Publisher's Note

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SECURED TRANSACTIONS IN PERSONAL PROPERTY IN CANADA (3rd EDITION)
Richard McLaren
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What's New in this Update:

This six-volume work provides a complete practitioner's manual to the personal property security regimes of Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Atlantic provinces. As a textbook, it contains detailed analysis of the finer and more complex academic aspects of personal property security law. As a handbook, it sets out the mechanics for registering and searching documents under the various provincial statutes. Finally, as a law reporter, it features the full text of all relevant case law together with expertly prepared headnotes. In addition, the legislation is regularly updated.

This release features updates to commentary in Chapter 3 (Scope) and 13 (Repair and Storage Liens) and adds two new cases to Appendix M Case Law.

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Highlights:

- **Scope — Excluded Transactions — § 3:56. Assignment of An Interest in Real Property —** In *Bank of Montreal v. Dynex Petroleum Ltd.*, the Supreme Court of Canada found that royalties may be interests in real property if the parties intended that one be created or conveyed. The court uses various indicia to determine the parties' intentions. While not exhaustive, the court considered (1) whether the underlying interest is an interest in land; and (2) the language of the grant and any admissible evidence of the surrounding circumstances or behaviour. Some interests in oil and gas leases may therefore not fall under the scope of the B.C. and Alberta Acts. *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.* used the test from *Dynex* and found gross overriding royalties on mining interests other than oil and gas could also be interests in land. If the interest is an interest in land, it will not be covered by these Acts. This was reaffirmed in *PrairieSky Royalty Ltd. v. Yangarra Resources Ltd*. In this case, the Alberta Court of King's Bench applied the *Dynex* test and found that an 8% overriding royalty over Crown lands was an interest in land. As such, the royalty could not be registered under the Personal Property Registry under s. 4(f) of the PPSA or under the provincial electronic transfer system as set out in s. 95 of the *Mines and Minerals Act*. On appeal, the ABCA confirmed that an overriding royalty over unpatented Crown lands can be a legal interest in land: *PrairieSky Royalty Ltd. v. Yangarra Resources Ltd.*, 2025 ABCA 240, 19 P.P.S.A.C. (4th) 229 (Alta. C.A.).
- **Repair and Storage Liens — Possessory Liens — § 13:3. Storers' Liens —** In *1446649 B.C. Ltd. v. 1443120 B.C. Ltd.*, the BCSC declined to find a valid commercial lien because the respondent did not provide storage services for consideration as required under s. 2 the *Commercial Liens Act*. In addition, a license agreement between the parties made no reference to the provision of the respondent providing storage services. While the parties' license agreement referenced the installation of portables ("Daycare Facility") on the property, the Court held that installation was not the same as storage. Other provisions of the License Agreement were inconsistent with the respondent providing storage services. For example, it was the petitioner's duty to keep the Daycare Facility and licensed property neat, tidy, safe, and in a condition free from any inconvenience: *1446649 B.C. Ltd. v. 1443120 B.C. Ltd.*, 2025 BCSC 1707, 19 P.P.S.A.C. (4th) 265 (B.C. S.C.).