



The Personal Property Securities Act 2009

Intermediate Level

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s. 12(1) – “Security Interest”

A security interest means an interest in personal property provided for by a transaction that, in substance, secures payment or performance of an obligation (without regard to the form of the transaction or the identity of the person who has title to the property).

Retention of title issues

- Overview
- Writing requirements - section 20(2)
- PMSI Status
 - *Inventory v non-inventory* registration periods
 - *Seller v lender* priority
 - Factoring agreements
 - Limits of *all-monies* clauses
 - Allocation of payments

Retention of title issues (cont)

Tracing into proceeds

Accession and Co-mingling

Fixtures

Equipment hire and consignment sales agreements

- Differentiate between equipment hire, operating leases and rentals; finance leases; and commercial hire purchase agreements
- The PPSA landscape and the definition of security interests
- Differentiate between security interests and deemed security interests
- Commercial consignments

Equipment hire and consignment sales agreements (cont)

PPS leases

Attachment and perfection

Priorities

Enforcement of deemed security interests

Short term Rental

Liens

Section 8 of PPS

Common law liens

Statutory liens

Farming and grazing

- Case study
- Cattle and agistment issues:
 - Licence?
 - Bailment?
 - Lease?

Farming and grazing (cont)

Livestock includes –

- while they are alive:
alpacas, cattle, fish, goats, horses, llamas, ostriches, poultry, sheep, swine and other animals
- their unborn young; and
- the product of livestock.

Cattle and agistment

- Section 86 and perfected security interests (livestock PMSI)
- Feedlots operated by other parties
- Section 85 and perfected security interests (crop PMSI)

Receivables Financing

Differentiate between: *secured* structures and *transfer* structures

- What is the difference: loan-v-assignment

Applicable PPSA concepts:

- Security interest in “accounts”
- Attachment and perfection
- PMSIs and section 64: *Account PMSI* trumps *ROT PMSI*