

1988 BILL 271

Third Session, 21st Legislature, 37 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 271

ALBERTA FARM SECURITY ACT

MR. TAYLOR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 271
Mr. Taylor

BILL 271

1988

ALBERTA FARM SECURITY ACT

(Assented to , 1988)

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

Definitions

1 In this Act,

- (a) "Board" means the Farm Land Security Board established pursuant to section 2;
- (b) "court" means the Court of Queen's Bench;
- (c) "farm land" means real property in Alberta that is situated outside a municipality and that is used or is capable of being used for the purpose of farming, but does not include mines and minerals or land used primarily for the purpose of extracting, processing, storing or transporting mines and minerals;
- (d) "homestead" means the house and buildings occupied by a farmer as a bona fide farm residence and the land on which they are situated, not exceeding 160 acres;
- (e) "mediator" means a person appointed by the Board to mediate pursuant to section 6.

Board established

2(1) The Farm Land Security Board is hereby established, consisting of those appointed as members by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall designate 1 of the members as chairman and 1 as vice-chairman.

(3) The members of the Board may receive such remuneration and reimbursement of expenses as is approved by the Lieutenant Governor in Council providing money has been appropriated to that purpose by the Legislature.

(4) The Board may appoint staff to assist in the carrying out of its function, pursuant to the *Public Service Act*, providing that money has been appropriated to that purpose by the Legislature.

(5) The Board may appoint committees and delegate to the committees any of its powers under this Act that it considers appropriate in connection with the carrying out of its duties pursuant to this Act.

(6) In performing its duties pursuant to this Act, the Board and its committees have the powers of a Commissioner under the *Public Inquiries Act*.

(7) The Board may make rules governing its procedure.

Redemption
extended

3 Notwithstanding the terms any order nisi in any action under a mortgage relating to farm land made prior to January 1, 1985, the term for redemption under the order is extended sine die.

Action
discontinued

4 Notwithstanding any other Act or law or any agreement entered into before or after the commencement of this Act, any action or application with respect to a mortgage on farm land is discontinued and no person shall commence an action with respect to a mortgage on farm land, except pursuant to this Act.

No action
without court
order

5 A mortgagee may make an application with respect to a mortgage on farm land to the court and the court may, on any terms and conditions that it considers just and equitable,

(a) if it is of the opinion that the mortgagor has not made a sincere and reasonable effort to make payments on the mortgage, order that section 4 does not apply to the mortgagee and permit an action to commence; or

(b) order that the mortgagee may make an application pursuant to this Act.

Application for
report

6(1) A mortgagee may make an application for a report with respect to a mortgage on farm land by giving 60 days notice to the Board and the farmer of its intention to do so.

(2) On receiving a notice of intention pursuant to subsection (1), the Board shall designate a mediator for the purposes of the application and notify the mortgagee and the farmer of the name of the mediator.

(3) Within 30 days following service of a notice of intention to the Board, the Board shall complete an investigation into the financial affairs of the farmer and shall provide a copy of it to the mediator.

(4) On receipt of the report the mediator shall attempt to mediate between the farmer and the mortgage during a period that shall not exceed 30 days.

(5) On the expiration of the mediation period the mediator shall file a mediation report with the Board stating the terms of any agreement or stating that either party did not participate in mediation in good faith or recommending that an action be permitted on the mortgage.

(6) A failure to agree on a settlement or restructuring of the debt is not of itself evidence that a party has not participated in mediation in good faith.

(7) On receipt of the mediator's report, the Board shall consider the matter and make a report which may include

- (a) the mediation report;
- (b) an opinion of whether the farmer has a reasonable possibility of meeting his obligations under the mortgage;
- (c) whether the farmer is making a sincere and reasonable effort to meet his obligations under the mortgage;
- (d) whether the farm land is a homestead;

(e) an explanation of where the farmer has allocated his financial resources during the period in which the mortgage has been in arrears and the reason for the allocation.

(8) In the conclusion of its report the Board shall recommend whether the matter should be disposed of by permitting an action on the mortgage or by restructuring the debt in a way specified by the Board.

Application to court

7 A mortgagee may file an application with the court for the determination of the matter by the court taking into consideration the report by the Board.

Court ordered action

8 In hearing an application pursuant to section 7, the court may order that an action may commence or be continued on the original mortgage or that the debt be restructured or that the matter be resolved in other way that the court considers to be just and equitable in the circumstances, taking into account all of the matters referred to in the report of the Board including the interests of other persons who have an interest in the farm land.

Coming into force

9 This Act comes into force on Proclamation.