

No. 100

3rd Session, 15th Legislature, Alberta
14 Elizabeth II

BILL 100

A Bill to amend Certain Statutes

HON. MR. MANNING

Explanatory Note

1. This Bill provides amendments to several Acts.

2. Chapter 103 of the Revised Statutes is amended. The new wording in subsection (1) of section 25 is to save the subsection from amendment whenever the financial jurisdictional limits of the district courts are changed.

The repeal of subsection (2) of section 28 deletes an obsolete practice.

3. Chapter 104 of the Revised Statutes is amended. The new section 7a clarifies the position of the bailiff in making a seizure. The new section 8a, as far as possible, places a landlord in as strong a position as an execution creditor, with respect to an absconding debtor. Section 3 states that certain goods cannot be seized by a landlord on a distress for rent.

4. Chapter 128 of the Revised Statutes is amended. Section 7, subsections (3) and (4) presently read:

(3) Notwithstanding subsection (2), when seizure cannot be effected within six months, a judge may, on ex parte application, extend the time within which the seizure may be made for a further period not exceeding six months, in which case the lien does not determine until the date specified in the order of the judge.

(4) A certified copy of the order of extension shall be filed with the registration clerk prior to the expiration of the six months period provided for in subsection (2).

This amendment makes it clear that the order for an extension of time must be applied for during the first six months period so that it can be filed as required before that first six months period expires.

BILL

No. 100 of 1966

An Act to amend Certain Statutes

(Assented to _____, 1966)

HER 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 Statutes Amendment Act, 1966*".

2. *The Execution Creditors Act* is amended

- (a) as to section 25, subsection (1) by striking out the words "over one thousand dollars" and by substituting the words "in excess of the amount with respect to which a district court has jurisdiction",
- (b) as to section 28 by striking out subsection (2).

3. *The Exemptions Act* is amended

- (a) by adding the following section after section 7:

7a. (1) A person authorized to execute a seizure shall not seize any goods that appear to him to be exempt from seizure under this Act, but no liability attaches to such a person where in good faith he seizes goods which are later shown to be so exempt.

(2) A creditor, on notice of motion to the debtor, may apply to a judge for an order declaring any specified goods of the debtor to be not exempt from seizure under this Act.

- (b) by adding the following section after section 8:

8a. Section 3 does not apply where the tenant debtor has absconded or is about to abscond from the Province, leaving no wife or husband or infant children within the Province.

4. *The Garagemen's Lien Act* is amended by striking out subsections (3) and (4) of section 7 and by substituting the following:

(3) Notwithstanding subsection (2), where it appears that a seizure cannot be effected within the six months provided for in that subsection, a judge may, on *ex parte* application made during those six months, extend the time

5. Chapter 294 of the Revised Statutes is amended. Subsection (3) is new. Section 6 presently reads:

6. (1) No licence shall be issued under this Act to any person until that person has delivered to the Minister such securities as may be approved by the Minister or a bond, in such form as may be approved by the Minister, issued by a company authorized to carry on the business of guarantee and fidelity insurance in the Province to the effect that the company binds itself to pay the sum of one thousand dollars forthwith to the Minister on behalf of the applicant for the licence if the applicant makes default in performing his obligations to the person to whom he is employed as an auctioneer, and containing a provision that the bond will not be cancelled by the company until thirty days after the company has given notice to the Minister of its intention to cancel the bond.

(2) Where a person has against an auctioneer a claim arising out of a default on the part of the auctioneer in the performance of his obligations as an auctioneer to the claimant at any time during which a bond issued pursuant to this section in respect of the auctioneer is in effect, the claimant, notwithstanding that he is not a party to the bond,

(a) is entitled on recovering judgment for the claim against the auctioneer to have the sum of one thousand dollars that is payable under the bond applied in or towards the satisfaction of the amount for which he has so obtained judgment for similar claims against the auctioneer, and

(b) may, on behalf of himself and persons having similar judgments against the auctioneer, maintain an action against the obligor under the bond to have the sum payable under the bond so applied.

As the Act presently reads, a private auctioneer, though licensed and bonded, could not be proceeded against on the bond on default if he was acting within section 3, clause (a) of the Act. Section 3, clause (a) reads:

3. This Act does not apply

(a) to a sale by auction to which The Seizures Act applies or that is held by an order of a court of competent jurisdiction,

This amendment will remedy the situation.

6. Chapter 307 of the Revised Statutes is amended. Section 25 is amended to provide for use of a sticker on goods being seized where the goods are difficult to identify or distinguish.

Section 29, subsection (1) presently reads:

29. (1) Where the sheriff receives a notice of objection he shall immediately notify the creditor and thereupon the creditor may from time to time apply by notice of motion to the judge for an order for the removal and sale or for the removal or the sale of the property seized or any part thereof.

within which the seizure may be made for a further period not exceeding six months from the date of the order, and in that case the lien does not determine until the date so specified, if a certified copy of the order is filed with the registration clerk prior to the expiration of the six months period provided for in subsection (2).

5. *The Sale of Chattels by Public Auction Act* is amended as to section 6 by adding the following subsection:

(3) Where a person who is licensed in accordance with this Act conducts a sale by auction to which *The Seizures Act* applies or that is held by a court order, then notwithstanding anything in this Act, subsection (2) applies to a default by the auctioneer in respect of that sale.

6. *The Seizures Act* is amended

(a) as to section 25 by adding the following subsections:

(3) Where, in the opinion of the person authorized to effect the seizure, any particular goods or chattels are not readily distinguishable and identifiable from other similar goods or chattels, the person so authorized may affix to the goods or chattels a sticker in a form prescribed by the regulations.

(4) The sticker shall

- (a) briefly describe the article to which it is attached,
- (b) indicate that the article to which it is attached is under seizure by the sheriff,
- (c) note that it is an offence for any person to transfer, remove, deface or otherwise interfere with the sticker or the article to which it is affixed without written consent from the sheriff, and

7. Commencement of Act.

(d) be signed by the sheriff or other person authorized to effect the seizure.

(5) Any person who

(a) removes, transfers, defaces or otherwise interferes with a sticker affixed to an article pursuant to this section, or

(b) removes or in any way interferes with an article to which a sticker has been affixed pursuant to this section,

is guilty of an offence and is liable upon summary conviction to a fine of not more than two hundred dollars and in default of payment to imprisonment for not more than sixty days, or to both fine and imprisonment.

(b) as to section 29

(i) by adding the following subsection after subsection (1):

(1a) Where a creditor applies pursuant to subsection (1), the notice of motion shall, as far as is reasonably possible, specify and describe the particular property in respect of which the order is sought.

(ii) by adding the following subsection after subsection (5):

(5a) An order made under this section shall as far as is reasonably possible specify and describe the particular property in respect of which the order is made.

7. This Act comes into force on the first day of July, 1966.

No. 100

THIRD SESSION
FIFTEENTH LEGISLATURE
14 ELIZABETH II
1966

BILL

An Act to amend Certain Statutes

Received and read the

First time

Second time

Third time

HON. MR. MANNING
