

1974 Bill 35

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 35

The Common Parties Contracts and Conveyances Act

MR. MCCRAE

First Reading

Second Reading

Third Reading

BILL 35

1974

THE COMMON PARTIES CONTRACTS AND CONVEYANCES ACT

(Assented to _____ *, 1974)*

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

1. (1) A contract is valid and enforceable in accordance with its terms notwithstanding that in or by the contract

- (a) one of the parties enters into a covenant, promise or agreement with himself and some other person, or
- (b) one of the parties and some other person enter into a covenant, promise or agreement with that same party and a different person, or
- (c) one of the parties and some other person enter into a covenant, promise or agreement with that same party.

(2) A contract, whether in the form of a deed or not, is valid and enforceable in accordance with its terms notwithstanding that a person thereby ostensibly contracts with himself alone if, in his capacity as one of the parties thereto, he is acting as agent for some other person.

(3) This section applies to a contract which provides for the conveyance of an interest in real or personal property.

2. Where any right of contribution or indemnity exists by law in relation to a contract, such right exists in relation to contracts to which this Act applies.

3. (1) An interest in real or personal property may be validly conveyed

- (a) by a person to himself jointly with another person, or
- (b) by two or more persons to one or more but not all of themselves, or
- (c) by two or more persons to any one or more of themselves and some other person,

to the same extent and in the same manner as the interest might be conveyed to a third party.

Explanatory Notes

General. This Act is based on Report No. 11 of The Institute of Law Research and Reform issued in October, 1972.

1. Common parties to contracts. At common law a person cannot make a valid contract with himself. There is a possibility this may apply in Alberta. Subsection (1) would validate respectively a promise by

- (a) A to A and B,
- (b) A and B to A and C, and
- (c) A and B to A.

2. Right to claim contribution.

3. Common parties to conveyances. The common law also held a conveyance to oneself of real or personal property invalid. But a conveyance from A to A and B would pass the estate solely to B.

(2) Notwithstanding subsection (1), if the persons in whose favour the conveyance is made are by reason of any fiduciary relationship or by any other reason precluded from validly carrying out the transaction, the conveyance is liable to be set aside.

4. This Act applies to contracts and conveyances whether made before or after the commencement of this Act, but without prejudice to any order of a court made before such commencement.

5. *The Land Titles Act is amended*

(a) *by adding after section 70 the following section:*

70.1 (1) An owner may grant to himself an easement or restrictive covenant for the benefit of land which he owns and against land which he owns and the easement or restrictive covenant may be registered under this Act.

(2) Where the dominant and servient tenements are registered in the name of the same person, an easement under subsection (1) is not merged by reason of the common ownership.

(b) *as to section 71*

(i) *by adding the words "or association" after the word "company" wherever it appears in the section, and*

(ii) *by adding after subsection (1) the following subsection:*

(1.1) The Crown, a municipal corporation or any pipe line, public utility or railway company or association may grant to itself any rights described in subsection (1).

and

(c) *by adding after section 125 the following section:*

125.1 An executor, administrator or trustee may make a valid transfer to himself in his personal capacity.

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

4. Application of the Act.

5. Consequential amendments.