

No. 60

2nd Session, 15th Legislature, Alberta
13 Elizabeth II

BILL 60

A Bill to amend The Seizures Act

HON. MR. MANNING

Explanatory Note

1. This Bill amends chapter 307 of the Revised Statutes.

2. Section 7 deals with the seizure of shares. Subsections (2) and (3) presently read:

(2) The sheriff on being informed on behalf of the execution creditor that the debtor has such shares as are referred to in subsection (1), and on being required to seize them, shall seize forthwith the share certificates or other documents evidencing the ownership of the shares, and thereupon shall serve a copy of the execution on the bank or company with a notice that all the shares of the debtor are seized thereunder.

(3) From the time of service the seizure shall be deemed to be made and no transfer of the shares by the debtor is valid until the seizure has been discharged.

The new subsection (2) will permit the sheriff to serve the notice either before or 5 days after seizure, where at present he can only serve it after.

3. Section 8 deals with seizure of a land or chattel mortgage.

The amendment increases the fee for registration of the seizure notice from 50c to \$1.00. Subsection (3) of section 8 presently reads:

(3) Upon receipt of any such notice by the proper officer, he shall make an entry thereof in the register or other book in which the mortgage or encumbrance is registered, and the proper officer is entitled to receive a fee of fifty cents for so doing.

4. Section 25, subsection (1) presently reads:

25. (1) To effect the seizure of any goods or chattels under any writ of execution or under any distress, the person duly authorized to effect the seizure

(a) shall serve upon the debtor, and if there is more than one debtor, upon each one of them, or upon some adult member of his household,

(b) shall attach to the goods to be seized or some or all of them, or

(c) shall post up in some conspicuous place upon the premises upon which the goods or some part of them are at the time of seizure, a notice of seizure in Form A in Schedule A, and a form of notice objecting to the removal and sale of the goods seized in Form B in Schedule A.

The amendment is made as a result of judicial comment to ensure that clauses (a), (b) and (c) are alternatives.

BILL

No. 60 of 1965

An Act to amend The Seizures Act

(Assented to _____, 1965)

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

- 1.** *The Seizures Act* is hereby amended.
- 2.** Section 7 is amended by striking out subsections (2) and (3) and by substituting the following:
 - (2) The sheriff, on being informed by or on behalf of the judgment creditor that the debtor has such shares as are referred to in subsection (1) and on being required to seize them, shall
 - (a) seize the share certificates or other documents evidencing the ownership of the shares, and
 - (b) either before or within five days after the seizure, serve a copy of the writ of execution on the bank or company and a notice that all the shares of the debtor are seized thereunder.
 - (3) When the notice referred to in clause (b) of subsection (2) is served, no transfer of the shares by the debtor is valid unless the sheriff notifies the bank or company that the seizure has been withdrawn.
- 3.** Section 8, subsection (3) is amended by striking out the words "fifty cents" and by substituting the words "one dollar".
- 4.** Section 25, subsection (1) is amended by adding the word "or" at the end of clause (a).

5. Section 34, subsection (1) presently reads:

34. (1) The debtor may, at any time after the seizure of any chattels under distress or under a writ of execution and before the same have been sold, apply to a judge, upon four days' notice to the creditor or such other notice to the creditor as the judge may direct, for an order restraining the creditor from proceeding to remove or sell or remove and sell all or any of the chattels seized.

The amendment will permit a person claiming an interest in goods under seizure to apply to the court for an order restraining the creditor from removing or selling them. It will also make it unnecessary for the sheriff to interplead between creditors and claimants.

6. Section 40 presently reads:

40. A person

- (a) who in contravention of this Act makes any seizure or levies any distress under any power of distress or does any act or thing for the purpose of carrying into effect any seizure or levy, or
- (b) who by means of threats of seizure or sale obtains or takes or receives from any person any goods and chattels or the proceeds thereof when such first mentioned person is not there and then fully authorized to make a seizure or levy a distress in respect of such goods and chattels,

is guilty of an offence and liable on summary conviction, if a body corporate, to a fine of not more than two hundred dollars, and if any other person, in the case of a first offence to a fine of not more than two hundred dollars, and in default of payment forthwith to imprisonment for a term of not less than one nor more than six months, and in the case of a second or subsequent offence to imprisonment without the option of a fine for a term of not less than three nor more than six months.

Clause (a) is re-enacted as a result of a recent decision of a district court judge where "seizure" was interpreted as being restricted to one made under a writ of execution. The new clause is rewritten so that it is clear that grammatically the "seizure" relates to one made under a power of distress.

7. Commencement of Act.

5. Section 34, subsection (1) is amended by adding after the word “debtor” the words “or any person claiming an interest in the goods or chattels under seizure”.

6. Section 40 is amended by striking out clause (a) and by substituting the following:

- (a) who in contravention of this Act and under a power of distress, makes a seizure or levies a distress or does any act for the purpose of carrying any such seizure or levy into effect, or

7. This Act comes into force on the day upon which it is assented to.

No. 60

SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

BILL

An Act to amend The Seizures Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
