

BILL

No. 60 of 1928.

An Act to amend The Land Titles Act.

(Assented to _____, 1928.)

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 Land Titles Act Amendment Act, 1928.*"

2. *The Land Titles Act*, being chapter 133 of the Revised Statutes of Alberta, 1922, is amended by adding as section 57a, immediately after section 57 thereof, the following:

"**57a.** Land mentioned in any certificate of title issued under the provisions of *The Tax Recovery Act* or in any certificate of title based upon a foreclosure order shall, notwithstanding the provisions of any other Act by implication and without any special mention therein, be subject to any easement or incorporeal right, a memorandum of which has been made under the provisions of section 62, and to any condition or covenant running with or annexed to the land which has been registered under the provisions of section 48a, and also to any caveat protecting any such easement, incorporeal right, condition or covenant duly filed, if such memorandum, registration or filing, as the case may be, was made prior to the filing of the tax recovery caveat, or to the date of the mortgage with respect to which a foreclosure order was made, as the case may be."

3. Section 62 of the said Act is amended by striking out the words "upon the folio of the register which constitutes the existing certificates of title of such other land and upon the duplicate thereof," and inserting in lieu thereof the following: "upon the folios of the register which constitute the existing certificates of title of the dominant and servient tenements respectively, and upon the duplicates thereof."

4. Section 84 of the said Act is hereby struck out and the following substituted therefor:

"**84.** If a certificate of title has not been issued for any lands affected by a public work, as shown by the plan which has been forwarded to the registrar as hereinbefore provided, the registrar shall cancel the area required for the

public work as shown on such plan from the certificates of title as they are issued, and from the duplicates before they are delivered to the owners, and shall issue new certificates of title for the area so cancelled as provided in the preceding section hereof, unless the grant of land is issued subject to the road or other public work shown on the plan."

5. Section 91a is added to the said Act immediately after section 91 thereof, as follows:

"91a. Any person claiming to be interested in any land for which a certificate of title has been granted may apply to a judge for a certificate that any lease or demise registered pursuant to the provisions of this Act has expired, and the judge being satisfied that the lease or demise in respect of which the application is made has expired and is no longer of any force or effect, may grant a certificate to this effect, and upon such certificate being filed with the registrar he shall cancel the registration of the lease or demise in the judge's said certificate mentioned and make an entry of such cancellation in the register and upon the certificate of title to the land affected thereby, and upon the duplicate certificate of title thereof, upon the same being produced to him for this purpose."

6. Section 95 of the said Act is hereby repealed.

7. The repeal effected by section 6 shall not affect any proceedings begun before the passing of this Act.

8. Section 96 of the said Act is amended by adding thereto as subsections (2) and (3) thereof, the following:

"(2) Any such order may be relieved against either by a postponement of the day fixed for redemption or by an actual opening of the foreclosure after such day has been suffered to pass without payment.

"(3) When a judge, local judge, or master has made any such order or has given relief against the same, no appeal shall lie to any court, save on the ground that the discretion of the judge, local judge or master was not exercised judicially."

9. Section 97 of the said Act is amended by adding thereto, as subsection (3) thereof, the following:

"(3) Upon there being produced to and filed with the registrar a postponement of a mortgage or encumbrance in form Ua of the schedule to this Act, signed by a mortgagee or encumbrancee or by a transferee of a mortgage or encumbrance and accompanied by a proper affidavit of execution, the registrar shall make an entry of such postponement upon the register and upon the certificate of title and upon the duplicate certificate of title; and such entry shall have the effect of postponing the rights in the land in the mortgage or encumbrance mentioned of the mortgagee or

encumbrancee or of the transferee of a mortgage or encumbrance signing such postponement in the same way and to the same extent as if the mortgage or encumbrance in which he is named as mortgagee or encumbrancee or of which he is the transferee had been executed and registered immediately after the mortgage or encumbrance or the last of the mortgages or encumbrances to which he has agreed to be postponed."

10. Form Ua is added to the schedule to the said Act, immediately after form U as follows:

"FORM Ua.

"(Section 97, (3).)

"POSTPONEMENT OF MORTGAGE OR ENCUMBRANCE.

"CANADA

"PROVINCE OF ALBERTA.

"To the Registrar of the.....Alberta
Land Registration District:

"I,....., of.....
(*the Mortgagee or Encumbrancee or Transferee of a mortgage or encumbrance*) hereby agree to the postponement of my.....rights as mortgagee or encumbrancee (or as transferee of a mortgage or encumbrance) in the following lands, namely: (*here describe the lands mentioned in the mortgage or encumbrance being postponed*) to the rights in and to the said lands of the mortgagee or encumbrancee in the following mortgage or encumbrance, namely: (*Here describe mortgage or encumbrance that is being given priority*).

In witness whereof I have hereunto subscribed my name
this.....day of.....A.D. 19...

Signed by the above named
.....in }
the presence of: }
..... }

No. 60.

SECOND SESSION
SIXTH LEGISLATURE
18 GEORGE V
1928

B I L L

An Act to amend The Land Titles Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. LYMBURN.

EDMONTON:
W. D. McLEAN, ACTING KING'S PRINTER
A.D. 1928