

## **Publisher's Note**

**2019 — Release 2**

Previous release was 2019-1

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Richard McLaren

## **Secured Transactions in Personal Property in Canada (3rd Edition)**

This six-volume work provides a complete practitioner's manual to the personal property security regimes of Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Atlantic Provinces. As a textbook, it contains detailed analysis of the finer and more complex academic aspects of personal property security law. As a handbook, it sets out the mechanics for registering and searching documents under the various provincial statutes. Finally, as a law reporter, it features the full text of all relevant case law together with expertly prepared headnotes. Releases are alternately updated by case law and commentary. In addition, the legislation is regularly updated.

This release adds three new cases to the Case Law section in Volume 1. In addition, this release provides commentary on recent cases to Chapters 3 (Scope), 9 (Secured Party's Rights) and 33 (Searches - Manitoba).

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## Highlights

- **Secured Party's Rights: Included Transactions — Rights and Duties After Default — Secured Party's Rights on Default — The Right to Possession: s.62(a)** — The Manitoba Court of Appeal held that the trial judge erred in holding that the plaintiff was only entitled to notice of sale as a security holder under s. 11(2) of the *Garage Keepers Act* ("GKA") and not as an owner pursuant to s. 12 of the GKA. The court found that the fact that a lease of a vehicle is subject to the Manitoba *Personal Property Security Act* ("PPSA") does not preclude the application of s.12 of the GKA. Absent required notice to the plaintiff as an owner under s. 12 of the GKA, the lienholder was liable for conversion. Where no statutory right to sell is met, permission to sell must be obtained from the court. *Kobi's Auto Ltd. v. 5174245 Manitoba Ltd.*, 2018 CarswellMan 571, 9 P.P.S.A.C. (4th) 117 (Man. C.A.).
- **Scope: Excluded Transactions — Provincial Variations — Wage Assignments** — The cross-applicant argued that an assignment of an interest in the collection of costs, fees and expenses from administering a mortgage trust to another party constituted compensation and should be exempt from the PPSA under s. 4(d). The cross-applicant also argued that mortgage brokers are akin to real estate agents and should not be under the s. 4(d) exception of fees for professional services which would put the interest back into the scope of the PPSA. However, the court held that while those interests constituted compensation, they were not akin to wages and so were not captured by s. 4(d). *Access Mortgage Corporation (2004) Limited v. Arres Capital Inc.*, 2018 CarswellAlta 3115, 9 P.P.S.A.C. (4th) 145 (Alta. Q.B.).