

A Guide to the Alberta Personal Property Security Act

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Chapter 1: The Concept of Secured Financing

1.1 Reform of the Law

1.1.1 Legislative History

The Personal Property Security Act (PPSA) is based upon Article 9 of the American Uniform Commercial Code (UCC). It has been enacted in every common law province in Canada. Ontario in 1967 was the first province to enact such legislation. The Ontario Act was recently replaced in 1989 with a new revised version. The migration of this idea has been westward - Manitoba in 1973, Saskatchewan in 1980, the Yukon in 1982, Alberta in 1988 and British Columbia in 1989. Saskatchewan and Manitoba passed new legislation in 1993 which brought their legislation closer to the Alberta and B.C. model. Both the Alberta PPSA and British Columbia PPSA came into force on October 1, 1990. New Brunswick, Nova Scotia, Newfoundland, P.E.I., the Northwest Territories and Nunavut have all passed PPSA based on the Alberta and B.C. model. Internationally, New Zealand has passed legislation based on the CCPSL model. Australia has enacted personal property security legislation, but it departs from both Article 9 of the UCC and the Canadian PPSAs in many critical respects.

1.1.2 Two Models of PPSA

There are two basic models of PPSA in Canada. The Ontario model is found only in that province. The CCPSL model (formulated by the Canadian Conference on Personal Property Security Law) has been adopted by all the other common law provinces. There are some major differences between the Ontario model and the CCPSL model. It is important to be aware of these differences. Ontario case law are a rich resource of precedent, but their persuasive value can be significantly undermined by differences in the legislation.

The lack of uniformity is unfortunate for other reasons. Often secured financings occur across provincial borders. Differences in provincial law simply add to the complexity (and therefore the cost) of these transactions. In other cases, secured parties may incorrectly assume that the documents or procedures that they have developed in one jurisdiction (often Ontario) will be suitable for use in other jurisdictions.

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