

1975 Bill 209
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 209

THE FARM LAND OWNERSHIP ACT

DR. BUCK

First Reading

Second Reading

Third Reading

Bill 209
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THE FARM LAND OWNERSHIP ACT

(Assented to , 1975)

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

1. In this Act:

- (a) "aggregate land holding" of a person is the total of all land holdings held directly or beneficially by that person and includes all land holdings held directly or beneficially by that person's spouse or common law spouse, except a spouse from whom that person is judicially separated, and by that person's dependent children or other dependent relatives.

Where a person holds a piece of land jointly or in common with others, the share specified or implied by law shall be counted as his holding in such land. Where the amount of each person's interest is not stipulated on the title or implied by law, the Commission shall have the power to require such amounts to be declared and the title altered to show the amount of the interest of every person in such land.

- (b) "Commission" means the Farm Land Ownership Commission established pursuant to section 5.
- (c) "holding" means an interest in land being a title in fee simple or a leasehold with an unexpired term in excess of 10 years.
- (d) "land" means real property outside a city, town, village, summer village or hamlet and which is not subdivided but shall not include
 - (i) mineral, coal or oil and gas rights which do not include a holding in the surface rights, or
 - (ii) any lands used only for the purpose of exploiting an interest listed in (i), or
 - (iii) any lands held for forest development or lumber harvesting purposes only.
- (e) "Minister" means the Minister to whom the administration of this Act is assigned.
- (f) "non-resident" means any individual, corporation, firm, association, body or authority that does not come within the definition of resident.

- (g) "person" means an individual or any corporation, association, firm, body or authority.
- (h) "resident" means
 - (i) an individual who resides in Alberta for 183 days or more a year, or
 - (ii) an individual the majority of whose income derives from farming and who resides for 183 days or more a year either in Alberta or within 20 miles of the border of Alberta and within Canada, or
 - (iii) a corporation that has more than 60 percent of its shares held by individuals who come within the definition of (i) or (ii).

2. Subject to sections 3 and 4, no non-resident may hold an aggregate land holding in the Province in excess of 640 acres.

3. For the purposes of section 2:

- (a) An acre of land which is not, and has not in the past three years been plowed shall count as half an acre until such time as it is plowed.
- (b) An acre of land which is treed or bushed to a degree that would require clearance by fire or motorized mechanical equipment before plowing shall count as one-third of an acre.
- (c) An acre which, because of temporary or permanent water or marsh or rocks or undulation or crevasses or other significant physical feature, has never been and could not reasonably be expected to be plowed, shall count as a quarter of an acre.
- (d) Any acre which counts as less than an acre, by virtue of (b) or (c) and is subsequently plowed shall continue to so count as less than an acre until immediately after such time as it is transferred by the person who owned it when it was plowed to another person and shall thereafter count as one acre.
- (e) The Commission shall have power to designate by order areas of the Province in which an acre of land shall, for the purposes of section 2, count as a fraction of an acre and in so doing the Commission shall have due regard to the agricultural value of the land and the size of an economic farming unit in such area. The Commission may from time to time vary any designation made hereunder.

4. Sections 2 and 3 shall not apply to

- (a) any land acquired in excess of that permitted by this Act, prior to June 1, 1975 or subsequently acquired by exercise of a right or option that arose before June 1, 1975 provided that such land shall be counted as a land holding for the purpose of establishing whether an acquisition after May 31, 1975 would contravene this Act;
- (b) any land that is acquired on or after June 1, 1975 by foreclosure, quit claim, settlement or other realization of a security provided that the person acquiring such land shall, within two years of such acquisition, divest himself of sufficient of land holdings as will bring his aggregate land holding within the limit established by sections 2 and 3;
- (c) any land that is acquired on or after June 1, 1975 by demise or by operation of law consequent upon the death of another person provided that the person acquiring such land shall, within three years of such acquisition, divest himself of sufficient of land holdings to bring his aggregate land holding within the limit established by sections 2 and 3;
- (d) any land, owned by a non-resident individual when, during any previous continuous five-year period at the same time
 - (i) the individual was a resident, and
 - (ii) the individual was a farmer the majority of whose income derived from farming, and
 - (iii) the land was actively farmed either by the individual or by his agent, employee or lessee;
- (e) any land held by a non-resident person who acquired it on or after June 1st, 1975 while resident provided that the person so holding land shall, within two years of ceasing to be resident, divest himself of sufficient land to bring his total holding within the limit established by sections 2 and 3.

5. (1) There shall be established a Farm Land Ownership Commission which has objectives and has power:

- (a) to advise the Minister on the administration of this Act;
- (b) to provide for inspection of land claimed to fall within the definition of clause (a), (b) or (c) of section 3;
- (c) to investigate land holdings of any person;
- (d) to make recommendations to the Minister arising out of investigations;
- (e) to maintain such records as are necessary to ensure the proper administration of this Act;
- (f) to carry out such other duties as the Minister may from time to time assign;

- (g) to conduct hearings and make orders to secure compliance with this Act including orders to divest or transfer land or to produce documents; and
- (h) to make investigations and to conduct hearings to establish the areas referred to in section 3(e).

(2) The Assembly may by separate vote appropriate the monies necessary to fund the operation of the Commission and subsection (1) shall come into effect only in the event of and upon such an appropriation being made.

6. (1) An appeal lies to the Supreme Court of Alberta from an order of the Farm Land Ownership Commission and the court may affirm, vary or reverse any such order or make any further order as it sees fit to secure compliance with this Act.

(2) Where a non-resident fails to comply with an order of the Commission within six months of the date the order is served on the non-resident, the Commission may apply to a judge of the Supreme Court who shall enforce compliance with this Act and may make such order relating to the land as he sees fit to secure compliance with this Act.

7. No transfer of any interest in real property in the Province shall be registered by the Registrar of Land Titles unless an affidavit is filed with the Registrar stating whether or not the interest constitutes a land holding for the purposes of this Act and if it does so constitute a land holding it shall state whether or not the transferee is resident and if he is not resident, it shall state whether or not the transfer will cause the transferee's aggregate land holding to exceed that permitted by this Act.

8. The Registrar of Land Titles shall refuse to register any transfer of an interest in land unless an affidavit is filed with him as provided in section 7 and unless such affidavit shows that the transferee will not infringe the provisions of this Act as a result of such transfer.

9. (1) Any person, being an individual, who contravenes this Act, or being a director or officer of a corporation or partner in a firm that, with his prior knowledge contravenes this Act, is guilty of an offence and liable, on summary conviction, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding six months or to both fine and imprisonment.

(2) Any corporation, association, firm, body or authority which contravenes this Act is guilty of an offence and liable, on summary conviction, to a fine not exceeding \$50,000.

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