

BILL

No. 65 of 1928.

An Act to amend The Debt Adjustment 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 Debt Adjustment Act Amendment Act, 1928.*"

2. *The Debt Adjustment Act*, being chapter 43 of the Statutes of Alberta, 1923, is hereby amended by striking out the caption "Part I."

3. Section 2 of the said Act is hereby struck out.

4. The caption "Part II," and sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 are hereby struck out and the following substituted therefor:

"7.—(1) Upon the application of any person who is an actual resident of and personally *bona fide* engaged in farming operations in the Province, hereinafter referred to as a 'resident' (who has any interest in a crop), the director may, if from inquiries made by him he is satisfied that it is in the interests of the resident and his creditors so to do, apply either to the judge of the District Court exercising jurisdiction as judge of the district in which the resident resides, or to the master in chambers at Calgary, if the resident resides in the judicial districts of Calgary, Macleod, Lethbridge, Medicine Hat, Red Deer or Hanna, or to the master in chambers at Edmonton, if the resident resides in any other judicial district, for leave to grant and file the certificate hereinafter mentioned.

"(2) Every application by the resident to the director shall be in writing, and shall be accompanied by a sworn declaration by the resident, all in form A in the schedule to this Act.

"(3) Every application by the director to the judge or master, shall be disposed of in a summary manner, either *ex parte* or upon such notice to such persons, if any, as the judge or master in his discretion may deem proper, and shall be decided upon such material as the judge or master may require, and there shall be no appeal from his decision.

“(4) The judge or master upon being satisfied that it is in the interests of both the resident and his creditors, having regard to the intent and purpose of this Act, so to do, may give his fiat for the granting and filing by the director of a certificate in form C of the schedule to this Act, and such fiat may be in form B of the said schedule, and thereupon the director shall issue the said certificate.

“(5) Thereupon the director shall file in the office of the clerk of the court and of the sheriff of the judicial district or sub-judicial district in which the resident resides, as the case may be, the certificate in form C with the fiat endorsed thereon or attached thereto, and shall file a copy thereof in the Land Titles Office for the Land Registration District in which the resident resides, and shall cause a notice to be inserted in *The Alberta Gazette* to the effect that a certificate has been filed by him in respect of such resident in pursuance of the provisions of this Act.

“(6) Upon the filing of the said certificate no proceeding in the nature of an execution or proceedings leading to sale or foreclosure of real property, and no proceeding of any sort either in Court or Extra-Judicial which may lead to the seizure or sale of the property of any resident shall be taken or continued, except only in the cases hereinafter provided.

“(7) As soon as conveniently may be after the filing of any certificate, the director shall take such steps as he deems proper to acquaint the creditors with the financial position of the resident.

“8.—(1) In any case where a certificate has been filed, a creditor of such resident may apply for leave to proceed to a judge upon notice in writing to the director, and such notice shall be deemed to be served upon proof that the same was sent from some post office within the Province of Alberta, in a duly prepaid cover, by registered mail, addressed to the director, or to the assistant director having an office in the judicial district in which the resident resides, at least seven clear days before the date of hearing mentioned in the notice.

“(2) Every such application shall be made to a judge of the District Court exercising jurisdiction as judge of the district in which the resident resides.

“(3) Every such application shall be heard in a summary manner, and the judge may receive evidence by affidavit or *viva voce* or otherwise as he may think fit, and the judge shall have an absolute discretion as to the granting or refusing of any leave, having regard to the circumstances of the resident and of the creditor, and the purpose and objects of this Act, and may make any order he thinks proper for the interim preservation of the property of the resident situate within any area, and particularly may, as a condition of refusing such leave, impose upon the resident any terms and conditions he deems advisable as to the disposi-

tion and sale of any property of the resident situate within any area and the application of the proceeds of sale, and upon granting any such leave may cancel the certificate filed, and may at the time of granting such leave or by subsequent order give all requisite directions for the removal and sale of the whole or any part of the property of the resident situate in any area which may become liable to seizure and sale in consequence of the granting of such leave or the cancellation of the certificate and for the distribution of the proceeds of sale thereof, and the provisions of *The Extra-Judicial Seizures Act* shall not apply in any such case.

"9. In any case where it is made to appear to the director by any creditor or creditors of a resident in respect of whom a certificate has been filed, that it is advisable so to do, the director may, in his sole discretion, cancel such certificate by filing in the offices of the clerk, sheriff and registrar in which the certificate was originally filed, a cancellation in form D of the schedule to this Act, and thereupon such certificate shall cease to have any effect whatsoever.

"10. In any case where a certificate under this Act has been filed, and it is made to appear by any creditor to the director that the property of the resident therein named is for any reason whatsoever in jeopardy, the director may by writing under his hand directed to the sheriff of the judicial district in which such property is situated require such sheriff to seize such designated property, and to hold and deal with the same for him in such manner as the director may in writing direct; and thereupon the sheriff shall proceed forthwith to seize such property and to deal with the same in such manner as the director may from time to time by writing under his hand direct, and the proper fees and expenses incurred by the sheriff in respect of such property shall be a charge upon the said property.

"11. The director is hereby empowered, in any case where he has filed a certificate, to direct the resident named in such certificate to deal with all or any part of his property in such manner as the director may in his discretion deem expedient, and every such direction shall be in writing and signed by the director, and it shall be the duty of such resident to comply with every such direction.

"12. If any resident in respect of whom a certificate has been filed under this Act makes default in complying with any direction given by the director under the provisions of the last preceding section, or in complying with any order, direction or condition given or imposed by a judge under the provisions of this Act, then, and in every such case, the resident shall be guilty of an offence and shall be liable upon summary conviction to a fine not exceeding two hundred and fifty dollars, and in default of payment thereof, to a term of imprisonment with hard labor not exceeding three months, or to both.

"13. The director may make all such inquiries as he may from time to time deem advisable with regard to the property of any resident in respect of whom a certificate has

been filed, and as to the disposition of any such property, and for that purpose may examine under oath any such resident and his servants and agents, and any person who appears to the director to have any knowledge of the affairs of such resident.

"14. All the powers and authority by this Act conferred upon the director shall be deemed to be conferred upon every assistant director, and may be exercised by the assistant director in the absence of the director, or within the area for which such assistant director is appointed.

"15. Every clerk of the court and sheriff, and every deputy clerk and deputy sheriff, and every registrar of land titles shall receive and file every certificate filed pursuant to this Act, and every judge's order cancelling any certificate, without fee, and shall keep a record thereof."

5. The schedule to the said Act is hereby struck out and the following substituted therefor:

"SCHEDULE.

"FORM A.

"(Section 7, subsection 2.)

"In the matter of *The Debt Adjustment Act*.

"I, the undersigned, do hereby solemnly and sincerely declare as follows:

"1. That I am resident at.....

"2. That I am personally *bona fide* engaged in farming operations at....., in the Province of Alberta.

"3. That I am the owner of the land and crops thereon, as follows:

Description of land	Crops thereon	Acreage of crops
.....
.....
.....

"4. That I own the following live stock and farm machinery:

- Horses.....
- Cattle.....
- Sheep.....
- Swine.....
- Farm machinery.....

"5. That I am indebted in the sum of \$....., and that I am unable presently to pay such debts, and that I apprehend proceedings by one or more of my creditors leading to the forced realization of my property, or part thereof, and that unless my assets are conserved, unnecessary loss will ensue both to my creditors and myself.

“And I make this declaration conscientiously believing the same to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of *The Canada Evidence Act*.

“Declared at.....
in the Province of Alberta,
this.....day of.....19.. }
“Before me: }

A Commissioner for Oaths.
A Notary Public.
A Justice of the Peace.

“To the director under *The Debt Adjustment Act*:

“I, the above named....., do hereby apply to you, and request you to cause an application to be made for leave to file your certificate concerning me pursuant to the provisions of *The Debt Adjustment Act*.

“And further I undertake and agree that I will upon the filing of such certificate obey any directions which may be given by you as to the disposition of my said crops and all my other property above described, or any part thereof, as may be given by you pursuant to any of the provisions of the said Act, and to hold the property aforesaid as bailee for you, and I constitute you my attorney to transact any of my business in my name and on my behalf, as you may think fit, and I agree to confirm and ratify your acts in so doing, and to indemnify you in respect thereof.

“Dated at.....in the Province of Alberta,
this.....day of.....19.....

“Signed in the presence of }
..... }

“FORM B.

“*The Debt Adjustment Act*.

“The director under *The Debt Adjustment Act* is at liberty to issue and file his certificate under the said Act in respect of....., of....., Alberta.

“Dated at....., in the Province of Alberta,
this.....day of.....19...

“.....
“*Judge of the District Court of the District of*
“.....

“Or
“*Master in Chambers, Calgary (or Edmonton).*

“FORM C.

“*The Debt Adjustment Act*.

“Whereas upon an application pursuant to this Act made by me in respect of....., of....., a resident within the meaning of the said Act, to His HonourJudge of the District Court (or Master in Chambers), leave was granted to me to issue and file this certificate in respect of the said.....

"Now, therefore, I certify that the said.....
is a person entitled to the benefit of the provisions of this
Act.

"Dated at....., in the Province of Alberta,
this.....day of....., 19....

".....
"Director.

"FORM D.

"In the matter of *The Debt Adjustment Act*.

"To all clerks of the court and sheriffs and registrars whom
it may concern:

"This is to certify that the certificate filed by me under
the provisions of the above Act, in respect of.....
of.....in your office on the.....
day of.....192.., is hereby cancelled.

"Dated this.....day of....., 192...

".....
"Director."

No. 65.

SECOND SESSION
SIXTH LEGISLATURE
18 GEORGE V
1928

B I L L

An Act to amend The Debt Adjust-
ment 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