

2017 Bill 204

Third Session, 29th Legislature, 66 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 204

**PROTECTION OF PROPERTY RIGHTS
STATUTES AMENDMENT ACT, 2017**

MR. STIER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 204
Mr. Stier

BILL 204

2017

PROTECTION OF PROPERTY RIGHTS STATUTES AMENDMENT ACT, 2017

(Assented to , 2017)

Preamble

WHEREAS current legislation limits property rights without providing the right to adequate compensation or notice;

WHEREAS property owners should have the right to a fair hearing if their rights are affected;

WHEREAS a landowner's title should be secure against claims of adverse possession; and

WHEREAS owners of private land and holders of statutory consents should be appropriately compensated or have recourse to the courts where their lands or interests are affected by a regional plan under the *Alberta Land Stewardship Act*;

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

Alberta Land Stewardship Act

Amends SA 2009 cA-26.8

1(1) The *Alberta Land Stewardship Act* is amended by this section.

(2) Section 9(2) is amended by repealing clauses (c) and (d).

Explanatory Notes

Alberta Land Stewardship Act

1(1) Amends chapter A-26.8 of the Statutes of Alberta, 2009.

(2) Section 9 presently reads in part:

9(1) A regional plan may contain provisions that the Lieutenant Governor in Council considers necessary or appropriate to advance or implement, or to both advance and implement, the purposes of this

(3) The following is added after section 11:

Right to recover financial losses

11.1(1) Notwithstanding section 13, if a regional plan affects, amends or rescinds a statutory consent or the terms or conditions of a statutory consent, the holder of the statutory consent may bring a claim against the Crown for any losses the holder may suffer as a result of any effect on or amendment or rescission of the statutory consent under a regional plan.

(2) For the purposes of subsection (1), a claim is limited to a right, application, proceeding or request to a court for damages or other financial relief.

(3) When a holder of a statutory consent receives compensation under this Act or under any other enactment in respect of any effect on or amendment or rescission of the statutory consent by a regional plan, the amount of compensation so received shall be deducted from the amount ordered or awarded by the court to the holder of the statutory consent.

(4) Section 14 is repealed and the following is substituted:

Application of the Regulations Act

14 The *Regulations Act* does not apply to a regional plan.

Act.

(2) Without limiting subsection (1), a regional plan may

(c) whether or not another enactment deals with the same, similar or associated matters, make, as part of the regional plan, law on any matter within the legislative authority of the Legislature that is designed to advance or implement, or to both advance and implement, the purposes of this Act

(d) make, as part of the regional plan, law that may be made as a regulation under this Act, or as a regulation under any other Act, and also make, amend or repeal regulations under any other Act whether

(i) the other Act is enacted before or after this Act comes into force, or

(ii) the authority to make regulations under the other Act is given to the Lieutenant Governor in Council, a Minister, a board or agency, or any combination of those persons;

(3) Right to recover financial losses.

(4) Section 14 presently reads:

Application of the Regulations Act

14(1) Subject to subsection (2), the Regulations Act does not apply to a regional plan.

(2) The Regulations Act applies to the making, amending or repeal of the regulations under any other Act pursuant to section 9(2)(d).

(5) Section 15 is amended

(a) in subsection (3) by adding “and (6)” after “(5)”;

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

(6) Subsection (3) does not apply in respect of a right, application, proceeding or request brought by a holder of a statutory consent under section 11.1.

(6) Section 19.1 is amended

(a) in subsection (1)(a) by striking out “giving rise to compensation in law or equity” and substituting “directly

(5) Section 15 presently reads:

Binding nature of regional plans

15(1) Except to the extent that a regional plan provides otherwise, a regional plan binds

- (a) the Crown,*
- (b) local government bodies,*
- (c) decision-makers, and*
- (d) subject to section 15.1, all other persons.*

(2) Subsection (1) is given effect, if at all, only

- (a) by the provisions of the regional plan itself,*
- (b) in accordance with another enactment, or*
- (c) as a result of an order of the Court of Queen's Bench under section 18.*

(3) Subject to subsection (5), subsection (1) does not

- (a) create or provide any person with a cause of action or a right or ability to bring an application or proceeding in or before any court or in or before a decision-maker,*
- (b) create any claim exercisable by any person, or*
- (c) confer jurisdiction on any court or decision-maker to grant relief in respect of any claim.*

(4) For the purposes of subsection (3), a claim includes any right, application, proceeding or request to a court for relief of any nature whatsoever and includes, without limitation,

- (a) any cause of action in law or equity,*
- (b) any proceeding in the nature of certiorari, prohibition or mandamus, and*
- (c) any application for a stay, injunctive relief or declaratory relief.*

(5) Subsection (3) does not apply in respect of an application by the stewardship commissioner to the Court of Queen's Bench under section 18.

(6) Section 19.1 presently reads in part:

Right to compensation for compensable taking

19.1(1) In this section,

resulting from a regional plan or an amendment to a regional plan”;

- (b) **in subsection (2) by striking out** “, as a direct result of a regional plan or an amendment to a regional plan,”.

Land Titles Act

Amends RSA 2000 cL-4

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

(2) Section 74 is repealed and the following is substituted:

No title by adverse possession

74(1) In this section,

- (a) “amending Act” means the *Protection of Property Rights Statutes Amendment Act, 2017*;
- (b) “previous section” means section 74 of this Act as it read immediately before the coming into force of the amending Act.

(2) No right or title in or to land registered under this Act may be acquired or deemed to have been acquired by adverse possession.

(3) Nothing in this section affects a certificate of title acquired by adverse possession and issued before the coming into force of the amending Act.

- (a) *“compensable taking” means the diminution or abrogation of a property right, title or interest giving rise to compensation in law or equity;*
 - (b) *“private land” means land that is owned by a person other than*
 - (i) *the Crown in right of Alberta or of Canada or their agents, or*
 - (ii) *a municipality;*
 - (c) *“registered owner” means a person registered in a land titles office as the owner of an estate in fee simple in private land or freehold minerals.*
- (2) *If, as a direct result of a regional plan or an amendment to a regional plan, a registered owner has suffered a compensable taking in respect of the registered owner’s private land or freehold minerals, the registered owner may, within 12 months from the date that the regional plan or amendment comes into force, apply to the Crown for compensation in accordance with the regulations.*

Land Titles Act

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

(2) Section 74 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, or pursuant to an immunity from liability established under the Limitations Act, may file a certified copy of the judgment in the Land Titles Office.

(2) *Subject to section 191, the Registrar shall*

- (a) *enter on the certificate of title a memorandum cancelling the certificate of title, in whole or in part, according to the terms of the judgment, and*
- (b) *issue a new certificate of title to the person recovering the judgment.*

(4) Any claim commenced prior to the coming into force of the amending Act that results in a judgment that would entitle the claimant to a remedy under the previous section if it was still in force shall be treated for all purposes as if the amending Act had not come into force.

Limitations Act

Amends RSA 2000 cL-12

3(1) The *Limitations Act* is amended by this section.

(2) Section 2 is amended by repealing subsection (2.1).

(3) Section 3 is amended:

(a) by repealing subsection (3)(f);

(b) in subsection (4) by striking out “, including a remedial order”;

(c) by repealing subsection (6) and substituting the following:

(6) Unless otherwise provided by this or any other Act, a defendant is not entitled to an immunity based on adverse possession in respect of a claim to recover possession of real property.

(d) by repealing subsection (7);

(e) by repealing subsection (8).

Limitations Act

3(1) Amends chapter L-12 of the Revised Statutes of Alberta, 2000.

(2) Section 2 presently reads in part:

(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.

(3) Section 3 presently reads in part:

3(3) For the purposes of subsections (1)(b) and (1.1)(b),

(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.

(4) The limitation period provided by subsection (1)(a) does not apply where a claimant seeks a remedial order for possession of real property, including a remedial order under section 69 of the Law of Property Act.

(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 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.

Responsible Energy Development Act

Amends SA 2012 cR-17.3

4(1) The *Responsible Energy Development Act* is amended by this section.

(2) Section 31 is repealed and the following is substituted:

Notice of application

31(1) The Regulator shall on receiving an application ensure that public notice of the application is provided in accordance with the rules.

(2) In addition to the public notice provided in subsection (1), if it appears to the Regulator that its decision on an application may directly and adversely affect the rights of a person, the Regulator shall give the person

- (a) notice of the application,
- (b) a reasonable opportunity of learning the facts bearing on the application and presented to the Regulator by the applicant and other parties to the application,
- (c) a reasonable opportunity to furnish evidence relevant to the application or in contradiction or explanation of the facts or allegations in the application,
- (d) if the person will not have a fair opportunity to contradict or explain the facts or allegations in the application without cross-examination of the person presenting the application, an opportunity of cross-examination in the presence of the Regulator or its hearing commissioners, and
- (e) an adequate opportunity of making representations by way of argument to the Regulator or its hearing commissioners.

(3) When by subsection (2) a person is entitled to make representations to the Regulator or its hearing commissioners,

(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.

Responsible Energy Development Act

4(1) Amends chapter R-17.3 of the Statutes of Alberta, 2012.

(2) Section 31 presently reads:

Notice of application

31 The Regulator shall on receiving an application ensure that public notice of the application is provided in accordance with the rules.

the Regulator is not or hearing commissioners are not by subsection (2) required to afford an opportunity to the person

- (a) to make oral representations, or
- (b) to be represented by counsel,

if the Regulator or hearing commissioners afford the person an opportunity to make representations adequately in writing, unless the statutory provision authorizing the Regulator's decision requires that a hearing be held.

(4) A notice in subsection (2)(a) must be given by the following methods:

- (a) mailing the notice to each owner of land that is adjacent to the land that is the subject of the application,
- (b) posting the notice on the land that is the subject of the application, and
- (c) sending the notice by personal delivery or courier to a person who would not receive notice under clause (a) or (b).

Coming into force

5(1) In this section, “the Bill” means the Bill to enact the *Protection of Property Rights Statutes Amendment Act, 2017.*

(2) Section 2 is deemed to have come into force on the day the Bill received first reading.

(3) Sections 1, 3 and 4 come into force on January 1, 2018.

5 Coming into force.

