding the *Municipal Act*, the *Taxation (Rural Area) Act* or the *Vancouver Charter*, where

- (a) a tax notice in respect of taxes imposed on a mobile home for the current year has not been mailed to the person liable for them; and
 - (b) a person, other than a landlord
 - (i) pursuant to an order of the rentalsman under section 13 (3) of the *Residential Tenancy Act*; or
 - (ii) in the exercise of a right conferred on him under section 41 (1) of that Act,has requested the collector to issue a certificate for the purpose of section 50 (1),
- the collector shall issue a certificate if
- (c) there are no taxes in arrears or delinquent in respect of the mobile home; and
 - (d) the person making the request has paid to the collector a deposit in the prescribed amount.

(2) Notwithstanding the *Municipal Act*, the *Taxation (Rural Area) Act* and the *Vancouver Charter*, where a person, other than a landlord

(a) pursuant to an order of the rentalsman under section 13 (3) of the *Residential Tenancy Act*; or

(b) in the exercise of a right conferred on him under section 41 (1) of that Act,

has requested the collector to issue a certificate for the purpose of section 50 (1) for a mobile home in respect of which a tax notice or statement has been mailed to the person liable for the taxes, the collector may decline to issue the certificate until all taxes due, in arrears or delinquent have been paid.

(3) Payments accepted under subsection (1) (d) shall bear interest at the prescribed annual rate and the payments and interest shall be applied and credited by the collector against the current year's taxes imposed on the mobile home in respect of which the payment was made.

[(4) Notwithstanding the *Municipal Act*, the *School Act*, the *Taxation (Rural Area) Act* or the *Vancouver Charter*, where a mobile home is transported from the jurisdiction of one taxing authority to the jurisdiction of another taxing authority, the collector who collects the taxes shall apportion the taxes collected in respect of the mobile home among the taxing authorities in the prescribed manner.]

1977-40-36, [subsection (4) enacted 1977-40-53 to be proclaimed], 1977-76-24, 1978-29-12

Payment of taxes by others

52. (1) A person not primarily liable for taxes in respect of a mobile home, who

(a) is the holder of a security interest in the mobile home; and

(b) pays the taxes in order to obtain a transport permit under section 41, is entitled to add the amount paid to the principal money secured by the security interest, or to deduct the amount from rent, purchase price or other money payable under the instrument in respect of which he claims registration and the amount shall bear interest at the prescribed annual rate from the date of payment.

(2) Subject to subsection (4), where the person paying the taxes under subsection (1) is not the holder of the first registered security interest in the mobile home, he is entitled, in respect of the amount paid, to file in the register a lien in the prescribed form against the mobile home and the lien has the same priority as if it were a certificate filed under section 53.

(3) An amount and interest paid under subsection (1) is a debt recoverable by action in a Supreme, County or Provincial Court by the person paying the taxes against the person primarily liable.

(4) A person who pays taxes under this section shall, within 60 days after the date of payment, give notice in writing of the payment to each holder of a security interest in the mobile home that is registered, or registration of which has been applied for, and in default of so doing he is not entitled to the priority provided in subsection (2) as against prior secured parties.

(5) A notice under subsection (4) is sufficiently given if mailed under registered cover and addressed to each secured party, at his respective address, as appears in the security instrument or in the application for registration.

(6) A holder of a prior security interest may, at any time, pay the amount of the taxes on the mobile home with interest to the date of payment, to the person who has paid them, and is subrogated to all the rights and priorities provided by this section.

1977-40-37, 1978-29-13

Tax lien by Crown or municipality

53. (1) Where taxes in respect of a mobile home imposed under the *Municipal Act*, *Taxation (Rural Area) Act*, *Vancouver Charter*, *Water Act* or *Drainage, Ditch and Dyke Act*, Part 2, have become due, the collector may, at any time during which the taxes remain unpaid, file a certificate in the prescribed form in the mobile home registry office, stating

- (a) the registration number of the mobile home;
- (b) that taxes in respect of the mobile home have become due; and
- (c) the name and address of the taxing authority to which the taxes are payable.

(2) On receipt of a certificate under this section the registrar shall, without fee, file the certificate and make reference to it in the register in respect of the mobile home to which the certificate relates.

(3) Where a collector has filed a certificate under this section he shall, without fee, provide to any person requesting it a written statement showing the amount of all unpaid taxes, interest and penalties, if any, charged against the mobile home to which the certificate relates.

(4) Where a person pays the unpaid taxes, interest and penalties, if any, charged against the mobile home in respect of which the certificate has been filed, the collector who filed the certificate shall file a cancellation of it.

(5) A certificate filed under this section creates a lien on the mobile home in respect of which the certificate has been filed for the amount certified in the certificate, and the lien has preference over every other security interest or claim, whether secured or unsecured, except the Crown, and no further registration or formality is necessary to preserve it.

(6) A collector may, at any time, apply to the court, on notice the court directs, for any order he considers necessary or advisable to protect or enforce the lien created under subsection (5).

(7) On application under subsection (6), the court may make such interim order as it considers appropriate and, without limiting the generality of the foregoing, the court may order that the mobile home be seized and delivered into the possession of the collector who filed the certificate.

(8) Taxes levied in respect of a mobile home are recoverable in any manner in which taxes are recoverable under the *Municipal Act*, *Taxation (Rural Area) Act*, *Vancouver Charter* or any other Act, and notwithstanding that possession of a mobile home has been delivered to a collector under subsection (7), it shall not be sold or otherwise disposed of in a manner other than in compliance with the Act under which the taxes were levied.

(9) A collector is not liable in any proceeding for or in respect of an act or thing done or omitted to be done by him as a result of which the mobile home seized under subsection (7) has deteriorated, become dilapidated or sustained damage while it was in his possession.

[(10) Subject to the *Mobile Home Tax Act*, a mobile home, whether or not it falls within the definition of an improvement under the *Assessment Act*, *Municipal Act*, *School Act*, *Taxation (Rural Area) Act*, *Vancouver Charter* or any other Act, shall be deemed to be an improvement for the purpose of real property assessment and taxation under the relevant Act, and except as provided in section 3 of the *Mobile Home Tax Act*, shall be assessed and taxed in the name of the owner of the land on which the mobile home is situated at the time of assessment under those Acts.]

(11) Notwithstanding subsections (5) to (9), where default is made in the payment of taxes due and payable under the *Municipal Act*, *Taxation (Rural Area) Act*, *Vancouver Charter* or any other Act, a collector may file the certificate issued under subsection (1) with any district registrar of the Supreme Court, or with the registrar of any County Court, and, where so filed, the certificate shall be of the same force and effect and all proceedings may be taken on it as if it were a judgment of the court for the recovery of a debt of the amount stated in the certificate against the person named in it.

1977-40-38, [subsection (10) enacted 1977-40-53, to be proclaimed]

Compliance with standards

54. [(1) No person shall

(a) sell, offer for sale or advertise for sale a new or previously unoccupied mobile home; or

(b) move a new or previously unoccupied mobile home, unless it complies in all respects with the standards prescribed by regulation or is exempted from this section by the regulations.

(2) A regulation made under subsection (1) may incorporate by reference in whole or in part, with changes the Lieutenant Governor in Council considers necessary, any code or standard respecting mobile homes.

(3) A person who contravenes this section or the regulations made under it commits an offence.

1977-40-39, to be proclaimed]

Disclosure

55. [(1) No person shall sell, offer for sale or advertise for sale a used or previously occupied mobile home unless he discloses in writing to the purchaser whether or not the mobile home conforms to the standards prescribed by regulation, or the mobile home is exempted from this section by the regulations.

(2) A person who contravenes subsection (1) commits an offence.

1977-40-40, to be proclaimed]

Registration of salesmen

56. [(1) No person shall, on behalf of another, for or in expectation of a fee, gain or reward, direct or indirect, sell or lease, offer for sale or lease or advertise for sale or lease a mobile home unless

(a) he is a licensee under the *Real Estate Act*; and

(b) security has been furnished as required by that Act.

(2) Subsection (1) does not apply to a person

(a) to whom Part 1 of the *Real Estate Act* does not apply; or

(b) exempted by the regulations under this Act.

(3) Subsection (1) does not apply for one year after the date of the

(a) coming into force of this section; or

(b) establishment of a mobile home dealer's prelicensing course satisfactory to the superintendent under the *Real Estate Act*,

whichever is the later date, to a person who is a licensee under the *Real Estate Act* on the date of the coming into force of this section.

(4) A person who contravenes subsection (1) commits an offence.

1977-40-41, to be proclaimed]

Registration of dealers

- 57.** [(1) No person shall act as a mobile home dealer unless
- (a) he is a licensee under the *Real Estate Act*; and
 - (b) he has furnished security as required by that Act.
- (2) Subsection (1) does not apply to a person
- (a) to whom Part I of the *Real Estate Act* does not apply; or
 - (b) exempted by the regulations under this Act.
- (3) Subsection (1) does not apply for one year after the date of the
- (a) coming into force of this section; or
 - (b) establishment of a mobile home dealer's preclicensing course satisfactory to the superintendent under the *Real Estate Act*,
- whichever is the later date, to a person acting as a mobile home dealer on the date of the coming into force of this section.
- (4) A person who contravenes subsection (1) commits an offence.
- 1977-40-42, to be proclaimed].

Appeals

- 58.** (1) Where the registrar refuses
- (a) a registration, filing, entry, correction or cancellation; or
 - (b) to do any other thing that he is authorized or required to do in respect of an application properly made under this Act,
- he shall forthwith notify the applicant or his agent, in writing and by registered mail, of his refusal, stating briefly his reasons and his further requirements, and, where a subsequent application is affected by his refusal, he shall similarly notify the subsequent applicant.
- (2) Where the requirements of the registrar are met within 30 days after mailing the notice of refusal, the application shall be proceeded with; but if the requirements of the registrar are not met within that period, the application shall, at the end of that period, be void and shall be cancelled, unless the applicant applies to court under subsection (4).
- (3) The registrar may extend, on application before expiration of the time limited by subsection (2) or (4), as the case may be, the time for fulfilling his requirements or for applying to court.
- (4) The applicant may, not later than 30 days after the date the registrar's notice of refusal was mailed, apply to the court in chambers in a summary way, supported by affidavit of the applicant and of other persons if necessary, stating the material facts of the case.
- (5) The applicant shall serve a notice of the hearing of the application together with copies of all material and exhibits on all interested parties, including the registrar, at least 10 days before the date set for the hearing.
- (6) The court may make any order it considers necessary as to notification of other parties to the hearing and on the hearing may make any order the circumstances may require and the court considers proper.

1977-40-43.

Power of registrar to state case for opinion of court

- 59.** (1) Where a question arises in respect of
- (a) the performance of the duties or exercise of the functions authorized or required to be performed by the registrar under this Act;

(b) a matter of law or fact respecting property in a mobile home;
(c) the construction, validity or effect of an instrument;
(d) the interest of any person in a mobile home; or
(e) the manner in which an entry or correction should be made on a register,
the registrar may state a case for the opinion of the court, and the case shall include a short statement of the facts and the registrar's reasons for referring the matter.

(2) The registrar must file the case in the court registry and make an ex parte application to the court for directions as to service of parties, the time of the hearing and any incidental matters.

(3) The court shall allow any interested parties to appear.

(4) The court, having regard to the parties appearing before it, may decide the question, or direct proceedings to be instituted for that purpose, or make any other order it considers proper.

1977-40-44.

Regulations

60. (1) The Lieutenant Governor in Council may make regulations.

(2) The Lieutenant Governor in Council may, by regulation, exempt any transaction or class of transaction from this Act or a provision of it.

1977-40-45.

Proclamation

61. (1) The bracketed paragraph (d) in the definition of security instrument in section 1 comes into force on proclamation.

(2) Sections 40, 48, 51 (4), 53 (10), 54, 55, 56 and 57 come into force on proclamation.

1977-40-53; 1978-29-16.