

2007 Bill 17

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

LIMITATION STATUTES AMENDMENT ACT, 2007

DR. BROWN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 17
Dr. Brown

BILL 17

2007

LIMITATION STATUTES AMENDMENT ACT, 2007

(Assented to , 2007)

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

Limitations Act

Amends RSA 2000 cL-12

1(1) The *Limitations Act* is amended by this section.

**(2) Section 2 is amended by adding the following after
subsection (2):**

(2.1) With respect to a claim for the recovery of possession of
land as defined in the *Limitation of Actions Act*, RSA 1980
cL-15, subsection (2) shall be read without reference to clause
(b) of that subsection.

Explanatory Notes

Limitations Act

1(1) Amends chapter L-12 of the Revised Statutes of Alberta 2000.

(2) Section 2 presently reads:

2(1) This Act applies where a claimant seeks a remedial order in a proceeding commenced on or after March 1, 1999, whether the claim arises before, on or after March 1, 1999.

(2) Subject to sections 11 and 13, if, before March 1, 1999, the claimant knew, or in the circumstances ought to have known, of a claim and the claimant has not sought a remedial order before the earlier of

(a) the time provided by the Limitation of Actions Act, RSA 1980 cL-15, that would have been applicable but for this Act, or

(b) two years after the Limitations Act, SA 1996 cL-15.1, came into force,

(3) Section 3 is amended

(a) in subsection (3) by adding the following after clause (e):

- (f) a claim for a remedial order for the recovery of possession of real property arises when the claimant is dispossessed of the real property.

(b) by adding the following after subsection (5):

(6) The re-entry of a claimant to real property in order to recover possession of that real property is effective only if it occurs prior to the end of the 10-year limitation period provided by subsection (1)(b).

(7) If a person in possession of real property has given to the person entitled to possession of the real property an acknowledgment in writing of that person's title to the real property prior to the expiry of the 10-year limitation period provided by subsection (1)(b),

- (a) possession of the real property by the person who has given the acknowledgment is deemed, for the purposes of this Act, to have been possession by the person to whom the acknowledgment was given, and
- (b) the right of the person to whom the acknowledgment was given, or of a successor in title to that person, to

the defendant, on pleading this Act as a defence, is entitled to immunity from liability in respect of the claim.

(3) Except as provided in subsection (4), this Act is applicable to any claim, including a claim to which this Act can apply arising under any law that is subject to the legislative jurisdiction of the Parliament of Canada, if

(a) the remedial order is sought in a proceeding before a court created by the Province, or

(b) the claim arose within the Province and the remedial order is sought in a proceeding before a court created by the Parliament of Canada.

(4) This Act does not apply where a claimant seeks

(a) a remedial order based on adverse possession of real property owned by the Crown, or

(b) a remedial order the granting of which is subject to a limitation provision in any other enactment of the Province.

(5) The Crown is bound by this Act.

(3) Section 3 presently reads in part:

3(1) Subject to section 11, if a claimant does not seek a remedial order within

(3) For the purposes of subsection (1)(b),

(5) Under this section,

(b) the defendant has the burden of proving that a remedial order was not sought within the limitation period provided by subsection (1)(b).

take proceedings to recover possession of the real property is deemed to have arisen at the time at which the acknowledgment, or the last of the acknowledgments if there was more than one, was given.

(8) If the right to recover possession of real property first accrued to a predecessor in title of the claimant from whom the claimant acquired the title as a donee, proceedings to recover possession of the real property may not be taken by the claimant except within 10 years after the right accrued to that predecessor.

(4) Section 12 is repealed and the following is substituted:

Conflict of laws

12(1) The limitations law of Alberta applies to any proceeding commenced or sought to be commenced in Alberta in which a claimant seeks a remedial order.

(2) Notwithstanding subsection (1), where a proceeding referred to in subsection (1) would be determined in accordance with the law of another jurisdiction if it were to proceed, and the limitations law of that jurisdiction provides a shorter limitation period than the limitation period provided by the law of Alberta, the shorter limitation period applies.

Land Titles Act

Amends RSA 2000 cL-4

2(1) The *Land Titles Act* is amended by this section.

(2) Section 74(1) is amended by striking out “the *Limitation of Actions Act*, RSA 1980 cL-15” and substituting “the *Limitations Act*”.

(3) Section 106(1)(c) is amended by striking out “the *Limitation of Actions Act*, RSA 1980 cL-15” and substituting “the *Limitations Act*”.

(4) Section 12 presently reads:

12 The limitations law of the Province shall be applied whenever a remedial order is sought in this Province, notwithstanding that, in accordance with conflict of law rules, the claim will be adjudicated under the substantive law of another jurisdiction.

Land Titles Act

2(1) Amends chapter L-4 of the Revised Statutes of Alberta 2000.

(2) Section 74(1) presently reads:

74(1) Any person recovering against a registered owner of land a judgment declaring that the person recovering the judgment is entitled to the exclusive right to use the land or that the person recovering the judgment be quieted in the exclusive possession of the land, pursuant to the Limitation of Actions Act, RSA 1980 cL-15, may file a certified copy of the judgment in the Land Titles Office.

(3) Section 106(1)(c) presently reads:

106(1) The Registrar shall discharge a mortgage or an encumbrance wholly or in part, or the land comprised in it wholly or in part, according to the tenor of the discharge, and shall make an

entry of the discharge on the certificate of title affected by the discharge, in any of the following cases:

- (c) on the production of a certificate signed by a judge certifying that the right of any person to recover any money secured by the mortgage or encumbrance has been extinguished by reason of the operation of the Limitation of Actions Act, RSA 1980 cL-15.*

