

On November 23, 2020, the Assembly granted unanimous consent to change the sponsor of Bill 206. This Bill replaces Bill 206 as introduced by Mr. Barnes on October 28, 2020, and it has been updated to reflect that Ms. Glasgo is the Bill's new sponsor.

2020 Bill 206

Second Session, 30th Legislature, 69 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 206

PROPERTY RIGHTS STATUTES AMENDMENT ACT, 2020

MS. GLASGO

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 206
Ms. Glasgo

BILL 206

2020

PROPERTY RIGHTS STATUTES AMENDMENT ACT, 2020

(Assented to _____, 2020)

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

Amends RSA 2000 cA-14

1(1) The *Alberta Bill of Rights* is amended by this section.

(2) The following is added after section 1:

Recognition of property rights

1.1 Where a law of Alberta authorizes the Crown to acquire property owned by an individual other than the Crown, the individual's right to enjoyment of property and the right not to be deprived of that right except by due process of law under section 1(a) includes an entitlement to

- (a) full, fair and timely compensation by the Crown in respect of the acquisition of the property, and
- (b) recourse to the courts to determine the compensation payable.

Amends SA 2009 cA-26.8

2(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 Bill of Rights

- 1**(1) Amends chapter A-14 of the Revised Statutes of Alberta, 2000.
- (2) Recognition of property rights

Alberta Land Stewardship Act

- 2** Amends chapter A-26.8 of the Statutes of Alberta, 2009.
- (2) Section 9(2) presently reads in part:
 - (2) *Without limiting subsection (1), a regional plan may*

(3) Section 14 is repealed and the following is substituted: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.

(4) Section 15 is amended

(a) in subsection (3) by striking out “Subject to subsection (5)” and substituting “Subject to subsections (5) and (6)”;

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

(6) Subsection (3) does not apply in respect of a claim under section 19.11.

(5) Section 19.1 is amended

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

- (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) Section 14 presently reads:

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 regulations under any other Act pursuant to section 9(2)(d).

(4) Section 15 presently reads in part:

15(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.*

(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.

(5) Section 19.1 presently reads in part:

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.”.

(6) The following is added after section 19.1:

Right to damages for a holder of statutory consent

19.11(1) Despite sections 13 and 19, and subject to subsections (2) and (3), 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 damages or losses that the holder suffered due to the effect on, amendment to, or rescission of the statutory consent.

(2) A claim under subsection (1) is limited to a right, application, proceeding or request to a court for damages or other financial relief.

(3) If 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 received must be deducted from the amount ordered or awarded by the court to the holder of the statutory consent under this section.

Amends RSA 2000 cL-4

3(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, “previous section” means section 74 of this Act as it read immediately before the coming into force of this section.

(2) No right or title in or to land registered under this Act may be acquired or is considered to have been acquired by adverse or unauthorized possession, occupation, enjoyment or use of the land.

(a) *“compensable taking” means the diminution or abrogation of a property right, title or interest giving rise to compensation in law or equity;*

(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.

(6) Right to damages for a holder of statutory consent.

Land Titles Act

3(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

(3) Nothing in this section affects a certificate of title issued under subsection (2) of the previous section.

(4) Any claim commenced immediately before the coming into force of this section is considered to be continued under the previous section.

Amends RSA 2000 cL-12

4(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 Act 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 subsections (7) and (8).

- (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.*

Limitations Act

4(1) Amends chapter L-12 of the Revised Statutes of Alberta, 2000.

(2) Section 2(2.1) presently reads:

(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) 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.

(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

Amends SA 2012 cR-17.3

5(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) On receiving an application, the Regulator must

- (a) ensure that public notice of the application is provided in accordance with the rules, and
- (b) determine if the decision on the application could directly and adversely affect a person.

(2) If the Regulator determines under subsection (1)(b) that a decision on an application could directly and adversely affect a person, the Regulator must, in accordance with the rules, provide to the person

- (a) notice of the application, in accordance with subsection (4),
- (b) a reasonable opportunity to learn the facts and allegations bearing on the application and presented to the Regulator by the applicant and other parties to the application,
- (c) a reasonable opportunity to file a statement of concern with the Regulator under section 32,
- (d) a reasonable opportunity to furnish evidence to the Regulator or its hearing commissioners relevant to the application or in contradiction or explanation of the facts or allegations in the application,
- (e) 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 making the application, an opportunity to cross-

may not be taken by the claimant except within 10 years after the right accrued to that predecessor.

Responsible Energy Development Act

5(1) Amends chapter R-17.3 of the Statutes of Alberta, 2012.

(2) Section 31 presently reads:

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

examine that person in the presence of the Regulator or its hearing commissioners, and

- (f) an adequate opportunity to make representations by way of argument to the Regulator or its hearing commissioners.

(3) If a person is entitled to make representations to the Regulator or its hearing commissioners under subsection (2)(f) and the Regulator or hearing commissioners provide the person an opportunity to make representations adequately in writing, the Regulator and its hearing commissioners are not required

- (a) to provide an opportunity to the person to make oral representations, or
- (b) allow the person to be represented by counsel, unless the statutory provision authorizing the Regulator's decision requires that a hearing be held.

(4) The Regulator must provide notice to a person under subsection (2)(a) by any of the following means:

- (a) mailing the notice;
- (b) posting the notice on the land that is the subject of the application;
- (c) if the Regulator is not satisfied that a person would receive notice if it were provided in accordance with clause (a) or (b), sending the notice by personal delivery or courier to the person.

Coming into force

6(1) Sections 3 and 4 are considered to have come into force on the day that Bill 206, *Property Rights Statutes Amendment Act, 2020*, receives first reading.

(2) Sections 1, 2 and 5 come into force on January 1, 2021.

6 Coming into force

