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BRITISH COLUMBIA DEBTOR-CREDITOR LAW AND PRECEDENTS

Lyman R. Robinson
Release No. 2, June 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in December 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the December 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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This work is an authoritative review of the law and procedures for enforcing monetary judgments and orders in British Columbia. This valuable resource covers the procedural rules in the B.C. Supreme Court, the B.C. Small Claims Court and the Federal Court of Canada, accompanied with useful precedents. The topics included are pre-judgment proceedings, garnishment, execution against real and personal property, enforcement and fraudulent conveyances and preferences.

HIGHLIGHTS:

The priority between a registered judgment and pre-existing equitable interests was considered by the Court of Appeal in *Chichak v. Chichak*. This case and other priorities between a registered judgment and other types of pre-existing equities are discussed in Paragraphs 7:17 and 7:24.

The issue of whether or not a claim under the *Fraudulent Conveyance Act*, where it is sought to set aside a conveyance of land, will support the registration of a Certificate of Pending Litigation is discussed in Paragraph 7:96.

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases, Table of Statutes and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages

Preface

This is the first book that focuses on the law of British Columbia pertaining to the relationship between judgment creditors and judgment debtors. Some pre-judgment issues are also dealt with, including garnishment before judgment. The primary focus is on the methods of enforcement available to a judgment creditor seeking to enforce satisfaction of a judgment. These methods are considered both from the perspective of the judgment creditor who is seeking to enforce a judgment and the perspective of the judgment debtor seeking, for example, to obtain the release of funds attached by a garnishing order or to defer execution against the judgment debtor's residence. The text discusses the relevant legislation, rules of court and the leading cases, as well as some issues that have not yet been the subject of legislation or judicial comment. Selected precedents are included at the end of most of the chapters to assist the practitioner.

Much of the law pertaining to the enforcement of judgments is based on provincial statutes and rules of court. Notwithstanding that British Columbia legislation shares some common historical antecedents with that of other Canadian provinces, the Canadian territories and England, there are many aspects of British Columbia law that are distinctive. The text emphasizes British Columbia authorities throughout, but where common legislation exists or the point has not been the subject of judicial comment in British Columbia, we have included references and citations to the cases and legal commentary in other jurisdictions.

New legislation and the ingenuity of counsel continue to produce new issues for consideration. Readers who discover issues that are not presently included in the text are invited to contact us and we will endeavour to deal with those issues in future updates. As well, where numerous cases could be cited to support a proposition it has not always been practical to include citations to all the cases. Nevertheless, if a reader is aware of a case that is unique or contains a quotation that captures the point at issue more effectively, we would be pleased to receive a note or call about that case.

R.C. (Tino) Di Bella of Jawl & Bundon in Victoria has contributed precedents that we believe will be helpful to practitioners in this area of law. The precedents should of course be revised as appropriate to meet the circumstances of the particular proceeding in which they will be used. Again, readers are invited to send us copies of precedents which they have used successfully and would like to share with other practitioners.

As indicated above, we will be updating this book on an ongoing basis. These updates will include new cases, new legislation and amendments, new precedents, and additions or revisions to the text that will reflect new developments and new insights into old problems.

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December 1993