

Nothing herein shall adversely affect the rights or the enforcement of rights in trademarks acquired in good faith ((at any time)) at common law prior to registration under this chapter; however, during any period subsequent to the effective date of this act when the registration of a mark under this chapter is in force and the registrant has not abandoned the trademark, no common law rights as against the registrant may be acquired.

NEW SECTION. Sec. 13. A new section is added to chapter 19.77 RCW to read as follows:

It is the intent of the legislature that, in construing this chapter, the courts be guided by the interpretation given by the federal courts to the federal trademark act of 1946, as amended, 15 U.S.C., Secs. 1051, et seq.

NEW SECTION. Sec. 14. A new section is added to chapter 19.77 RCW to read as follows:

This act applies prospectively only and not retroactively. The rights and obligations of this act shall accrue upon the effective date of this act to all prior trademark registrations then in effect, and the provisions of this act shall not apply to any cause of action arising prior to the effective date of this act.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 211, Laws of 1955, section 65, chapter 81, Laws of 1971, section 185, chapter 35, Laws of 1982, section 23, chapter 202, Laws of 1988 and RCW 19.77.100; and

(2) Section 12, chapter 211, Laws of 1955 and RCW 19.77.120.

Passed the Senate March 6, 1989.

Passed the House April 4, 1989.

Approved by the Governor April 19, 1989.

Filed in Office of Secretary of State April 19, 1989.

CHAPTER 73

[Senate Bill No. 5771]

RENTS—PERFECTION OF SECURITY INTEREST BY RECORDING ASSIGNMENT

AN ACT Relating to the assignment of rents; and amending RCW 7.28.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 498, page 130, Laws of 1869 as last amended by section 1, chapter 122, Laws of 1969 ex. sess. and RCW 7.28.230 are each amended to read as follows:

(1) A mortgage of any interest in real property shall not be deemed a conveyance so as to enable the owner of the mortgage to recover possession of the real property, without a foreclosure and sale according to law: PROVIDED, That nothing in this section shall be construed as any limitation

upon the right of the owner of real property to mortgage, pledge or assign the rents and profits thereof, nor as prohibiting the mortgagee, pledgee or assignee of such rents and profits, or any trustee under a mortgage or trust deed either contemporaneously or upon the happening of a future event of default, from entering into possession of any real property, other than farm lands or the homestead of the mortgagor or his successor in interest, for the purpose of collecting the rents and profits thereof for application in accordance with the provisions of the mortgage or trust deed or other instrument creating the lien, nor as any limitation upon the power of a court of equity to appoint a receiver to take charge of such real property and collect such rents and profits thereof for application in accordance with the terms of such mortgage, trust deed or assignment.

(2) Until paid, the rents and profits of real property constitute real property for the purposes of mortgages, trust deeds or assignments whether or not said rents and profits have accrued. The provisions of RCW 65.08-.070 as now or hereafter amended shall be applicable to such rents and profits, and such rents and profits are excluded from Article 62A.9 RCW.

(3) The recording of an assignment, mortgage, or pledge of unpaid rents and profits of real property, intended as security, in accordance with RCW 65.08.070, shall immediately perfect the security interest in the assignee, mortgagee, or pledgee and shall not require any further action by the holder of the security interest to be perfected as to any subsequent purchaser, mortgagee, or assignee. Any lien created by such assignment, mortgage, or pledge shall, when recorded, be deemed specific, perfected, and choate.

Passed the Senate March 9, 1989.

Passed the House April 3, 1989.

Approved by the Governor April 19, 1989.

Filed in Office of Secretary of State April 19, 1989.

CHAPTER 74

[House Bill No. 1163]

NONCHARTER CITIES—PRESENTATION AND FILING OF CLAIMS

AN ACT Relating to the presentment and filing of claims; and amending RCW 35.31.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 35.31.040, chapter 7, Laws of 1965 as amended by section 13, chapter 164, Laws of 1967 and RCW 35.31.040 are each amended to read as follows:

All claims for damages against noncharter cities and towns must be presented to the city or town council and filed with the city or town clerk