

1977 BILL 30

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 30

**THE ATTORNEY GENERAL STATUTES
AMENDMENT ACT, 1977**

MR. GHITTER

First Reading

Second Reading

Third Reading

Bill 30
Mr. Ghitter

BILL 30

1977

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1977

(Assented to , 1977)

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

The Clerks of the Court Act

1. *(1) The Clerks of the Court Act is amended by this section.*
(2) Sections 3 and 4 are struck out.

The Commissioners for Oaths Act

2. *(1) The Commissioners for Oaths Act is amended by this section.*
(2) Section 3, subsection (2) is amended by striking out the word
“second” and by substituting therefor the word “third”.

Explanatory Notes

The Clerks of the Court Act

1. (1) This section will amend chapter 51 of the Revised Statutes of Alberta 1970.

(2) Sections 3 and 4 presently read:

3. (1) The Lieutenant Governor in Council may from time to time appoint a Clerk of the Supreme Court of Alberta in each judicial district.

(2) A Clerk of the Supreme Court holds office during pleasure, and shall receive such remuneration for his services as may from time to time be fixed by the Lieutenant Governor in Council.

4. (1) When it appears that the convenience of the public so requires, the Lieutenant Governor in Council may appoint a deputy clerk for a judicial district and may designate the place for his office and fix his remuneration.

(2) A deputy clerk has and shall perform all the powers, duties and obligations imposed upon a clerk under this Act.

Sections 3 and 4(1) of the Act are redundant to section 16(1) of The District Court Act and section 43 of The Judicature Act which provide for the appointments of clerks and deputy clerks of the District and Supreme Courts respectively pursuant to The Public Service Act.

Section 4(2) is redundant to the definition of "clerk" which includes a deputy clerk.

The Commissioners for Oaths Act

2. (1) This Bill will amend chapter 58 of the Revised Statutes of Alberta 1970.

The Expropriation Act

3. (1) *The Expropriation Act is amended by this section.*

(2) *Section 1, clause (i), subclause (ii) is amended by striking out the words “, mortgage or encumbrance”.*

(3) *The following section is added after section 28:*

28.1. (1) Notwithstanding anything in this Act, the owner may consent to the acquisition of land by an expropriating authority subject to the condition that compensation therefor shall be determined by the Board.

(2) The consent of an owner to the acquisition of land pursuant to subsection (1) shall be evidenced by an express agreement in writing between the owner and the expropriating authority stating

- (a) that the owner consents to the acquisition,
- (b) that compensation shall be determined by the Board, and
- (c) fixing a date for possession of the land,

and the owner shall thereupon execute the necessary conveyance of the land to the expropriating authority.

(3) At any time following execution of the document under subsection (2) either the expropriating authority or the owner may make application to the Board to determine the compensation.

(4) Where an application is made under subsection (3), the Board shall determine the compensation as if the land were expropriated and the provisions of this Act and the regulations respecting the determination of compensation, hearings and procedures, including interest, costs and appeals, apply thereto in the same manner as if the land had in fact been expropriated.

(2) This amendment will extend the term of a commissioner's appointment by one year. Section 3(2) presently reads:

(2) An appointment made under this section expires on the second anniversary of the commissioner's birthday after the date of his appointment, unless it is cancelled by the Inspector of Legal Offices by notice in writing prior to that date.

The Expropriation Act

3. (1) This section will amend chapter 27 of the Statutes of Alberta, 1974.

(2) This amendment will remove redundant terms and make the terminology consistent with section 8. Section 1(i) presently reads:

(i) "owner" means

(i) a person registered in the land titles office as the owner of an estate in fee simple in land, or

(ii) a person who is shown by the records of the land titles office as having a particular estate or an interest, mortgage or encumbrance in or upon land, or

(iii) any other person who is in possession or occupation of the land, or

(iv) any other person who is known by the expropriating authority to have an interest in the land, or

(v) in the case of Crown land, a person shown on the records of the department administering the land as having an estate or interest in the land;

(3) This amendment will permit parties to go directly to the Board to determine compensation where that is the only matter in issue.

(4) Section 68(3) presently reads:

(3) In the case of the taking of a right of way, where at any time the expropriating authority or its successor has discontinued the use for which the land was expropriated, the expropriating authority or the former owner of the expropriated lands or his successor in title to the land from which the right of way was taken may apply to the court in those cases where the expropriation was authorized by the court and in all other cases to the Board for an order terminating the estate or interest of the expropriating authority and the court or the Board, as the case may be, may

(a) terminate the estate or interest acquired by the expropriating authority, and

(b) grant the estate or interest so terminated to the person from whom it was expropriated or to such other person as the court may order.

(5) Unless otherwise agreed by the parties, compensation shall be determined as of the date of the document conveying the land from the owner to the expropriating authority.

(4) Section 68, subsection (3), clause (b) is amended by adding after the word "court" the words "or Board, as the case may be,".

The Garagemen's Lien Act

4. (1) *The Garagemen's Lien Act is amended by this section.*

(2) *The Schedule is amended by striking out Form A and by substituting therefor the following form:*

FORM A
(Section 4)
CLAIM OF LIEN

1.
(name of claimant)
of
(address of claimant)
carrying on the business of a garageman at,
claim a lien pursuant to *The Garagemen's Lien Act*, upon a
certain (here set out if the lien is claimed in respect of a vehicle
or farm vehicle or part thereof) in the possession of
..... and which is described as follows:

(Here set out the licence number, if any, the make, style, year
and model and the serial number).

2. The lien is claimed in respect of (the storage, repair, main-
tenance, accessories and parts, or any of them, as the case may
be) shown on the attached invoice or statement of account,
together with the dates thereof, charged to
.....
(name of debtor)
of.....
(address of debtor)
and for which a lien in the sum of \$..... is claimed.

The Garagemen's Lien Act

4. (1) This section will amend chapter 155 of the Revised Statutes of Alberta 1970.

(2) This amendment will bring Form A into conformity with amendments made to the Act in 1976.

3. The date

(a) on which possession of the motor vehicle or farm vehicle was surrendered to the owner thereof or his agent,

or

(b) on which repairs were completed to the motor vehicle or farm vehicle or any part of the motor vehicle or farm vehicle,

or

(c) on which the accessories or parts for the motor vehicle or farm vehicle were furnished,

(Strike out the inapplicable clauses.)

is

4.
(name of debtor)

has himself or by his authorized agent acknowledged indebtedness to me for the amount claimed by signing the attached invoice or statement of account.

(Strike out section 4 if not applicable.)

The address for service of the claimant is
.....
.....

Dated at this
day of....., 19

.....
(Signature of claimant or his agent)

The Gas Utilities Act

5. (1) *The Gas Utilities Act is amended by this section.*

(2) *Section 31 is struck out and the following is substituted:*

31. In fixing just and reasonable rates, tolls or charges, or schedules thereof, to be imposed, observed and followed thereafter by an owner of a gas utility,

The Gas Utilities Act

5. (1) This section will amend chapter 158 of the Revised Statutes of Alberta 1970.

(2) Section 31 presently reads:

31. It is hereby declared that, in fixing just and reasonable rates, the Board may give effect to such part of any excess revenues received or losses incurred by an

- (a) the Board may consider all revenues and costs of the owner that are in its opinion applicable to a period consisting of
 - (i) the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules thereof, or
 - (ii) a subsequent fiscal year of the owner, or
 - (iii) two or more of the fiscal years of the owner referred to in subclauses (i) and (ii) if they are consecutive,and need not consider the allocation of those revenues and costs to any part of such a period,
- (b) the Board may give effect to such part of any excess revenue received or any revenue deficiency incurred by the owner that is in its opinion applicable to the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules thereof, as the Board determines is just and reasonable,
- (c) the Board may give effect to such part of any excess revenue received or any revenue deficiency incurred by the owner after the date on which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules thereof, as the Board determines has been due to undue delay in the hearing and determining of the matter, and
- (d) the Board shall by order approve the method by which, and the period (including any subsequent fiscal period) during which, any excess revenue received or any revenue deficiency incurred, as determined pursuant to clause (b) or (c), is to be used or dealt with.

The Notaries Public Act

- 6. (1) *The Notaries Public Act is amended by this section.*
- (2) *Section 2 is amended*
 - (a) *by striking out subsection (1) and by substituting therefor the following subsection:*

owner of a gas utility after an application has been made to the Board for the fixing of rates as the Board may determine has been due to undue delay in the hearing and determining of the application.

The amendment is complementary to the one being made to The Public Utilities Board Act by section 7 of this Bill.

The Notaries Public Act

6. (1) This section will amend chapter 261 of the Revised Statutes of Alberta 1970.

(2) These amendments will provide for appointments as notaries public to be made by the Attorney General instead of the Lieutenant Governor in Council.

2. (1) The Attorney General may appoint notaries public for the Province.

(b) *as to subsection (2) by striking out the words “Lieutenant Governor in Council” and by substituting therefor the words “Attorney General”, and*

(c) *as to subsection (3) by striking out the words “for a commission”.*

(3) *Section 5 is amended by striking out the words “commission issued” and by substituting therefor the words “appointment made”.*

(4) *Section 6 is struck out and the following section is substituted therefor:*

6. (1) An appointment under this Act terminates at the expiration of two years from the 31st day of December of the year in which the appointment was made, unless it is sooner revoked.

(2) Any appointment under this Act by commission of the Lieutenant Governor in Council may be revoked by the Attorney General.

(5) *Section 7 is amended by striking out subsection (1) and by substituting therefor the following subsection:*

7. (1) A notary public appointed under this Act shall, on each affidavit, affirmation, declaration or acknowledgment taken or given by him, each instrument attested by his seal and each notarial certificate given by him, write or stamp the date upon which his appointment terminates.

The Public Utilities Board Act

7. (1) *The Public Utilities Board Act is amended by this section.*

(2) *Section 81 is amended by striking out subsection (5) and substituting the following:*

(5) In fixing just and reasonable rates, tolls or charges, or schedules thereof, to be imposed, observed and followed thereafter by an owner of a public utility,

(3) Consequential.

(4) This amendment will be transitional to cover existing appointments by the Lieutenant Governor in Council. Section 6 presently reads:

6. A commission issued under this Act expires at the expiration of two years from the thirty-first day of December of the year in which it is issued, unless it is sooner revoked.

(5) Consequential. Section 7(1) presently reads:

7. (1) A notary public appointed by commission under this Act shall, on each affidavit, affirmation, declaration or acknowledgment taken or given by him, each instrument attested by his seal and each notarial certificate given by him, write or stamp the date upon which his commission expires.

The Public Utilities Board Act

7. (1) This section will amend chapter 302 of the Revised Statutes of Alberta 1970.

(2) Section 81(5) presently reads:

(5) In fixing just and reasonable rates, the Board has power to give effect to such part of any excess revenues received or losses incurred by an owner of a public utility after an application has been made to the Board for the fixing of rates

- (a) the Board may consider all revenues and costs of the owner that are in its opinion applicable to a period consisting of
 - (i) the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules thereof, or
 - (ii) a subsequent fiscal year of the owner, or
 - (iii) two or more of the fiscal years of the owner referred to in subclauses (i) and (ii) if they are consecutive,and need not consider the allocation of those revenues and costs to any part of such a period,
- (b) the Board may give effect to such part of any excess revenue received or any revenue deficiency incurred by the owner that is in its opinion applicable to the whole of the fiscal year of the owner in which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules thereof, as the Board determines is just and reasonable,
- (c) the Board may give effect to such part of any excess revenue received or any revenue deficiency incurred by the owner after the date on which a proceeding is initiated for the fixing of rates, tolls or charges, or schedules thereof, as the Board determines has been due to undue delay in the hearing and determining of the matter, and
- (d) the Board shall by order approve the method by which, and the period (including any subsequent fiscal period) during which, any excess revenue received or any revenue deficiency incurred, as determined pursuant to clause (b) or (c), is to be used or dealt with.

Commencement

- 8. (1) *This Act, except section 4, comes into force on the day upon which it is assented to.*
- (2) *Section 4 comes into force on August 1, 1977.*

as the Board may determine has been due to undue delay in the hearing and determining of the application.

The proposed subsection (5) is intended to more accurately express the Board's normal procedures in relation to dealing with excess revenue and revenue deficiencies of an owner of a public utility in addition to the matter dealt with in the present subsection (5) which relates only to the case where there has been undue delay in hearing and determining an application. The latter case is dealt with in clause (c) of the proposed subsection (5).