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### **BANKRUPTCY AND INSOLVENCY LAW OF CANADA**

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This resource contains the complete text of the *Bankruptcy and Insolvency Act* and Rules, the *Companies' Creditors Arrangement Act*, the *Farm Debt Mediation Act*, the *Wage Earner Protection Program Act* and the *Winding-Up and Restructuring Act*. The section-by-section and rule-by-rule case annotations and commentary provide an extensive and detailed resource tool for insolvency lawyers, trustees, receivers and liquidators. The collection of Policy Documents, Model Orders, Forms and Precedents provide additional practice guides to make it the most complete resource for the professional.

#### **What's New in this Update:**

This release features updates to the commentary in Chapter 1 (Short Title), Chapter 2 (Administrative Officials), Chapter 4 (Proposals), Chapter 5 (Property of the Bankrupt), Chapter 6 (Administration of Estates), Chapter 7 (Bankrupts), Chapter 8 (Courts and Procedure), Chapter 12 (Secured Creditors and Receivers), and Chapter 22 (Jurisdiction of Courts).

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## Case Law Highlights

- **The Bankruptcy and Insolvency Act — Property of the Bankrupt — Personal Property Act - Procedure for Attaching Security Interest that Trustee Alleges is Unperfected** — The Court of Appeal for Ontario dismissed an appeal from the decision of a motion judge that held that the security interest of the bank prevailed over the interest of a vehicle lessor. The traditional concepts of title and ownership are no longer determinative in the context of the present appeal, as the modern PPSA makes the dispute one of priority to the collateral and not ownership in it. The Court held that while the appellant clearly could have perfected its security interest under the PPSA as the lessor of property for more than one year, its failure to do so meant that it does not have priority over the bank's perfected security interest over the collateral, which arises under the general security agreement (GSA). The Court held that the motion judge's analysis of the PPSA was correct: *Royal Bank of Canada v. Cutler Forest Products Inc.* 2024 ONCA 118, 2024 CarswellOnt 1879, (Ont. C.A.).
- **The Bankruptcy and Insolvency Act — Administration of Estates — Necessity for Filing Proof of Claim — Generally** — The Québec Superior Court dismissed the bankrupt's appeal of a decision of the registrar refusing to intervene to reduce the proof of claim from the Agence du Revenu du Québec (ARQ) remitted to the trustee eight months after the bankruptcy filing. The Court held that decisions of the registrar in matters within the jurisdiction may be appealed to a judge of the court and the judge will only intervene if the evidence discloses new facts or if the registrar's decision is erroneous in his or her assessment of the evidence or the reasons for its intervention. The Court held that here, the registrar was correct in law in the decision and did not make any error that warranted its intervention: *Fetrati c. Agence du revenu du Québec*, 2024 QCCS 384, 2024 CarswellQue 357 (C.S. Que.).
- **The Bankruptcy and Insolvency Act — Property of the Bankrupt — Fraudulent Conveyances — Generally** — On appeal from this decision, the British Columbia Court of Appeal granted the respondent an extension of time to file a notice of cross-appeal and a cross-appeal factum. The Court held that the most significant factors in assessing an application to extend the time to file a cross-appeal are whether the appellant would be unduly prejudiced by permitting the cross-appeal to be filed and whether, having regard to the nature of the appeal, the issues to be canvassed, and the time available for the appellant to respond to the issues raised in the cross-appeal, it is in the interests of justice that all matters in dispute arising from the trial judgment be resolved in one hearing. Here, the appellant will not be unduly prejudiced by the delay in filing the cross-appeal. The interests of justice favour all matters in dispute arising from the trial judgment being resolved in one hearing: *IE CA 3 Holdings Ltd. v. NYDIG ABL LLC*, 2024 BCCA 38, 2024 CarswellBC 238 (B.C. C.A.).