

BILL

No. 74 of 1931

An Act to amend The Extra-Judicial Seizures Act.

(Assented to _____, 1931)

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 Extra-Judicial Seizures Act Amendment Act, 1931.*"

2. *The Extra-Judicial Seizures Act*, being chapter 95 of the Revised Statutes of Alberta, 1922, is hereby amended as to section 2a hereof—

(a) by striking out subsection (11) thereof and by substituting therefor the following

"(11) If a notice of objection is received within the said fourteen days, the judge, if satisfied that the debtor has had reasonable notice of the hearing, may in his discretion either refuse the application or may make an order for the removal or sale of the goods or both, and may in such order provide, with the consent of the creditor, that the seizure of the goods is to satisfy the debt in respect thereof, or any part of such debt, notwithstanding that an agreement or contract between the debtor and creditor may make other provisions with respect thereto, and may make any such order upon such terms and conditions as to costs and otherwise as he determines or may suspend the operation of the order, pending the payment of the debt by such instalments as the judge may fix, or the giving of such security or the performance of such other conditions as the judge may impose," and

(b) by adding at the end thereof the following new subsections

"(18) In case no notice of objection is received by the clerk within fourteen days of the seizure of the goods, the sheriff may upon the instructions of the creditor sell by public auction the goods seized, or in case the creditor is legally entitled so to do, he may cause the goods to be sold by public auction or private sale otherwise than by the sheriff upon giving five days' notice in writing to the debtor of his intention so to do and in such case shall, within fourteen days after the making of any sale, file with

the sheriff of the judicial district or the deputy sheriff of the sub-judicial district in which the seizure was made, a statutory declaration setting out the particulars of the sale, the amount realized thereby, and the necessary and proper disbursements in connection therewith, which disbursements shall not exceed those which a sheriff would have been entitled to charge in the same circumstances, and in case the proceeds of the sale exceed the amount owing on account of the debt and disbursements, the creditor shall at the same time deliver the excess to the sheriff to be paid by him to the persons lawfully entitled thereto.

"(19) In case a creditor claiming under a bill of sale, chattel mortgage, or lien note, or for rent, proceeds concurrently by way of distress and by way of action in any court for the recovery of the said indebtedness, no costs or other disbursements shall be taxed and allowed in any such action against the debtor except upon the order of a judge or master in chambers, made upon such notice to the debtor as the judge or master in chambers may consider proper.

"(20) Any notices required to be served upon a debtor pursuant to the last two preceding subsections may be served by sending the same by registered mail in a duly prepaid cover addressed to the debtor at his last known post-office address."

FIRST SESSION

SEVENTH LEGISLATURE

21 GEORGE V

1931

B I L L

An Act to amend The Extra-Judicial
Seizures Act

Received and read the

First time

Second time

Third time

HON. MR. LYMBURN

EDMONTON
W. D. McLEAN, PRINTER
A.D. 1931