

1980 BILL 228

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 228

AN ACT ESTABLISHING THE RIGHT TO SUNLIGHT

MR. NOTLEY

First Reading -----

Second Reading -----

Committee of the Whole -----

Third Reading -----

Royal Assent -----

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Bill 228
Mr. Notley

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AN ACT ESTABLISHING THE RIGHT TO SUNLIGHT

(Assented to _____, 1980)

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 or retain 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, 1980,
- (c) the structure was approved in a development permit granted prior to July 1, 1980,
- (d) 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
- (e) 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, 1980 is an interest in land and may be dealt with as such pursuant to *The Land Titles Act*.

3. (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 1, 1980 subject to section 4, and

Explanatory Notes

1. Structures impeding sunlight forbidden; exceptions.

2. Sunlight flow is an interest in land.

3. Cutting of natural growth to prevent an increase in shadow.

(c) has not been the subject of a consent in writing by him at any time.

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

4. This Act does not apply to an impedance of sunlight that

(a) averaged throughout the day, is equivalent to less than a 10% impedance of sunlight, or

(b) to a shadow that falls upon the land for less than 2 hours of each day

in both cases measured at the spring or fall equinox.

5. This Act does not apply to any structure in respect of which a development permit was granted prior to July 1, 1980.

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

7. (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, 1980, 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.

8. This Act binds the Crown.

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. Application of Act in case of partial shadow.

5. Certain structures exempted.

6. Offences.

7. 1977, chapter 89.

8. Binds Crown.

9. Short title.