

chapter C-53

ACT RESPECTING BILLS OF LADING, RECEIPTS AND TRANSFERS OF PROPERTY IN STOCK

Repealed, 1992, c. 57, s. 520.
1982, c. 55, s. 1; 1992, c. 57, s. 520.

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DIVISION I

TRANSFER OF BILL OF LADING

1. Any bill of lading, or any receipt given by a warehouseman, miller, wharfinger, master of a vessel or carrier for cereal grains, goods, wares or merchandise stored or deposited or to be stored or deposited in any warehouse, mill or other place in Québec, or shipped in any vessel, or delivered to any carrier for carriage from any place to any part of Québec, or through the same, or on the waters bordering thereon, or from the same to any other place, and whether such cereal grains are to be delivered upon such receipt in kind or converted into flour, may, by endorsement thereon by the owner of or person entitled to receive such cereal grains, goods, wares or merchandise, or his attorney or agent, be transferred as collateral security for the payment of any bill of exchange or note or of any debt due.

Such endorsement shall vest in the endorsee from the date of such endorsement, all the right and title of the endorser to or in such cereal grains, goods, wares or merchandise, subject to the right of the endorser to have the same re-transferred to him if such bill, note or debt be paid when due.

R. S. 1964, c. 318, s. 1.

2. In the event of the non-payment of such bill, note or debt when due, the endorsee may sell the said cereal grains, goods, wares or merchandise, and retain the proceeds or so much thereof as will be equal to the amount due upon such bill, note or debt, with any interest or costs, returning the overplus, if any, to such endorser.

R. S. 1964, c. 318, s. 2.

3. When any warehouseman, miller, wharfinger, master of a vessel or carrier, by whom a receipt may be given, in such capacity, for cereal grains, goods, wares or merchandise, is at the same time the owner of or entitled himself (otherwise than in his capacity or warehouseman, miller, wharfinger, master of a vessel or carrier) to receive such cereal grains, goods, wares or merchandise, any such receipt or any acknowledgment or certificate intended to answer the purpose of such receipt, given and endorsed by such person, shall be as valid and effectual as if the person giving such receipt, acknowledgment or certificate were not one and the same person.

R. S. 1964, c. 318, s. 3.

4. All advances made on the security of any bill of lading, receipt, acknowledgment or certificate, shall give and be held to give to the person making such advances, a claim for the repayment of such advances on the grain, goods, wares or merchandise therein mentioned, prior to any by preference over the claim of any unpaid vendor.

R. S. 1964, c. 318, s. 4.

5. No such cereal grains, goods, wares or merchandise shall be held in pledge for any period exceeding six months; and no transfer of any such bill of lading or receipt shall be made to secure the payment of any bill, note or debt, unless the same is negotiated or contracted at the same time with the endorsement of such bill of lading or receipt.

No sale of any cereal grains, goods, wares or merchandise shall be made unless ten days' previous notice of the time and place of such sale has been given by registered or certified letter transmitted through the post-office to the owner of such cereal grains, goods, wares and merchandise.

R. S. 1964, c. 318, s. 5; 1975, c. 83, s. 84.

DIVISION II

TRANSFER OF COVE-RECEIPTS

6. Any cove-receipt or any receipt given by a cove-keeper or by the owner or keeper or other person entitled to the possession, use or occupancy of any wharf, yard, timber-limit, harbour, boom, warehouse, storehouse or other place for logs, pulpwood or other timber; boards, deals, staves or other lumber or products thereof there laid up, stored or deposited, or any receipt given by any person in charge of logs, pulpwood or other timber in transit by river or otherwise from timber limits or other lands, or by the owner of or any other person entitled to receive the same, or any bill of lading or receipt given by a master of a vessel or by a carrier for logs, pulpwood or other timber; boards, deals, staves or other lumber or products thereof shipped in such vessel or delivered to such carrier for carriage from any place to any part of Québec or through the same or on the waters bordering thereon, or from the same to any other place, may, by endorsement thereon by the owner of or person entitled to receive such timber, or products thereof, or his attorney or agent, be transferred as collateral security for the payment of any bill of exchange, note, debt or liability.

Such endorsement, notwithstanding any existing law, shall vest in the endorsee, from the date of such endorsement, all the right and title of the endorser to or in or in respect to such logs, pulpwood or other timber; boards, deals, staves or other lumber or products thereof, and to all property into which the same or any thereof may be converted, subject to the right of the endorser to have the same re-transferred to him, if such bill, note, debt or liability be paid when due.

In the event of the non-payment of such bill, note, debt or liability, when due, such endorsee may sell the said logs, pulpwood or other timber; boards, deals, staves or other lumber or products thereof or the property into which the same or any thereof shall have been converted, and retain the proceeds or so much thereof as will be equal to the amount due upon such bill, note, debt or liability, with any interest or costs, returning the overplus, if any, to such endorser.

R. S. 1964, c. 318, s. 6.

7. Where any cove-keeper or owner, or keeper or other person entitled to the possession, use or occupancy of any wharf, yard, timber-limit, harbour, boom, warehouse, storehouse or other place, or person in charge of logs, pulpwood or other timber in transit by river or otherwise from timber-limits or other lands, or master of a vessel, or carrier by whom a receipt or bill of lading may be given in such capacity for logs, pulpwood or other timber; boards, deals, staves or other lumber or products thereof, is at the same time the owner of such timber or products thereof, or entitled himself, otherwise than in the capacity above-mentioned, to receive such timber or products thereof, any such receipt or bill of lading or any acknowledgment or certificate intended to answer the purpose of such receipt or bill of lading, given and endorsed by such person, shall be as valid and effectual as if the person giving such receipt or bill of lading or acknowledgment or certificate, and endorsing the same, were not one and the same person.

R. S. 1964, c. 318, s. 7.

8. The security created by any such endorsement of any such receipt or bill of lading shall not be effective for any period exceeding twelve months; and no transfer of any such receipt or any bill of lading shall be made to secure the payment of any bill of exchange, note, debt or liability unless the same is negotiated or contracted at the same time with the endorsement of such receipt or bill of lading or unless a written promise or agreement that such security would be given is made at the same time that such bill of exchange, note, debt or liability is negotiated or contracted; provided, however, that such bill, note, debt or liability may be renewed or the time for payment thereof extended without affecting the security so created.

No sale of any such logs, pulpwood or other timber; boards, deals, staves or other lumber or products thereof or property into which the same or any thereof shall have been converted, shall, without the consent in writing of the owner thereof, be made, unless notice of the time and place of such sale shall have been given to such owner by registered or certified letter sent by mail at least thirty days prior to the sale thereof.

Every such sale shall be made by public auction after notice thereof by advertisement, stating the time and place thereof, for at least eight days consecutively in at least two daily newspapers, one in French and the other in English, published in or nearest to the place where such sale is to be made.

A daily newspaper shall be deemed to be published nearest to a place, if no other daily newspaper be published in the same language in or nearer to such place; and if in any such place where any such sale by auction is to be made, there be not any newspaper published daily in either language, but some newspaper or newspapers be published in such language less often than daily, then such advertisement shall also be published in every issue of such local newspaper, or of at least one of such local newspapers, during the time of its being published in daily newspapers.

R. S. 1964, c. 318, s. 8; 1975, c. 83, s. 84.

9. *Any such endorsement of any such cove-receipt or bill of lading or receipt, acknowledgment or certificate, shall give to the endorsee thereof security on the logs, pulpwood and other timber, boards, deals, staves and other lumber therein mentioned and the products thereof, and all property into which the same or any thereof may be converted, prior to and by preference over the claim of any unpaid vendor or other creditor, save and except claims for wages of labour performed in making and transporting such timber.*

R. S. 1964, c. 318, s. 9.

10. *A security given under this division has effect in respect of third persons only from its registration.*

1982, c. 55, s. 2.

DIVISION III

TRANSFERS OF PROPERTY IN STOCK

1982, c. 55, s. 2.

11. *A person may, as consideration for a loan or authorized credit, transfer, while retaining possession thereof, any property in stock of his undertaking, whether or not the undertaking deals in goods or services and whether or not it is a commercial undertaking.*

“Property in stock” means any moveable property in reserve, including raw materials, property being processed, finished products, animals, wares, property used for packing, and any hydrocarbons or mineral substances, even where such hydrocarbons and mineral substances are still in the ground.

1982, c. 55, s. 2.

12. *The transferee acquires the same rights over the transferred property as those vested in the beneficiary by endorsement of a bill of lading or receipt made under section 1 or section 6.*

1982, c. 55, s. 2.

13. *No transferor may transfer property unless he owns it; however, he may transfer future property, but its transfer has effect only on his becoming its owner.*

1982, c. 55, s. 2.

14. *Property acquired to replace transferred property is the object of the transfer.*

A transfer is not deemed to be without an object where all the transferred property is lost or destroyed, if the transferor replaces it within a reasonable time, considering its quantity and nature.

1982, c. 55, s. 2.

15. *Where a transferor transfers fertilizers, ameliorants, seeds, pesticides or weedkillers and subsequently uses them without replacing them, the crop produced during the first harvest following such use is also the object of the transfer.*

1982, c. 55, s. 2.

16. *To carry on the business, the transferor has the powers of a mandatary of the transferee over the transferred property. The transferor remains responsible for any expenditure incurred in carrying on the undertaking.*

1982, c. 55, s. 2.

17. *The transferor shall exercise the care of a prudent administrator over the transferred property.*

However, the loss or deterioration of transferred property is the responsibility of the transferor, unless it is by the fault of the transferee.

1982, c. 55, s. 2.

18. *The indemnity payable by reason of the loss or deterioration of any transferred property belongs to the transferee up to the amount of his claim. Payment made in good faith to the transferor before notification discharges the debtor.*

The transferee may allocate the indemnity to the payment of the debt or remit it to the transferor to repair or replace the property contemplated.

1982, c. 55, s. 2.

19. *Following any assignment, whether voluntary or judicial, of rights acquired under section 11, and following any subrogation in the same rights, the loan or sums advanced under the authorized credit may be repaid in advance, without notice and without any fine or penalty being exacted by reason of such repayment.*

The repayment may be partial or full and must be made before the thirtieth day after the sending to the transferor of a notice of the transfer or subrogation by registered or certified mail.

1982, c. 55, s. 2.

20. *The transfer must be evidenced in a writing, which may be drafted as in the model in Schedule I.*

1982, c. 55, s. 2.

21. *The writing evidencing a transfer must, in particular, indicate the address of the domicile, the principal place of business or the head office of the transferor, the nature of the property, its class or quality, the place where it is located, and, where applicable, the amount or quantity of property of each class or each quality, and any other information allowing it to be identified in relation to other property of the same nature.*

1982, c. 55, s. 2.

22. *The transfer has effect against third parties only from its registration.*

1982, c. 55, s. 2.

23. *The registration of a transfer is valid for five years from the date of registration; however, the registration may be renewed before then.*

1982, c. 55, s. 2.

24. *The transfer ceases to have effect against third parties if the registration is cancelled or the period provided for in section 23 expires, provided the registration has not been renewed.*

1982, c. 55, s. 2.

25. *Sections 22 to 24 apply to any assignment, whether voluntary or judicial, of rights acquired under section 11 and to any subrogation in the same rights.*

1982, c. 55, s. 2.

26. *In no case may a transfer, even if it has been registered, be set up against a purchaser who, in the ordinary course of business of the transferor, purchases transferred property.*

In no case may the transferee be bound for latent defects.

1982, c. 55, s. 2.

27. *The transferor must indicate to the transferee in the writing evidencing the transfer any claim of an unpaid vendor affecting the transferred property, and any claim so indicated takes precedence over the rights of the transferee.*

Subject to section 26, the rights of the transferee take precedence over all rights granted over the property by the transferor subsequently to the transfer, and they follow the property into whatever hands it may pass.

However, in the event of the bankruptcy of the transferor pursuant to the Bankruptcy Act (Revised Statutes of Canada, 1985, chapter B-3), his employees' claims for wages, salary or other remuneration owed them for a period of not over three months immediately preceding the bankruptcy take precedence over the rights of the transferee. The same rule applies to any claim of a farmer or a farm producer held against the transferor under the conditions and for the purposes and the amount provided for in paragraph b of subsection 7 of section 178 of the Bank Act (Revised Statutes of Canada, 1985, chapter B-1).

1982, c. 55, s. 2.

28. *The amalgamation of undertakings does not affect the rights of a transferee over the property transferred to him.*

1982, c. 55, s. 2.

29. *The return to a lessor of a duplicate or copy of the writing evidencing a transfer is equivalent to the notice given under article 1639 of the Civil Code.*

1982, c. 55, s. 2.

30. *If a transferor in possession of transferred property fails to fulfil his obligations under the loan or authorized credit towards the transferee, the transferee is entitled to possess the property. If the transferor fails to remit the property to him, the transferee may on a motion obtain a judicial order enjoining the transferor to remit the property to the transferee. The motion may be presented without service before the judge in chambers or the special prothonotary.*

Opposition to the judicial order must be in accordance with the rules set down in the Code of Civil Procedure (chapter C-25) for opposition to seizure before judgment. It is heard by preference in practice division.

1982, c. 55, s. 2.

31. *The transferee may terminate the processing of property of which he takes possession. Similarly, he may proceed to harvest standing crops or extract hydrocarbons or mineral substances that are the object of the transfer.*

1982, c. 55, s. 2.

32. *Where transferred property taken into possession by a transferee is an animal, the transferee, in the best interests of the transferor and taking account of circumstances, may care for it or slaughter it.*

1982, c. 55, s. 2.

33. *The transferee shall sell the property diligently and in the best interests of the transferor; for that purpose he may sell it by bulk sale or separately.*

1982, c. 55, s. 2.

34. *A transferee may himself sell the property he has taken into possession by agreement or by a call for tenders, or cause it to be sold by auction or public auction.*

1982, c. 55, s. 2.

35. *In no case where the transferee elects to sell the transferred property himself may the sale be effected until five days after he has sent notice of it to the transferor at his last known address by registered or certified mail, unless the property is perishable or he considers that such formality could result in a significant reduction of its value.*

1982, c. 55, s. 2.

36. *A transferee who proceeds by way of a call for tenders may do so through the newspapers or by invitation.*

1982, c. 55, s. 2.

37. *A call for tenders must contain sufficient information to permit any interested person to tender a bid at the proper time and place.*

1982, c. 55, s. 2.

38. *The transferee is bound to accept the highest bid unless conditions attached to it make it less advantageous than a bid tendered for a lower price, or unless none of the bids tendered to him are for a reasonable price, considering the nature and value of the property.*

1982, c. 55, s. 2.

39. *A transferee who proceeds by way of auction or public auction shall do so at the date, time and place fixed in a notice sent to the transferor at his last known address by registered or certified mail, and then published not less than five days before the date fixed for the sale in accordance with the rules provided in article 139 of the Code of Civil Procedure (chapter C-25) although he is not required, in the case of publication of the notice in a newspaper, to request a judge or prothonotary to designate the newspaper.*

1982, c. 55, s. 2; 1984, c. 26, s. 34.

40. *At any time before the sale, the transferor may retake possession of the transferred property by repaying to the transferee the loan or the sums advanced under the authorized credit as well as the interest, costs and accessory expenses; repossession in this manner extinguishes the rights of the transferee over the property.*

1982, c. 55, s. 2.

41. *The transferor is responsible for the reasonable costs incurred by the transferee in the exercise of his rights under sections 30 to 32 and his right to sell the property.*

1982, c. 55, s. 2.

42. *The transferee shall allocate the proceeds of the sale to payment of the costs contemplated in section 41, payment of the claims having precedence over his rights up to the net proceeds of the sale, and payment of the debt and the accessory expenses.*

Where there is a surplus of money after the allocation in the first paragraph, the transferee shall remit it to the transferor; where, on the other hand, the proceeds of the sale are insufficient to pay the costs, the debt and the accessory expenses, the transferee preserves a personal claim against the transferor for the remainder due to him and is subrogated, where such is the case, in all the rights of the persons to whom he paid claims pursuant to the first paragraph, up to the amounts paid.

1982, c. 55, s. 2.

43. *Not later than eight days after the sale of the property, the transferee shall render account of the proceeds of the sale to the transferor.*

The account rendered may be contested in the manner established in the Code of Civil Procedure (chapter C-25).

1982, c. 55, s. 2.

44. *The Government may, by regulation, prescribe the information that must be contained in a call for tenders contemplated in section 37, the procedure to be followed and the time limits to be observed in carrying out that mode of proceeding.*

The regulation shall come into force ten days after its publication in the Gazette officielle du Québec or on any later date fixed therein.

1982, c. 55, s. 2.

DIVISION IV

REGISTRATION

1982, c. 55, s. 2.

45. *The registrar of the registration division of Montréal shall keep a computerized register of the registrations provided for by this Act.*

1982, c. 55, s. 2.

46. *The register must contain, in alphabetical order, the name of each endorser and transferor, his address, the nature of the deed, the name of the registry office where the notice was presented, and the number, date and time of the entry in the register.*

1982, c. 55, s. 2.

47. *Every registration of rights provided for by this Act shall be made by the entry of those rights in the register; on juridical days, except Saturdays, at the hours the Minister of Justice fixes by order.*

1982, c. 55, s. 2; 1984, c. 26, s. 35.

48. *Every person wishing to have a right entered in the register shall do so by presenting two duplicates of a notice, prepared in accordance with one of the models shown in Schedule 2, in the registry office of a*

registration division established under the Territorial Division Act (chapter D-11) in which a computerized system is used.

The notice shall be presented at a time when an entry in the register may be made.

1982, c. 55, s. 2; 1984, c. 26, s. 36; 1986, c. 105, s. 2.

49. *Where a notice is presented to the registrar, he shall immediately enter the information required by section 46 in the register. He shall then certify the entry on both duplicates of the notice, indicating the number, date and time of the entry, remit one of the duplicates to the person who requested the entry and transmit the other to the registrar of Montréal, who shall deposit it in his records.*

1982, c. 55, s. 2; 1986, c. 105, s. 3.

50. *(Repealed).*

1982, c. 55, s. 2; 1986, c. 105, s. 4.

51. *(Repealed).*

1982, c. 55, s. 2; 1986, c. 105, s. 4.

52. *Notwithstanding article 2130 of the Civil Code, the date and time of entry in the register determine the priority of rank. The registrar of Montréal shall enter in the book of presentations the date and time of entry in the register.*

1982, c. 55, s. 2.

53. *Two duplicates of a document intended to cancel an entry in the register must be presented in one of the registry offices referred to in section 48. The cancellation is made in accordance with Chapter V of Title Eighteenth of Book Third of the Civil Code; however, where a security registered under section 10 ceases to have effect pursuant to section 8 or where the registration of a transfer is no longer valid pursuant to section 23, the registration thereof is cancelled by means of a requisition to that effect presented by any interested person.*

Mention of the cancellation must be entered in the register and section 49 applies, adapted as required.

1982, c. 55, s. 2; 1986, c. 105, s. 5.

54. *The fifth paragraph of article 2131 of the Civil Code does not apply to documents presented for registration under this Act.*

1982, c. 55, s. 2.

55. *Any person may obtain a certified statement of the registered notices from a registry office contemplated in section 48. The statement consists of a computerized statement of the uncanceled entries appearing on the register.*

Where the request is made to an office contemplated in section 50, the registrar of that office shall forward it to the registrar of an office contemplated in section 49, who shall issue the statement after having certified it.

1982, c. 55, s. 2; 1986, c. 105, s. 6.

56. *(Repealed).*

1982, c. 55, s. 2; 1986, c. 105, s. 7.

DIVISION V

ADMINISTRATION OF THE ACT

1982, c. 55, s. 2.

57. *The Minister of Justice is responsible for the administration of this Act.*

1982, c. 55, s. 2.

DIVISION VI



This Division ceased to have effect on 17 April 1987.

58. *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

SCHEDULE 1

(section 20)

TRANSFER OF PROPERTY IN STOCK

I, the undersigned
(transferor)

.....
(address of domicile, principal place
of business or head office)

in consideration of a loan or authorized credit for an amount of
..... dollars (\$)

that is made to me by
(transferee)

.....
(address)

transfer to the latter the property hereinafter described of
which I am now or shall become owner:

(Description of property)

Present property:

Future property:

The property is located at

(Enter here any other clauses agreed by the parties)

I consent to this transfer under Division III of the Act
respecting bills of lading, receipts and transfers of property
in stock (chapter C-53).

I guarantee that the property of which I am owner and that is
hereby transferred is discharged of all transfers and
privileges, except

.....
(identification of existing privileges)

and I pledge that the future property of which I shall become
owner and that is also transferred hereby is discharged of all
transfers and privileges.

Made at, on 19.....

(signature of transferor)

(signature of transferee)

1982, c. 55, s. 2.

SCHEDULE 2

(section 48)

NOTICE OF A SECURITY UNDER DIVISION II
OR OF A TRANSFER OF PROPERTY IN STOCK

To the registrar of the registration division of,
.....,
(name of the office)

notice is given that,
(endorser or transferor)

.....,
(address)

has (endorsed a receipt or a bill of lading, or transferred
property in stock) under section (6 or 11) of the Act respecting
bills of lading, receipts and transfers of property in stock
(chapter C-53) in favour of,
.....,
(beneficiary or transferee)

.....,
(address)

dated,
(date)

This notice is given to you under section 48 of the said Act,
so that it may be entered in the register contemplated in
section 45 of the said Act.

Made at, on 19.....

(signature)

NOTICE OF RENEWAL OF THE REGISTRATION OF A TRANSFER
OF PROPERTY IN STOCK

To the registrar of the registration division of,
.....,
(name of the office)

notice is given that,
(transferor)

BILLS OF LADING, RECEIPTS, TRANSFERS OF PROPERTY IN STOCK

.....,
(address)
has transferred property in stock, notice of which was
registered in the registry office of the registration division
of Montréal on
under number, that the notice was registered
less than five years ago, and that it is expedient to renew the
registration of the notice.

This notice is given to you under section 48 of the Act
respecting bills of lading, receipts and transfers of property
in stock (chapter C-53), so that it may be entered in the
register contemplated in section 45 of the said Act.

Made at, on 19.....

(signature)

**NOTICE OF A VOLUNTARY OR JUDICIAL ASSIGNMENT
RELATING TO A TRANSFER OF PROPERTY IN STOCK**

To the registrar of the registration division of
.....,
(name of the office)
notice is given that the rights from the transfer of property in
stock by
(transferor)
.....,
(address)

notice of which was registered in the registry office of the
registration division of Montréal on
....., under number
in favour of
(first transferee)
have been the object of an assignment of rights (voluntary or
judicial) in favour of
(new transferee)
.....
(address)

This notice is given to you under section 48 of the Act
respecting bills of lading, receipts and transfers of property
in stock (chapter C-53), so that it may be entered in the
register contemplated in section 45 of the said Act.

BILLS OF LADING, RECEIPTS, TRANSFERS OF PROPERTY IN STOCK

Made at, on 19.....

(signature)

**NOTICE OF A SUBROGATION RELATING TO A TRANSFER
OF PROPERTY IN STOCK**

To the registrar of the registration division of
.....
(name of the office)

notice is given that the rights arising from the transfer of
property in stock by
(transferor)

.....
(address)

notice of which was registered in the registry office of the
registration division of Montréal on

under number

in favour of
(first transferee)

have been subrogated in favour of

.....
(new transferee)

.....
(address)

This notice is given to you under section 48 of the Act
respecting bills of lading, receipts and transfers of property
in stock (chapter C-53), so that it may be entered in the
register contemplated in section 45 of the Act.

Made at, on 19.....

(signature)

1982, c. 55, s. 2.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 318 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed effective from the coming into force of chapter C-53 of the Revised Statutes.