

BILL

No. 63 of 1918.

An Act for the Relief of Mortgagors and Purchasers.

(Assented to _____, 1918.)

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

1. This Act may be cited as "*The War Relief Act.*"
2. The term "judge" shall mean a judge of the Supreme Court of Alberta.
3. Anything in any Act or Ordinance to the contrary notwithstanding no person shall—
 - (a) Take or continue proceedings by way of foreclosure or sale or otherwise, or proceed to execution on or otherwise to the enforcement of, any judgment or order of any court, whether entered or made before or after the passing of this Act, for the recovery of principal money secured by any mortgage of land or any interest thereon made or executed prior to the fourth day of August, 1914;
 - (b) Take or continue any proceedings under any power of sale, or levy any distress, or take, resume or enter into possession of any land or interest therein for the recovery of principal money under any power contained in a mortgage of land, or of any interest therein, executed prior to the fourth day of August, 1914;
 - (c) Declare or take advantage of the forfeiture of any land or of any right or interest acquired therein or of any sum of money paid for or on account of the purchase money of such land or of any interest therein, or by way of deposit or otherwise, under the terms of a contract for sale or purchase made or entered into prior to the fourth day of August, 1914;
 - (d) Take or continue any proceedings for the recovery of any part of the principal money secured by mortgage or payable as part of the purchase money of any land or any interest therein payable by the purchaser or mortgagor upon any covenant or agreement as principal or guarantor or otherwise, whether express or implied, made or entered into prior to the fourth day of August, 1914, or enforce by execution or other process any judgment obtained in respect of any such covenant or agreement.
4. Where default is made in payment of interest, rent, taxes, insurance or other disbursements which the mortgagor or purchaser has covenanted or undertaken to pay,

the mortgagor or vendor, his assignee, or personal representative shall have the same remedies, and may exercise them to the same extent, and the consequences of such default shall in all respects be the same as if this Act had not been passed:

Provided, however, that before any action or proceeding shall be commenced for default for any cause mentioned in this section leave shall be obtained from a judge.

5. Applications for leave as provided for in the preceding section shall be by originating notice in accordance with the practice of the Supreme Court of Alberta or in such manner as may be fixed by rules and regulations which may be made by the Chief Justice of said court for such proceedings and said Chief Justice is hereby given the power and authority to make such rules and regulations for the purpose of this Act as to him shall seem meet.

6. Upon an application to a judge for leave as herein provided the judge may grant the leave applied for or if he is of the opinion that time should be given to the person liable to make any payment on the ground that he is unable to immediately make the same by reason of circumstances attributable directly or indirectly to the present war the judge may in his absolute discretion after considering all the circumstances of the case and the position and all the parties refuse to permit the exercise of any right or remedy for such time and subject to such conditions as he thinks fit.

Provided, however, that the mortgagee or vendor as the case may be shall be entitled in any event to the payment of the full amount of the net income from the property or the amount which in the opinion of the judge the property should earn if carefully managed to the extent of such default and the judge may make such order as to possession or the collection of rents as to him seems meet.

7. Where any mortgage or agreement with respect to land falling within the provisions of this Act has been renewed or a new mortgage or agreement substituted therefor the provisions of this Act shall apply to such renewal or new mortgage or agreement in the same manner as to the original mortgage or agreement.

8. Nothing in this Act shall apply to or affect any right or remedy now exercisable for the enforcement of any mortgage or other security of a like nature made or entered into for the purpose of securing the bonds or debentures of any corporation, but the holders of any such bonds or debentures, and any trustee for them, or the mortgagee named in any such mortgage as trustee or otherwise shall have and may exercise any such right or remedy whether the same is conferred by the general law or acquired under any such mortgage or other security as fully and effectually as if this Act had not been passed.

9. The provisions of this Act shall apply only to transactions relating to land where such land is situated within the limits of a city or incorporated town.

10. This Act or any portion thereof may be repealed at any time by order of the Lieutenant Governor in Council.

No. 63.

FIRST SESSION
FOURTH LEGISLATURE
8 GEORGE V
1918

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An Act for the Relief of Mortgagors
and Purchasers.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. STEWART.

EDMONTON:
J. W. JEFFERY, KING'S PRINTER
A.D. 1918