

Bill No. 69 of 1945.

A BILL TO FACILITATE THE LOANING OF MONEY
IN THE PROVINCE UNDER THE NATIONAL HOUS-
ING ACT, 1944.

NOTE.

The purpose of this Act is to facilitate the making of loans in Alberta under *The National Housing Act, 1944 (Canada)*. It is provided that certain statutory provisions will not apply to loans under this Act. These are,—

(a) *The Judicature Act*, Section 34 (f) and section 36 (o), (p) and (q).

Section 34 (f) makes the time for redemption in a mortgage action one year unless reduced or enlarged by the Court.

Section 36 (o) restricts the right of the mortgagee to foreclosure and provides that no action shall lie on the covenant for payment in the mortgage.

Section 36 (p) directs a sale of the land in all cases where there is no redemption and provides that after a foreclosure order, no money is recoverable under the mortgage.

Section 36 (q) refers to actions brought before February 16th, 1940, and confines the remedy to the land itself.

(b) *The Land Titles Act*, Section 115. This section makes void an agreement whereby a mortgagor becomes the tenant of the mortgagee, commonly known as attornment clauses, except in cases of mortgages to the Farm Loan Board and to mortgages on houses where the form of mortgage is approved by the Lieutenant Governor in Council.

Section 3 of the Bill restores a former section of *The Land Titles Act* and restores fully the validity of such attornment clauses in mortgages under *The National Housing Act*.

(c) The Bill modifies the terms of *The Vendors' and Mortgagees' Costs Exaction Act* to allow the costs set out in section 4.

(d) *The Mechanics' Lien Act*, as it stood prior to March 30th, 1943, will apply to the loans. Certain amendments made on that date which affected a mortgagee's security by preventing the foreclosing of a lien under *The Mechanics' Lien Act* are not to apply.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 69 of 1945.

An Act to Facilitate the Loaning of Money in the Province
under The National Housing Act, 1944.

(Assented to _____, 1945.)

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Alberta,
enacts as follows:

1. This Act may be cited as "*The National Housing Loans Act (Alberta)*."

2. Where any loan is made under the provisions of *The National Housing Act, 1944 (Canada)*, secured by a mortgage on lands in the Province, the following statutory provisions shall have no application to the said mortgages or to the rights and remedies of the mortgagee thereunder:

Paragraph (f) of section 34, and paragraphs (o), (p) and (q) of section 36 of *The Judicature Act*, chapter 129 of the Revised Statutes of Alberta, 1942;

Section 115 of *The Land Titles Act*, chapter 205 of the Revised Statutes of Alberta, 1942.

3.—(1) Any mortgage to which section 2 applies may contain a covenant or provision, where the mortgage money is to be paid by instalments, that the mortgagor agrees to become the tenant of the mortgagee, and in any such case the relationship of landlord and tenant shall be validly constituted between such persons.

(2) The rent payable under any such agreement shall not exceed the fair annual rent at which the premises might reasonably be expected to rent on a tenancy from year to year, the landlord paying the taxes.

(3) No such agreement shall of itself operate as or be considered as a taking of possession of the mortgaged premises or land by the mortgagee.

4. Notwithstanding the provisions of section 2 of *The Vendors' and Mortgagees' Costs Exaction Act*, being chapter 149 of the Revised Statutes of Alberta, 1942, the mortgagee under any mortgage to which section 2 applies shall be entitled to charge and collect from the mortgagor,—

(a) the costs and expenses of and incidental to the making of the loan and the taking of security therefor or any renewal, extension or discharge thereof;

- (b) any costs, fees and expenses provided or approved by the Dominion Government under the provisions of *The National Housing Act, 1944 (Canada)* or amendments thereto or any regulations made thereunder.

5. The provisions of *The Mechanics' Lien Act*, being chapter 236 of the Revised Statutes of Alberta, 1942, as it existed immediately prior to the 30th day of March, 1943, shall apply to all mortgages made pursuant to *The National Housing Act, 1944 (Canada)*, to all mechanics' liens arising thereunder and to the respective rights of the holders of such mortgages and lien holders, and the provisions of chapter 31 of the Statutes of Alberta, 1943, being an Act to amend *The Mechanics' Lien Act*, shall have no application thereto.

6. This Act shall come into force on the day upon which it is assented to.

No. 69.

FIRST SESSION
TENTH LEGISLATURE
9 GEORGE VI
1945

BILL

An Act to Facilitate the Loaning of
Money in the Province under The
National Housing Act, 1944.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

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