

2018 Bill 204

Fourth Session, 29th Legislature, 67 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 204

**LAND STATUTES (ABOLITION OF ADVERSE
POSSESSION) AMENDMENT ACT, 2018**

MR. GOTFRIED

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 204

2018

LAND STATUTES (ABOLITION OF ADVERSE POSSESSION) AMENDMENT ACT, 2018

(Assented to _____, 2018)

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

Land Titles Act

Amends RSA 2000 cL-4

1(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(2) Section 74 is repealed and the following is substituted: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 *Land Statutes (Abolition of Adverse Possession) Amendment Act, 2018*;
- (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.

Explanatory Notes

Land Titles Act

1(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 were 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

2(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

2(1) Amends chapter L-12 of the Revised Statutes of Alberta, 2000.

(2) Section 2 presently reads in part:

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.

(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

Coming into force

3 This Act comes into force on January 1, 2019.

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.

3 Coming into force.

