

Application of this section.

This section is applicable where the mortgagor and mortgagee are non-residents, the property being located in this state. Such a mortgage without an affidavit is invalid as against attaching creditors. *Pleasanton v. Johnson*, 91 Md. 676. And see *Millikin v. Second Natl. Bank*, 206 Fed. 18.

This section has no application to a voluntary deed for the benefit of creditors. Conveyances contemplated by this section. *Hoopes v. Knell*, 31 Md. 554; *Mackintosh v. Corner*, 33 Md. 606.

The acts of 1846, ch. 271, and 1847, ch. 305, only apply to such bills of sale as are required to be acknowledged and recorded; hence if the property passes to the vendee, no affidavit is required—see notes to sec. 44. *Bryan v. Hawthorne*, 1 Md. 524; *Waters v. Dashiell*, 1 Md. 474.

Generally.

A mortgage without the formalities prescribed by sec. 44 and this section is subordinate to a second mortgage duly executed, acknowledged and recorded. *Butler v. Gannon*, 53 Md. 341.

The affidavit may be made at any time before recording, and before any person authorized to take the acknowledgment of the bill of sale or mortgage. *Fersner v. Bradley*, 87 Md. 492.

Though a bill of sale be defective in not having the affidavit, it may be set up as a valid contract in equity. *Ing v. Brown*, 3 Md. Ch. 525; *Alexander v. Ghiselin*, 5 Gill, 138.

Purpose of this section; a substantial compliance is sufficient. *Marlow v. McCubbin*, 40 Md. 136. And see *Mackintosh v. Corner*, 33 Md. 606. *Cf. Denton v. Griffith*, 17 Md. 304.

For cases now apparently inapplicable to this section by reason of changes in the law, see *Fouke v. Fleming*, 13 Md. 412; *Wilson v. Carson*, 12 Md. 54.

See secs. 33 and 44, and notes.

An. Code, sec. 53. 1904, sec. 51. 1888, sec. 50. 1886, ch. 368.

54. In all cases, heretofore or hereafter, where bills of sale are taken on personal property, which, according to the true intent of the parties thereto, are chattel mortgages, upon the payment or discharge of the debts named in said bills of sale by the vendors, it shall be the duty of the vendee therein named to release said bills of sale or re-transfer the property mentioned therein to the vendors, which release or re-transfer may be made upon the original bills of sale, which may be returned to the record office, and said release or re-transfer entered upon the record book where the bill of sale is recorded, at the end of the record thereof, or the said release or re-transfer may be made in the presence of the clerk, with his attestation thereto, in the record book in which the bill of sale is recorded, at the end of the record thereof.

Conditional Contracts of Sales.

An. Code, sec. 53A. 1916, ch. 355, sec. 53B.

55. Every note, sale or contract for the sale of goods and chattels, wherein the title thereto, or a lien thereon, is reserved until the same be paid in whole or in part, or the transfer of title is made to depend upon any condition therein expressed, and possession is to be delivered to the vendee, shall, in respect to such reservation and condition, be void as to third persons without notice until such note, sale or contract be in writing, signed by the vendee, and be recorded in the Clerk's Office of Baltimore City, or the Counties, as the case may be, where bills of sale are now re-