

1977 Bill 232

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 232

THE FARM LAND OWNERSHIP ACT

DR BUCK

First Reading

Second Reading

Third Reading

BILL 232

1977

THE FARM LAND OWNERSHIP ACT

(Assented to , 1977)

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 and for the purposes of this section, where a person holds a piece of land jointly or in common with others, the shares specified or implied by law shall be counted as his holding in such land and 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 the amounts to be declared;
- (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 ten 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 land used only for the purpose of exploiting an interest listed in (i), or
 - (iii) any land 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;

Explanatory Notes

General: This Bill will limit the right of non-residents to hold farm land.

I. Definitions.

- (g) "resident" means
 - (i) an individual who resided in Alberta for 183 days or more out of the previous 365 days,
 - (ii) an individual the majority of whose income derives from farming and who resided for 183 days or more out of the previous 365 days either in Alberta or within 20 miles of the border of Alberta and within Canada, or
 - (iii) a corporation that has more than 60 per cent of its shares held by individuals who come within the meaning of subclauses (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. (1) 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 powered mechanical equipment before plowing shall count as one-third of an acre;
- (c) an acre of land 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;

(2) Any acre which counts as a fraction of an acre, by virtue of subsection (1) and is subsequently plowed shall continue to count as such fraction of an acre until immediately after such time as it is transferred by the person who owned it when it was plowed to an other person and shall then count as one acre.

(3) 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.

(4) The Commission may from time to time vary any designation made pursuant to subsection (3).

4. Section 2 shall not apply to

- (a) any land acquired in excess of that permitted by this Act, prior to June 1, 1977 or subsequently acquired by exercise of a right or option that arose

2. Non-resident limited to holding of 640 acres.

3. Certain land may be deemed to be a lesser area.

4. Excepted land holdings.

before June 1, 1977 provided that such land shall be counted as a land holding for the purpose of establishing whether an acquisition on or after June 1, 1977 would contravene this Act;

- (b) any land that is acquired on or after June 1, 1977 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 section 2;
- (c) any land that is acquired on or after June 1, 1977 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 section 2;
- (d) any land, owned by a non-resident individual when, during any previous continuous five-year period the individual, at the same time
 - (i) was a resident,
 - (ii) was a farmer the majority of whose income derived from farming, and
 - (iii) was actively farming the land either personally or by agent, employee or lessee.
- (e) any land held by a non-resident person who acquired it on or after June 1, 1977 while resident provided that the person so holding land shall, within two years of ceasing to be resident, divest himself of sufficient land holdings 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;

5. Farm Land Ownership Commission.

- (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(3).

(2) The Commission shall consist of such members as shall be appointed thereto by the Lieutenant Governor in Council and members may be paid such salary and expenses as are provided for by monies appropriated by the Legislature.

6. (1) An order of the Farm Land Ownership Commission may be appealed by originating notice of motion to the Supreme Court of Alberta, 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 order land held contrary to this Act to be sold by public tender and make such other order relating to the land and to the costs of the application as he sees fit to secure compliance with this Act.

7. Every transfer of any interest in real property in the Province presented for registration by the Registrar of Land Titles shall be accompanied by a statutory declaration 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 stating whether or not the transferee is resident and if he is not resident, stating 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 it is accompanied by the statutory declaration mentioned in section 7 and unless the declaration 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.

6. Orders of Commission appealable.

7. Transfers accompanied by declaration of residence.

8. No transfers registered without declaration or if in infringement of Act.

9. Offences; penalties.

(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.*

10. Coming into force.