

Bill No. 74 of 1938.

A BILL FOR THE SECURITY OF HOME OWNERS.

NOTE.

This Bill prohibits the bringing of any action founded on any mortgage executed before the first day of March, 1938, against a farm home owner, having for its object the foreclosure or sale of a farm home and any such action now pending is stayed. "Farm home" means land elsewhere than in a city, town or village, consisting of not more than one quarter-section on which the home occupied by the owner thereof is situate; and "Farm home owner" means the person who is the owner and in actual occupation of a farm home which is held by him subject to a mortgage.

The Bill also prohibits the bringing of any action founded on any mortgage executed before the first day of March, 1938, against an urban home owner, having for its object the foreclosure or sale of an urban home, unless and until the plaintiff in the action has first deposited with the Clerk of the Court in which the action is to be commenced the sum of two thousand dollars. "Urban home" means land in a city, town or village consisting of not more than four adjoining lots in one block as shown by a plan of subdivision duly registered in the proper Land Titles Office on which the house occupied by the owner thereof is situate; and "Urban home owner" means the person who is the owner and in actual occupation of an urban home which is held by him subject to a mortgage. Any such actions now pending are stayed until the plaintiff makes a deposit with the Clerk of the Court of two thousand dollars.

In case a final order of foreclosure or sale is made in respect of an urban home, the Bill makes it a term of such order that a sum of two thousand dollars shall be paid out of court to the owner of such urban home, and upon the entry of any such order the Clerk is directed without any further order to pay out of court the said sum to the person who was the urban farm owner thereof at the time of the commencement of the action or proceeding, or in the case of the subsequent death of such person if such person is survived by a wife or husband, to such wife or husband, or if such person dies a widower or a widow and is survived by children, to such children, provided always that at the time of the making of such order such wife, husband or children as

the case may be, are in the actual occupation of the urban home; and in case of the subsequent death of the person who was at the time of the commencement of such proceedings without leaving any wife, husband or child to whom such sum is directed to be paid, the said sum is to be paid out of court to the person who paid the same into court or to his executors, successors or assigns; and in case the action is dismissed or otherwise disposed of the said sum is to be paid out to the plaintiff upon the order of the Court.

This Bill does not apply to mortgages of the Canadian Farm Loan Board.

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. 74 of 1938.

An Act for the Security of Home Owners.

(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 Home Owners' Security Act.*"

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

- (a) "Court" means the District Court of the Districts of Northern or Southern Alberta or the Supreme Court of Alberta;
- (b) "Farm home" means land elsewhere than in a city, town or village, consisting of not more than one quarter-section on which the house occupied by the owner thereof is situate;
- (c) "Farm home owner" means the person who is the owner and in actual occupation of a farm home which is held by him subject to a mortgage;
- (d) "Owner" in relation to land means the registered owner thereof and any person entitled to become the registered owner thereof by virtue of any transmission or transfer;
- (e) "Urban home" means land in a city, town or village consisting of not more than four adjoining lots in one block as shown by a plan of subdivision duly registered in the proper Land Titles Office on which the house occupied by the owner thereof is situate;
- (f) "Urban home owner" means the person who is the owner and in actual occupation of an urban home which is held by him subject to a mortgage.

3. No action or proceedings founded on any mortgage executed before the first day of March, 1938, shall be brought or maintained in any court in the Province against a farm home owner having as its object the foreclosure or sale of a farm home and any such action now pending in any court in the Province is hereby stayed.

4.—(1) No action or proceedings founded on any mortgage executed before the first day of March, 1938, shall be

brought or maintained in any court in the Province against an urban home owner having for its object the foreclosure or sale of an urban home, unless and until the plaintiff in the action has first deposited with the Clerk of the Court in which the action is to be commenced the sum of two thousand dollars.

(2) Any action or proceeding founded on any mortgage executed before the first day of March, 1938, against an urban home owner having for its object the foreclosure or sale of an urban home now pending in any court in the Province shall be and is hereby stayed until such time as the plaintiff shall have deposited with the Clerk of the Court in which the action is brought the sum of two thousand dollars.

(3) In case a final order of foreclosure or sale is made by the Court in any such action or proceeding in respect of an urban home, it shall be a term of such order that the sum of two thousand dollars be paid out of court to the owner of such urban home, and upon the entry of any such order the Clerk shall forthwith without any further order, pay out of court the said sum to the person who was the urban farm owner thereof at the time of the commencement of the action or proceeding in which such order is made, or in the case of the subsequent death of such person, if such person is survived by a wife or husband, to such wife or husband, or if such person dies a widower or a widow and is survived by children, to such children, provided always that at the time of the making of such order, such wife, husband or children as the case may be, are in the actual occupation of the urban home; and in case of the subsequent death of the person who was at the time of the commencement of such proceedings without leaving any wife, husband or child to whom such sum is by this section directed to be paid, the said sum shall be paid out of court to the person who paid the same into court or to his executors, successors or assigns, as the case may be.

(4) In case the action is dismissed or otherwise disposed of, the sum of two thousand dollars may be paid out to the plaintiff upon order of the Court.

5. Nothing in this Act shall apply to any mortgage to the Canadian Farm Loan Board nor to the exercise by the Canadian Farm Loan Board of any right of the Canadian Farm Loan Board to commence, take, carry on and maintain any action or proceeding for the purpose of enforcing any right of the Board under any such mortgage or to enforce any such right.

6. This Act shall come into force on the day upon which it is assented to.

No. 74.

SIXTH SESSION
EIGHTH LEGISLATURE

1 GEORGE VI

1938

BILL

An Act for the Security of Home
Owners.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.