

ANGUILLA

# REVISED STATUTES OF ANGUILLA

## CHAPTER B40

# BILLS OF SALE ACT

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# BILLS OF SALE ACT

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# BILLS OF SALE ACT

## Interpretation

**1.** (1) 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 money 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, 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, 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 authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such documents to transfer or receive goods thereby represented;

"factory or workshop" means any premises on which any manual labour is exercised by way of trade, or for purposes of gain, in or incidental to the following purposes or any of them—

(a) in or incidental to the making of any article or part of an article;

(b) in or incidental to the altering, repairing, ornamenting or finishing, of any article; or

(c) in or incidental to the adapting for sale of any article;

"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 (except trade machinery), 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 such bill of sale.

"trade machinery" means the machinery used in or attached to any factory or workshop exclusive of—

(a) the fixed motive-powers, such as the water-wheels and steam engines, and the steam-boilers, donkey engines, and other fixed appurtenances of the motive-powers;

(b) the fixed power machinery, such as the shafts, wheels, drums and their fixed appurtenances, which transmit the action of the motive-powers to the other machinery, fixed and loose; and

(c) the pipes for steam, gas and water in the factory or workshop.

(2) The machinery or effects excluded from the definition of "trade machinery" shall be deemed not to be personal chattels within the meaning of this Act.

**Meaning of "apparent possession"**

**2.** 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.

**Application of Act**

**3.** This Act shall apply to every bill of sale executed on or after the 1st day of October, 1882, (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 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.

**Certain instruments giving powers of distress to be subject to 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 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, 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, shall have demised to the mortgagor as his tenant at a fair and reasonable rent.

**When fixtures, etc., not to be deemed separately assigned**

**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 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.

**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 7 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 authorizing the seizure of the chattels of the person by whom or of whose chattels, such bill has been made, and also as against every person on whose behalf 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 7 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.

**Avoidance of certain duplicate bills of sale**

**7.** Where a subsequent bill of sale is executed within, or on the expiration of, 7 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 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) 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 copy and affidavit shall be filed with the Registrar within 7 clear days after the making or giving of such 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, such 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 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.

**Renewal of registration**

**9.** (1) The registration of a bill of sale must be renewed once at least every 5 years, and, if a period of 5 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. 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.

(2) Every such affidavit may be in the form set forth in Schedule 1.

(3) 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 Schedule 2, 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 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. 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 such affidavit of renewal. 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.

(2) 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.

**Registrar**

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

**Rectification of register**

**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 misstatement of the name, residence, or occupation of any person was accidental or due to inadvertence, may, in his discretion, order such omission or misstatement 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 thinks fit to direct.

**Entry of satisfaction**

**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 such bill of sale was made or given, has been satisfied or discharged.

**Copies may be taken, etc.**

**14.** 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 copy thereof, and of any affidavit filed therewith, if any, or registered 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. Any person shall be entitled, at all reasonable times, to search the register and every registered bill of sale, upon payment of 24¢ for every copy of a bill of sale inspected, which payment shall be made by stamp.

**Affidavits**

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

(2) Whosoever wilfully makes or uses any false affidavit for the purposes of this Act shall be deemed guilty of wilful and corrupt perjury.

**Fees**

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

| | | |
|---|---|---|
| (a) | on filing a bill of sale | $10 |
| (b) | on filing the affidavit of execution of a bill of sale | $5 |
| (c) | on the affidavit used for the purposes of re-registering a bill of sale (to include the fee for filing) | $10 |

**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.

**Rules**

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

**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.

**Citation**

**20.** This Act may be cited as the Bills of Sale Act, Revised Statutes of Anguilla, Chapter B40.

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**SCHEDULE 1**

(Section 9(2))

**AFFIDAVIT**

I ……..……..……..., of ...……..……, do swear that a bill of sale, bearing date the ..……..……. day of ……..…..……..…..., 20....., *(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 ....., 20……. *(insert date of registration)*, is still a subsisting security.

Sworn, etc.

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**SCHEDULE 2**

(Section 10(1))

**REGISTER**

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

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