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ANALYSIS

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1959, No. 31

An Act to amend the Property Law Act 1952

[15 October 1959]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Property Law Amendment Act 1959, and shall be read together with and deemed part of the Property Law Act 1952 (hereinafter referred to as the principal Act).

2. Security for further advances—The principal Act is hereby amended by inserting, after section eighty, the following section:

“80A. Where a mortgage purports to secure a principal sum the amount of which is specified therein (whether or not the mortgage also purports to secure further advances), the mortgagee shall have the right to advance from time to time to the mortgagor the whole or any part of the principal sum the amount of which is so specified so as to rank in priority

to any subsequent mortgage, notwithstanding that the advance is made after the execution or registration of the subsequent mortgage, and whether or not the mortgagee has actual or constructive notice of the subsequent mortgage at the time of making the advance:

“Provided that any part of the principal sum which has been repaid to the mortgagee and readvanced to the mortgagor shall be deemed for the purposes of this section not to form part of the principal sum specified in the mortgage:

“Provided also that nothing in this section shall derogate from the provisions of subsection four of section one hundred and two of the Land Transfer Act 1952.”

3. Lessor exercising right of re-entry or forfeiture to give notice to mortgagee of lease—Section one hundred and eighteen of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) Where the lease in respect of which such a notice has been served on the lessee has been mortgaged and the lessor has actual notice of the name and address of the mortgagee, he shall forthwith after serving the notice on the lessee serve a copy of the notice on the mortgagee. Failure to comply with the provisions of this subsection shall not of itself prevent the exercise by the lessor of any right of re-entry or forfeiture under any proviso or stipulation in the lease.”
