

1982 BILL 246

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 246

AN ACT TO AMEND THE LAW OF PROPERTY ACT

MR. KESLER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 246
Mr. Kesler

BILL 246

1982

AN ACT TO AMEND THE LAW OF PROPERTY ACT

(Assented to _____, 1982)

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

1 *The Law of Property Act is amended by this Act.*

2 *Section 42 is amended*

(a) *in subsection (2) by striking out "In an action" and substituting "Subject to subsection (2.1), in an action",*

(b) *in subsection (2)(a)(iv) by adding ", economic conditions" after "agricultural pests",*

(c) *in subsection 2(b)(v) by adding ", economic conditions" after "unemployment", and*

(d) *by adding the following after subsection (2):*

(2.1) In an application made under subsection (2) the Court shall increase the redemption period by 1 year in the case of farm land and urban land unless it is satisfied that the debtor is able to pay or is able to dispose of assets which will enable him to pay, without undue hardship in the circumstances, and if the Court is so satisfied it may in its discretion increase or decrease the redemption period.

Explanatory Notes

1 This Bill will amend chapter L-8 of the Revised Statutes of Alberta 1980.

2 This will provide that the Court may only decrease the redemption period where is satisfied that the debtor is able to pay and must increase the redemption period unless it is so satisfied. It also adds economic conditions as a factor to be considered.

Section 42(2) presently reads:

(2) In an action coming under subsection (1), the Court on application may decrease or extend the period of redemption having regard to the following circumstances:

(a) when the action is in respect of a security on farm land,

(i) the ability of the debtor to pay,

(ii) the value of the land including the improvements made thereon,

(iii) the nature, extent and value of the security held by the creditor, and

(iv) whether the failure to pay was due to hail, frost, drought, agricultural pests or other conditions beyond the control of the debtor;

(b) when the action is in respect of a security on urban land,

(i) the ability of the debtor to pay,

(ii) the value of the land including the improvements made thereon,

3 This Act expires on December 31, 1983.

*In accordance with section 4(1) of the Interpretation Act,
this Bill comes into force on the date it receives Royal
Assent.*

(iii) the nature, extent and value of the security held by the creditor,

(iv) the earning capacity of the debtor, and

(v) whether the debtor's failure to pay was due to temporary or permanent unemployment or other conditions beyond the control of the debtor.

3 Provides for temporary effect of amendment.