

1971 Bill 4

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Fourth Session, 16th Legislature, 20 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 4**

**An Act to amend The Judicature Act**

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THE ATTORNEY GENERAL

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 4

1971

## AN ACT TO AMEND THE JUDICATURE ACT

(Assented to \_\_\_\_\_, 1971)

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

*1. The Judicature Act is hereby amended.*

*2. Section 7, clause (b) is amended by striking out the figure "11" and by substituting the figure "13".*

*3. Section 19 is struck out and the following is substituted:*

**19.** (1) The Court has jurisdiction and shall grant relief from the consequences of the breach of any covenant or the non-payment of principal or interest by a mortgagor or purchaser in any case in which the mortgagor or purchaser, his heir or assigns remedies the breach of covenant or pays all the arrears due under the mortgage or agreement for sale with lawful costs and charges in that behalf

(a) at any time before a judgment is recovered, or

(b) within such time as by the practice of the Court relief therein could be obtained.

(2) The mortgagor or purchaser may, by notice in writing, require the mortgagee or vendor to furnish him with a statement in writing

(a) of the nature of the breach of any covenant, or

(b) of the amount of principal or interest with respect to which the mortgagor or purchaser is in default, and of the amount of any expenses necessarily incurred by the mortgagee or the vendor.

(3) The mortgagor or purchaser may, not more than once a year by notice in writing, require the mortgagee or vendor to furnish him with a statement in writing of the amount

## Explanatory Notes

**1. This Bill amends chapter 193 of the Revised Statutes of Alberta 1970.**

**2. Section 7 presently reads:**

7. The Trial Division shall consist

- (a) of a Chief Justice who shall be styled the Chief Justice of the Trial Division of the Supreme Court of Alberta, and
- (b) of 11 other judges who shall be called and be justices of the Supreme Court of Alberta.

**3. Section 19 presently reads:**

19. The Court has jurisdiction to grant and shall grant relief from the consequences of non-payment of principal or interest by a mortgagor or purchaser in any case in which the mortgagor or purchaser, his heir or assign, pays all the arrears due under the mortgage or agreement for sale with lawful costs and charges in that behalf

- (a) at any time before a judgment in the premises is recovered, or
- (b) within such time as by the practice of the Court relief therein could be obtained.

The amendment now allows the Court to grant relief for a breach of covenant as well as non-payment under a mortgage or agreement for sale. It also provides a method for a mortgagor or purchaser to ascertain if he is in breach of any covenant or to ascertain the amount of arrears and costs so that he can exercise his rights to remedy the breach or to pay the arrears and costs and restore the mortgage or agreement for sale to good standing.

of principal or interest still owing on the mortgage or agreement for sale.

(4) The mortgagee or vendor shall answer a notice given either under subsection (2) or subsection (3) within 15 days after he receives it, and, if without reasonable excuse he fails to do so or his answer is incomplete or incorrect, any rights that he may have for the enforcement of the mortgage or for the cancellation or specific performance of the agreement for sale shall be suspended until he has complied with the notice.

(5) Notice by a mortgagor or purchaser to the mortgagee or vendor may be given personally or may be sent to the mortgagee or vendor by ordinary mail to the address where moneys owing under the mortgage or agreement for sale are payable.

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