

Bill No. 65 of 1938.

A BILL RESPECTING THE SUSPENSION OF PRO-
CEEDINGS IN RESPECT OF CERTAIN
KINDS OF DEBTS.

NOTE.

This Bill relates to debts created on or before the 1st July, 1936, as defined in section 2 and prohibits in the interval between its coming into force and the 1st March, 1939, issuance of any process out of any Court in the Province in any civil action for the purpose of enforcing any debt (section 3) ; stays all pending proceedings in all civil actions or matters until after the 1st day of March, 1939 (section 4) ; and prohibits the commencement of proceedings by way of distress, repossession, and of extra judicial proceedings in respect of or for enforcing any debt in the said interval and stays all such proceedings presently pending until after the 1st March, 1939 (section 5) ; the time during which the issuance of process for the recovery of a debt is prohibited is excluded from the computation of time under any statute of limitation (section 6).

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 65 of 1938.

An Act Respecting the Suspension of Proceedings in respect
of certain kinds of Debts.

(Assented to _____, 1938.)

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 Proceedings Suspension Act*."

2. In this Act unless the context otherwise requires,—

- (a) "Debt" means any obligation to pay any money which is in the nature of a liquidated demand created by or founded on or arising out of any contract, agreement, covenant or stipulation whether express or implied, to which the legislative power of the Province extends, and includes the liability of any person under any guarantee for the payment of any such debt, but does not include,—
- (i) any debt which was originally created at any time after the first day of July, 1936;
 - (ii) any debt owing by or to the Crown in the right of Canada or the Crown in the right of the Province;
 - (iii) any debt owing to the Canadian Farm Loan Board or the Soldier Settlement Board;
 - (iv) any indebtedness for assessments, rates or taxes payable pursuant to any statute or pursuant to the terms of any agreement providing for the consolidation and payment of taxes, rates or assessments;
 - (v) any debt owing by or to any city, town, village, municipal district, improvement district, irrigation district, drainage district, municipal hospital district or the board of trustees of any school district;
 - (vi) any debt the payment of which is guaranteed by the Crown in the right of the Province;
 - (vii) any debt owing by a company other than a family corporation;
 - (viii) any debt owing by or to any society within the meaning of *The Alberta Rural Co-operative Credit Act*;

- (ix) any debt in respect of advances made in the year 1936 pursuant to any of the provisions of *The Seed Grain and Other Advances Security Act*, being chapter 65 of the Statutes of Alberta, 1936;
- (x) any debt owing to or by any hospital which is an approved hospital for the purposes of *The Hospitals Act*, being chapter 60 of the Revised Statutes of Alberta, 1922;
- (xi) any debt due and owing to an insurance company which was made on the sole security of a policy of insurance issued by the company;
- (xii) any debt being an advance made after the first day of July, 1936, by a mortgagee or a vendor of land, or his respective assigns or successors in title for the payment of taxes, seed grain, fire insurance premiums, hail insurance premiums, improvements or repairs to the land or other expenditures which the vendor or mortgagee is entitled to make under the terms of the mortgage or agreement for sale creating the debt;
- (xiii) any debt owing or due by a debtor who is domiciled and resident outside of the Province other than a debt owing by a debtor under any mortgage, charge lien or encumbrance upon any land in the Province or under any agreement for sale of any land, if and so long as,—
 - (a) the registered owner thereof under *The Land Titles Act* is either domiciled and resident in the Province or is a body corporate carrying on business in the Province, or
 - (b) such land is in the occupation or possession of a person resident and domiciled in the Province or a body corporate carrying on business in the Province who is the transferee of the land or the purchaser thereof under an agreement for sale thereof or is for the time being entitled to exercise the rights of the purchaser under any agreement for the sale thereof.
- (xiv) any debt due or payable pursuant to any judgment or order made in an action for divorce, judicial separation, alimony, or in any proceeding under *The Domestic Relations Act*;
- (xv) any debt due and owing by a person against whom a Writ of Attachment may be issued pursuant to the Rules of Court relating to absconding debtors;

- (xvi) any debt owing for the purchase money or for rentals or for royalties payable in respect of the right to win, work, or get any of the following minerals, namely: coal, petroleum, natural gas and bitumen, and any debt the payment of which is secured by any mortgage, charge, lien, encumbrance or other security however created, upon the right to win, work or get any of the said minerals;
 - (xvii) any debt in respect of which an order of the Court has been obtained on a summary application by the creditor, wherein it has been proved to the satisfaction of the Court that the debtor has perpetrated or is about to perpetrate a fraud on the applicant or any other creditor;
 - (xviii) any debt secured on any chattel in respect of which the creditor has proved to the satisfaction of the Debt Adjustment Board that the chattel has been abandoned, and a permit has been issued by the Board pursuant to the provisions of *The Debt Adjustment Act, 1937*;
 - (xix) any debt being a claim for wages;
 - (xx) any debt owing by an individual to an individual.
- (b) "Family Corporation" means a corporation seventy-five per centum of the stock of which is owned or controlled directly or indirectly by the members of one family, one or more of which members reside in Alberta, and take an active part in the business operations of the corporation, or a corporation, eighty per centum of the stock of which is owned by persons actively employed in the business of the corporation or by such persons and their families;
- (c) "Individual" includes a partnership, a family corporation and a corporation acting as an executor of the last will and testament of a deceased individual, as administrator or trustee of the estate of a deceased individual, or as a trustee for an individual, and a corporation incorporated under the provisions of *The Co-operative Marketing Associations Act*, being chapter 5 of the Statutes of Alberta, 1924, or *The Co-operative Associations Act*, being chapter 66 of the Statutes of Alberta, 1937, but does not include any other body corporate or politic.

3. Notwithstanding anything to the contrary in any contract, and notwithstanding any rule of law or equity to the contrary in the interval between the coming into force of this Act and the first day of March, A.D. 1939, no process shall be issued out of any court in the Province in any civil action for the purpose of enforcing the payment of any debt.

4. All proceedings in all civil actions or matters which are at the time of the coming into force of this Act pending in any court of the Province in respect of any debt are hereby stayed until after the first day of March, A.D. 1939.

5. No proceedings by way of distress, repossession and no extra judicial proceedings of any nature whatsoever in respect of, or for the purpose of enforcing any debt shall be commenced in the interval between the coming into force of this Act and the first day of March, A.D. 1939, and any such proceedings now pending shall be stayed until after the first day of March, A.D. 1939.

6. The time during which the issuance of process for the purpose of enforcing payment of a debt is prohibited by this Act shall not be included in the time within which any action or other proceeding is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

7. This Act shall come into force upon a day to be fixed by Proclamation of the Lieutenant Governor in Council.

No. 65.

SIXTH SESSION
EIGHTH LEGISLATURE

1 GEORGE VI
1938

BILL

An Act Respecting the Suspension of
Proceedings in respect of certain
kinds of Debts.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

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A Shnitka, King's Printer
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