

1969 Bill 41

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Second Session, 16th Legislature, 18 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 41**

**An Act to amend The Communal Property Act**

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THE MINISTER OF MUNICIPAL AFFAIRS

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 41

1969

An Act to amend The Communal Property Act

(Assented to \_\_\_\_\_, 1969)

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

1. *The Communal Property Act* is hereby amended.
2. Section 11 is amended by striking out subsection (2) and by substituting the following:
  - (2) Any transfer, agreement or lease contravening subsection (1) is against public policy and void.
  - (3) Where an money is paid pursuant to a void transfer, agreement or lease,
    - (a) the money is forthwith recoverable as a debt owing by the person to whom it was paid to the person by whom or on whose behalf it was paid, and
    - (b) if the person by whom or on whose behalf the money was paid fails to take proceedings to recover it after being requested to do so by the Board, the chairman of the Board may, in the name of and on behalf of that person, take all proceedings necessary to recover the money.
  - (4) Where a colony or person acting on behalf of a colony acquires title to or possession of land in contravention of section 6 or 7,
    - (a) title to or possession of the land is forthwith recoverable by the person entitled thereto, and
    - (b) if that person fails to take proceedings to recover title or possession after being requested to do so by the Board, the chairman of the Board may, in the name of and on behalf of that person, take all proceedings necessary to recover title to or possession of the land.
  - (5) Any costs incurred by the chairman of the Board in proceedings taken under this section are payable by the person in whose name the proceedings are taken.

## Explanatory Notes

**1.** This Bill amends chapter 52 of the Revised Statutes.

**2.** Section 11 presently reads:

11. (1) No person by himself or by his agent shall sell, agree to sell, attempt to sell, lease, agree to lease, or otherwise dispose to a colony land that would

(a) increase the holdings of land of the colony in contravention of section 4, or

(b) vest the title or possession of land in the colony in contravention of sections 6 and 7.

(2) Any transfer, agreement or lease contravening subsection (1) is absolutely null and void, and any money paid pursuant to any such transfer, agreement or lease

(a) is a debt owing by the person to whom it was paid to the person by whom or on whose behalf it was paid, and

(b) is recoverable forthwith by such last mentioned person in any court of competent jurisdiction.

**3.** Section 13, subsection (1) is amended by striking out the word “may” and by substituting the word “shall”.

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

**3. Section 13 (1) presently reads:**

13. (1) A colony may apply by written notice to the Board for leave to purchase, lease or otherwise acquire any land.  
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