



Ontario

Ministry of
Consumer and
Commercial
Relations

Registration
Division

Property
Law
Branch

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TO:
ALL LAND REGISTRARS

THE FARM DEBT REVIEW ACT, 1986
S.C. 1986, c. 33

SALE BY A CHARGEE
LAND TITLES ACT
R.S.O. 1980, c. 230

The Farm Debt Review Act, 1986, S.C. 1986, c. 33 was proclaimed in force on August 5, 1986. It has come to our attention that many members of the profession and the public are not aware of the Act and its impact on the rights of creditors.

Under subsection 22(1) of the Act, every secured creditor who intends to realize on any security of a farmer, shall give the farmer a prescribed written notice of his intention to do so and in the notice shall advise the farmer of the right of an insolvent farmer to make an application under section 20. If the farmer is insolvent, the farmer may apply to the Farm Debt Review Board for a review of his financial affairs and for a stay of any proceedings against him by his creditors.

Section 23 of the Act provides as follows:

23. Subject to sections 26, 29 and 32, and notwithstanding any other law, on receipt by a Board of an application made by a farmer under section 20, no creditor of the farmer shall, for a period of thirty days after the receipt of the application by the Board, have any remedy against the property of the farmer or shall commence or continue any proceedings or any action, execution or other proceedings, judicial or extra-judicial, for the recovery of a debt, the realization of any security or the taking of any property out of the possession of the farmer.

The effect of section 23 of the Act is to suspend the rights of creditors of the farmer. If a chargee issues notice of sale proceedings and on the 15th day of the redemption period a stay of proceedings comes into effect, the time period for redemption will be suspended and will not commence to run again until the stay of proceedings terminates.

The stay of proceedings under section 23 of the Act may be extended by the Board under section 29 for up to a total period of 120 days. The Act uses the term "property of the farmer" which would include not only

farm property, but any other property owned by a farmer, such as a house in the city or property of another business carried on by the farmer.

In view of the foregoing, effective immediately, paragraph 3 of the Declaration of Solicitor (see page 5090, Land Titles Procedural Guide) required with the transfer by a chargee exercising a power of sale under the Land Titles Act, R.S.O. 1980, c. 230 shall be amended as follows:

"3. In my opinion the sale proceedings carried out by _____ in exercise of the power of sale contained in the said Charge No. _____ are in compliance with Part III of the Mortgages Act, the terms of the charge, the Farm Debt Review Act and other relevant requirements of law."

The wording of this paragraph should be suitably amended where the sale is made pursuant to Part II of the Mortgages Act or pursuant to the terms of a debenture.