

1979 BILL 209

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 209

AN ACT ESTABLISHING THE RIGHT TO SUNLIGHT

MR. NOTLEY

First Reading -----

Second Reading -----

Committee of the Whole -----

Third Reading -----

Royal Assent -----

Bill 209
Mr. Notley

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AN ACT ESTABLISHING THE RIGHT TO SUNLIGHT

(Assented to _____, 1979)

WHEREAS it is hereby recognized and declared that citizens of Alberta should have protection of existing access to sunlight, in order to preserve the horticultural, psychological, solar energy and other benefits accruing therefrom;

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

1. No person shall erect any permanent structure, or retain any temporary structure for more than a period of 90 days, on land in such a way that the structure impedes direct sunlight on to property of another person unless

- (a) he has the consent of the other person,
- (b) the structure was legally under construction on July 1, 1979,
- (c) the land on which the structure is located and the land on which the sunlight is impeded are zoned for multi-storey residential or multi-storey commercial development, or
- (d) the right to sunlight through the structure on to the other property has been expropriated pursuant to *The Expropriation Act*.

2. The right to unobstructed flow of sunlight on to property existing as at July 1, 1979, is an interest in land and may be dealt with as such pursuant to *The Land Titles Act*.

3. (1) *The Planning Act, 1977, is amended by this section.*

(2) *The following is added after section 75:*

75.1 No development permit for a structure shall be issued after July 1, 1979, unless the applicant files with the application a statement that the structure will not infringe *The Right to Sunlight Act* and a copy of every consent to an impedance of direct sunlight onto land that has been obtained from the owner of that land pursuant to that Act.

Explanatory Notes

1. Structures impeding sunlight forbidden, exceptions.

2. Sunlight flow is an interest in land.

3. 1977, chapter 89.

4. (1) A person may require an owner of land to cut or trim any tree, bough, hedge or other natural growth that

- (a) is on the owner's land,
- (b) casts a shadow on his land to a greater extent than on July 1st, 1979, subject to section 5,
- (c) has not been the subject of a consent in writing by him at any time.

(2) An owner who refuses to comply with a request made pursuant to subsection (1) commits an offence.

5. This Act does not apply to an impedance of sunlight that casts a shadow on less than 10% of the horizontal surface area of the other land at maximum shadow, or falls upon the land for less than 2 hours of each day, in both cases measured at the spring or fall equinox.

6. This Act does not apply to any structure in respect of which a development permit was granted prior to July 1, 1979.

7. This Act binds the Crown.

8. Every person who infringes any provision of this Act commits an offence punishable on summary conviction.

9. This Act may be cited as *The Right to Sunlight Act*.

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

4. Cutting of natural growth to limit shadow.

5. Applicability of Act in cases of partial shadow.

6. Applicability of Act to certain structures.

7. Binds Crown.

8. Offences.

9. Short title.