

LAWS OF DOMINICA

BILLS OF SALE ACT

CHAPTER 78:22

Act

7 of 1882

Amended by

19 of 1939

1 of 1973

20 of 1978

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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 78:22

BILLS OF SALE ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 78:22

BILLS OF SALE ACT

1961 Ed. **AN ACT relating to bills of sale.**

Cap. 317.
7 of 1882.

Commencement. [21st September 1882]

Short title. **1. This Act may be cited as the –
BILLS OF SALE ACT.**

Application of Act. **2. This Act shall apply to every bill of sale executed on or after 1st October, 1882 (whether the same is absolute, or subject or not subject to any trust), whereby the holder or grantee has power, either with or without notice, and immediately or at any future time, to seize or take possession of any personal chattels comprised in, or made subject to, the bill of sale.**

Interpretation. **3. 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 moneys of 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, is conferred, but does 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 of calling, bills of sale of goods in foreign parts or at sea, bills of lading, India warrants, warehouse keepers’ certificates, warrants or orders for the delivery of goods or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;**

“personal chattels” means goods, furniture and other articles capable of complete transfer by delivery, and (where separately assigned

or charged) fixtures and growing crops, but does not include chattel interests in real estate, nor fixtures (except trade machinery as defined in section 5 of the Bills of Sale Act 1878 of the United Kingdom, the provisions of which section are hereby declared to be in force within the State as part of this Act), 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 estate or lands, which by virtue of any covenant or agreement, or of the custom of the country, ought not to be removed from any plantation or estate where the same are at the time of making or giving of the bill of sale; and "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, warehouse, building, works, yard, land or other premises occupied by him, or are used and enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by, or given to, any other person;

"prescribed" means prescribed by Rules made under this Act.

4. Every attornment, instrument or agreement, not being a mining lease, 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 the debt or advance, or otherwise for the purpose of the 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 the power of distress; but 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, has demised to the mortgagor as his tenant at a fair rent.

Certain instruments giving powers of distress to be subject to this Act.

5. 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 the land or building, if by the same instrument any freehold or leasehold interest

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

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

Avoidance of unregistered bills of sale in certain cases.

6. 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 the bill of sale was given, otherwise the bill of sale, as against all trustees or assignees of the estate of the persons whose chattels, or any of them are comprised in the bill of sale under the law relating to bankruptcy or under any assignment for the benefit of the creditors of the person, and also as against all persons seizing any chattels comprised in the 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 the bill has been made, and also as against every person on whose behalf the process has 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 the bill of sale, which, at or after the time of filing the petition for bankruptcy, or of the execution of the assignment, or of executing the process (as the case may be), and after the expiration of the seven days are in the possession, or apparent possession, of the person making the bill of sale, or of any person against whom the process has issued, under or in the execution of which the bill has been made or given, as the case may be.

Avoidance of certain duplicate bills of sale.

7. 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 the prior bill of sale, then, if the 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 the 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 cognizance 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.

Mode of registering bills of sale.

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

- (a) the execution of every bill of sale shall be attested by a solicitor of the High Court, and the attestation shall state that, before the execution of the bill of sale, the effect thereof has been explained to the grantor by the attesting solicitor;
- (b) the bill, with every schedule or inventory thereto annexed or therein referred to, and also a true copy of the bill and of every such schedule or inventory, and of every attestation of the execution of the bill of sale, together with an affidavit of the time of the 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 the process issued), and of every attesting witness to the 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 the bill of sale;
- (c) 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, the defeasance, condition or declaration shall be deemed to be part of the bill, and shall be written upon the same paper or parchment therewith before the registration, and shall be truly set forth in the copy filed under this Act, and as part thereof, otherwise the registration shall be void.

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

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

9. (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.

Renewal of
registration.

(2) The renewal of a registration shall be effected 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.

First Schedule.

(3) Every such affidavit may be in the form set forth in the First Schedule.

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

Form of register.

10. (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 bill of sale or copy under this Act, 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 the 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 under this Act, and shall number all such bills registered in each year consecutively, according to the respective dates of their registration.

Second
Schedule.

(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 bill of sale or copy originally filed shall be thereupon marked with the number affixed to the 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) The 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.

The Registrar.

11. The Registrar of the High Court shall be the Registrar for the purposes of this Act.

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

Rectification of register.

13. Subject to and in accordance with any Rules to be made under and for the purposes of this Act, the Registrar may order a memorandum of satisfaction to be written upon any registered copy of a bill of sale upon the prescribed evidence being given that the debt, if any, for which the bill of sale was made or given has been satisfied or discharged.

Entry of satisfaction.

14. (1) Any person shall be entitled to have an office copy or extract of any registered bill of sale and affidavit of execution filed therein, or copy thereof, and of any affidavit of renewal upon paying for the same at the like rate as for office copies of judgments of the High Court, and any copy of a registered bill of sale and affidavit, purporting to be an office copy thereof shall, in all Courts and before all arbitrators or other persons, be admitted as *prima facie* evidence thereof, and of the fact and date of registration as shown thereon.

Copies may be taken, etc.

(2) Any person shall be entitled at all reasonable times to search the register and every registered bill of sale upon payment of two dollars and fifty cents for every copy of a bill of sale inspected, which payment shall be made by stamp.

15. (1) Every affidavit required by, or for the purposes of, this Act may be sworn before a Registrar of the High Court.

Affidavits.

(2) Any person who wilfully makes or uses any false affidavit for the purposes of this Act is guilty of wilful and corrupt perjury.

16. There shall be paid and received in stamps the following fees:

Fees.
[1 of 1973
20 of 1978].

On filing a bill of sale	\$5.00
On filing the affidavit of execution of a bill of sale	5.00
On the affidavit used for the purposes of registering a bill of sale (to include the fee for filing)	5.00

Order and disposition.

17. 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.

Ch. 9:90.

Rules.

18. Rules for the purposes of this Act may be made and altered, from time to time, by the like Judges in the like manner, and subject to the like conditions as Rules of the High Court.

Time for registration.

19. When the time for registering a bill of sale expires on a Sunday, or other day on which the Registrar's office is closed, the registration shall be valid if made on the next following day on which the office is open.

FIRST SCHEDULE

Section 9.

I, _____, of _____, do swear that a bill of sale, bearing date the _____ day of _____, 19____ (insert the date of the bill), and made between (insert the names and descriptions of the parties in the original bill of sale), and which said bill of sale (or a copy of which bill of sale, as the case may be) was registered on the _____ day of _____, 19____ (insert date of registration), is still a subsisting security.

Sworn, etc.

SECOND SCHEDULE

Section 10.

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