

Bill No. 16 of 1952.

A BILL TO AMEND THE SEIZURES ACT.

NOTE.

This Bill amends *The Seizures Act*, being chapter 143 of the Revised Statutes of Alberta, 1942.

Section 3 is amended by striking out the reference to seizures under *The Stallion Enrollment Act*, as that Act is being repealed.

Section 44 is amended by renumbering the existing section as subsection (1) and adding two new subsections. At present when a sheriff seizes and sells a chattel under a power of distress, the proceeds are disbursed to pay off the distraining creditor and the surplus, if any, goes to the debtor. The surplus cannot be attached by subsisting executions. On the other hand, property seized or attached by a writ of execution or attachment is seized for the benefit of all creditors with executions in the sheriff's hands. The effect of the new subsection (2) is that a surplus remaining after a seizure and sale under a power of distress will be available for creditors with subsisting writs of execution or attachment in the hands of the sheriff in the same manner as a surplus from a seizure under a writ of execution. Subsection (3) excepts from subsection (2) a chattel which is exempt from seizure by execution but which could be seized under a power of distress such as might be contained in a conditional sales agreement. If such a chattel is sold under a power of distress the surplus will go to the debtor and not to execution creditors.

This Bill comes into force upon assent.

KENNETH A. MCKENZIE,
Legislative Counsel.

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

BILL

No. 16 of 1952.

An Act to amend The Seizures Act.

(Assented to , 1952.)

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

1. *The Seizures Act*, being chapter 143 of the Revised Statutes of Alberta, 1942, is hereby amended.
2. Section 3 is amended by striking out the words “, nor ^{Section 3} amended to seizures made under the provisions of *The Stallion Enrollment Act*”.
3. Section 44 is amended,—
 - (a) by renumbering the section as subsection (1);
 - (b) by adding immediately after subsection (1) the following new subsections:
 - “(2) Notwithstanding subsection (1) where a ^{Surplus} chattel has been seized and sold in the exercise of a ^{after} distress power of distress to which this Act applies, any ^{distraint} surplus money remaining in the hands of the sheriff after he has,—
 - “(a) paid in full the claim of the person who exercised the power of distress; and
 - “(b) deducted his fees, charges and expenses and any claims for damages in respect of the distress and levy;

shall be deemed to be the proceeds of property seized and sold under a writ of execution and to have been attached on behalf of all creditors who are entitled by *The Execution Creditors Act* to share in any money received by the sheriff by reason of a seizure or attachment.

“(3) If the chattel seized and sold in the exercise of a power of distress is one which would otherwise be exempt from seizure under *The Exemptions Act*, subsection (2) shall not apply and the surplus money remaining in the hands of the sheriff shall be paid to the person from whom the chattel was seized under the power of distress.”.

- 4. This Act shall come into force on the day upon which it is assented to. ^{Coming into force}

No. 16.

FIFTH SESSION
ELEVENTH LEGISLATURE

1 Elizabeth II

1952

BILL

An Act to amend The Seizures Act.

Received and read the

First time

Second time

Third time

HON. MR. MAYNARD.
