

2022 Bill 3

Fourth Session, 30th Legislature, 1 Charles III

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 3

PROPERTY RIGHTS STATUTES AMENDMENT ACT, 2022

THE MINISTER OF JUSTICE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 3

BILL 3

2022

PROPERTY RIGHTS STATUTES AMENDMENT ACT, 2022

(Assented to , 2022)

HIS 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(2) Section 74(1) is repealed and the following is substituted:

Registration of judgment recovered under section 69 of Law of Property Act

74(1) Any person recovering a judgment under section 69(2)(b)
or (c) or 69(3)(b) or (c) of the *Law of Property Act* may file a
certified copy of the judgment in the Land Titles Office.

(3) The following is added after section 74:

Effect of former provision

74.1(1) In this section, “former provision” means section 74(1)
as it read immediately before the coming into force of the
Property Rights Statutes Amendment Act, 2022.

Explanatory Notes

Land Titles Act

1(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, 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.

(3) Effect of former provision.

(2) Any successful claim to quiet title recovered under the former provision continues.

(3) Claims to quiet title commenced under the former provision and not concluded before the coming into force of the *Property Rights Statutes Amendment Act, 2022* may proceed as if the 10-year limitation period under the *Limitations Act* to recover possession of land is in force.

(4) The Registrar shall continue to issue a certificate of title under section 74(2)(b) on the basis of a judgment issued in an action commenced under the former provision and not concluded before the coming into force of the *Property Rights Statutes Amendment Act, 2022*.

(4) Sections 174 and 182(5) are amended by striking out “Minister of Justice and Solicitor General” and substituting “Minister of Justice”.

(5) Section 191(1) is amended by striking out “or a caveat” and substituting “, a caveat or an order made under section 69 of the *Law of Property Act*”.

(4) Updates terminology.

(5) Section 191(1) presently reads:

191(1) Subject to subsection (3), the Registrar shall not register a judgment, order or certificate made in any proceedings of a court that operates to cancel a certificate of title, terminate an interest in land or discharge an instrument or a caveat unless the judgment, order or certificate

- (a) is consented to by all the parties to the proceedings or their solicitors,*
- (b) was granted ex parte and states that it does not have to be served on any person,*
- (c) is accompanied with a written undertaking from those persons having a right to appeal from the judgment, order or certificate, or their solicitors, that no appeal from the judgment, order or certificate will be commenced,*
- (d) is accompanied with a certificate of the clerk of the court that issued the judgment, order or certificate to the effect*
 - (i) that no defence or demand of notice of proceedings has been filed in the proceedings on behalf of any defendant,*
or

Law of Property Act

Amends RSA 2000 cL-7

2(1) The *Law of Property Act* is amended by this section.

(2) Section 69 is repealed and the following is substituted:

Lasting improvements or building encroachment made on wrong land

69(1) In this section, “person” includes a person’s heirs, executors, administrators, successors or assigns.

(2) When a person at any time makes lasting improvements on land under the belief that the land is the person’s own, the Court, having regard to what is just under all circumstances of the case and on the application of either the person who made the improvements or the registered owner of the land, may

- (a) order that the person who made the improvements remove or abandon the improvements,
- (b) order that an easement, either limited in time or not, be given to the person who made the improvements in the amount and on such terms as the Court thinks just,
- (c) order that the person who made the improvements acquire the land on which the improvements are made

(ii) *that the time for appeal from the judgment, order or certificate has expired and that no notice of appeal has been filed,*

or

(e) *is accompanied with a certificate of a solicitor to the effect*

(i) *that an appeal to the Court of Appeal has been finally disposed of or discontinued, that the time for an appeal to the Supreme Court of Canada has expired and that no notice of appeal has been filed, or*

(ii) *that the judgment, order or certificate has been appealed to the Supreme Court of Canada and that the appeal has been finally disposed of or discontinued.*

Law of Property Act

2(1) Amends chapter L-7 of the Revised Statutes of Alberta 2000.

(2) Section 69 presently reads:

69(1) When a person at any time has made lasting improvements on land under the belief that the land was the person's own, the person or the person's assigns

(a) *are entitled to a lien on the land to the extent of the amount by which the value of the land is enhanced by the improvements, or*

(b) *are entitled to or may be required to retain the land if the Court is of the opinion or requires that this should be done having regard to what is just under all circumstances of the case.*

(2) *The person entitled or required to retain the land shall pay any compensation that the Court may direct.*

(3) *No right to the access and use of light or any other easement, right in gross or profit a prendre shall be acquired by a person by prescription, and no such right is deemed to have ever been so acquired.*

from the registered owner of the land in the amount and on such terms as the Court thinks just, or

- (d) require the registered owner of the land to compensate the person who made the improvements for the amount by which the improvements enhance the value of the land in the amount and on such terms as the Court thinks just.

(3) Where it is found that a building on land encroaches on adjoining land, the Court, on the application of either the registered owner of the land on which the building is located or the registered owner of the land on which the building encroaches, may

- (a) order that the owner of the land on which the building is located remove or abandon the encroachment,
- (b) order that an easement, either limited in time or not, be given to the owner of the land on which the building is located from the owner of the land on which the building encroaches, in the amount and on such terms as the Court thinks just, or
- (c) order that the owner of the land on which the building is located acquire the land on which it encroaches from the owner of that land, in the amount and on such terms as the Court thinks just.

(4) When the Court is of the opinion that it is just under all circumstances of the case, an assign under this section does not have to prove to the Court the belief of the person who made the lasting improvement or encroachment that the land is the person's own.

(3) The following is added after section 69:

No title by adverse possession

69.1(1) In this section, “former provisions” means the provisions in section 69 as they read immediately before the coming into force of the *Property Rights Statutes Amendment Act, 2022*.

(3) No title by adverse possession.

(2) Except as provided in this section, no right or title in or to land may be acquired or deemed to be acquired by adverse possession.

(3) No implied licence to use land may be acquired or deemed to be acquired by use or adverse possession of land, and no such right is deemed to have ever been so acquired.

(4) No right to the access and use of light or any other easement, right in gross or profit a prendre is acquired by a person by prescription, and no such right is deemed to have ever been so acquired.

(5) Any action brought for a remedial order commenced under the former provisions and not concluded before the coming into force of the *Property Rights Statutes Amendment Act, 2022* continues as if this section were not in force.

Limitations Act

Amends RSA 2000 cL-12

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

(2) Section 2 is amended

(a) by repealing subsection (2.1);

(b) by repealing subsection (4) and substituting the following:

(4) This Act does not apply where a claimant seeks a remedial order the granting of which is subject to a limitation provision in any other enactment of the Province.

(3) Section 3 is amended

(a) in subsection (1) by adding “, 3.2” after “sections 3.1”;

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.

(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.

(3) Section 3 presently reads in part:

3(1) Subject to subsections (1.1) and (1.2) and sections 3.1 and 11, if a claimant does not seek a remedial order within

(b) by repealing subsections (4), (6), (7) and (8).

(a) 2 years after the date on which the claimant first knew, or in the circumstances ought to have known,

(i) that the injury for which the claimant seeks a remedial order had occurred,

(ii) that the injury was attributable to conduct of the defendant, and

(iii) that the injury, assuming liability on the part of the defendant, warrants bringing a proceeding,

or

(b) 10 years after the claim arose,

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

(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.

(4) The following is added after section 3.1:

No limitation period for recovery of possession

3.2(1) Notwithstanding any provision of this Act,

- (a) there is no limitation period in respect of a claim for recovery of possession of real property, including for an order under section 69 of the *Law of Property Act*, and
- (b) a defendant does not have a defence based on adverse possession.

(2) Any action commenced and not concluded before the *Property Rights Statutes Amendment Act, 2022* comes into force continues under this Act as it read immediately before the coming into force of this section, including the 10-year limitation period for the recovery of possession of real property.

(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) No limitation period for recovery of possession.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
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