

Bill No. 63 of 1941.

A BILL TO AMEND THE LAND TITLES ACT

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NOTE.

This Bill amends *The Land Titles Act*.

Section 62a of *The Land Titles Act* enables Public Utility companies to register easements or rights-of-way for transmission or pipe lines which will be binding upon all successors in title of the grantor. Subsection (6) of section 22 of *The Tax Recovery Act* also states that any title issued subsequent to tax recovery proceedings shall be subject to registered easements. Section 57a of *The Land Titles Act*, however, is inconsistent with both of these provisions as it states that new titles so issued shall only be subject to such easements if the easement was registered prior to the filing in the tax recovery caveat. It is desirable that these easements be perpetual as this enables the grantor to command a higher rate of compensation and the grantee being assured of perpetual easement may contract on that basis. The amendment to section 57a is designed to effect this end and to clear up the inconsistency which appears in these three sections.

The purpose of the amendment to section 68 is to provide a method whereby there may be registered under *The Land Titles Act* a re-survey of the Rocky Mountain National Park which has been made by the Dominion. A lithographic copy of the new plan will be certified by the Deputy Minister of the Department of Lands and Mines and will then be registered by the Registrar.

The amendments to sections 66, 69, 70, 71 and 79 together with the additions of the new sections 70a and 78a all deal with amendments to the survey sections of this Act. They were suggested by surveyors in the Land Titles Office and have been approved by the Alberta Surveyors Association and by the Registrars of the two Land Registration Districts. More particularly the amendment to subsection (1) of section 66 simplifies the procedure by providing for a uniform minimum scale. The amendments to sections 66 (2), 69 and 71 (1) further simplify the procedure by deleting the requirement that the surveyor shall have his signature witnessed and attested.

The new section 70a enables one composite plan to be registered rather than a number of plans as is presently required. Frequently oil companies desire to register a

plan of survey of a well site and battery in the interior of a section together with the roadway and pipe lines leading into it. At present under section 66 a plan must be filed to show the site and the road, and under section 70 a separate plan must be registered showing the pipe line.

The new subsection (3) of section 71 brings this Act into line with existing provisions of *The Public Works Act*, by vesting in the Crown title to all streets and avenues shown on a plan of subdivision.

The new section 78a enables the Registrar to make application to a Judge for an order directing him to correct omissions, errors or defects in any plan which has been filed with him.

The amendment to paragraph (d) of subsection (1) of section 111a is necessitated by the fact that infants interested in the estate of a deceased person may become twenty-one years of age before the transfer is presented. As the section presently stands an affidavit that there are no infants interested might then properly be sworn, but this was not the intention of the section.

The amendment to subsection (4) of section 142 clears up another inconsistency between this Act and *The Unearned Increment Tax Act*.

The amendment to paragraph (b) of section 156c provides that the period of limitation of actions against the registrar shall be six years after the discovery of any error, omission or misdescription rather than six years after the making of such error, omission or misdescription.

The new subsection added to section 162 enables the judge to order the issue of a certificate of title in the name of a purchaser of land where the vendor has no further interest therein and where he is dead, absent or otherwise unavailable for the purpose of executing the transfer.

**W. S. GRAY,**  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 63 of 1941.

An Act to amend The Land Titles Act.

(Assented to \_\_\_\_\_, 1941.)

**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, 1941.*"

**2.** *The Land Titles Act*, being chapter 133 of the Revised Statutes of Alberta, 1922, is hereby amended as to section 57a by striking out the following words where the same occur therein: "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 prior to the registration of the judge's adjudication", and by substituting therefor the following words: "duly filed, if such registration or filing, as the case may be, was made prior to the registration of the Judge's adjudication".

**3.** The said Act is further amended as to section 66,—

(a) by striking out subsection (1) thereof and by substituting therefor the following:

"**66.**—(1) The registrar may require the owner of any land within his registration district, desiring to transfer or otherwise deal with it under the provisions of this Act, to have it surveyed by an Alberta Land Surveyor and to deposit with him for registration a plan in duplicate of such survey made on tracing linen in Black India Ink and prepared on a scale of not less than one inch to every two hundred feet and the scale shall be marked on the plan."

(b) by striking out the words "the signature of both owner and surveyor", where the same occur in subsection (2) thereof, and by substituting therefor the words "the signature of the owner".

**4.** The said Act is further amended as to section 68 by adding at the end thereof the following proviso:

"Provided that any plan which has been prepared in accordance with the provisions of any Act of the Parliament of Canada or any lithographic or other copy of such

plan duly certified to be a true copy by the Minister or Deputy Minister of the Federal or of the Provincial Department of the Public Service concerned with the preparation or registration of the said plan, may be filed with the Registrar and shall be dealt with and recognized by him in so far as it is capable of being dealt with and recognized, as if it had been prepared and filed or registered under and in accordance with the provisions of this Act."

5. The said Act is further amended as to section 69 by striking out the words "and the signature of such surveyor shall be duly witnessed and attested in the manner provided for the attestation of instruments to be registered under this Act" where the same occur in paragraph (a) of subsection (1) thereof.

6. The said Act is further amended as to section 70 by striking out the words "except paragraph (f) of subsection (1) thereof" where the same occur therein.

7. The said Act is further amended by adding immediately after section 70 the following new section:

"70a. Where the lands affected by any survey are situated in any recognized oil or gas producing area, the Registrar may accept for registration a composite plan of survey showing any area required by an incorporated oil or gas company for a well site, battery, tank or separator site, entrance road thereto, and any oil or gas pipe line right-of-way required in connection therewith. The survey shall in all respects be made in accordance with the provisions of *The Alberta Surveys Act*. The plan shall be made on a scale large enough to clearly show all the required information and shall be made in accordance with the provisions of this Act and shall not affect more than one section in area, provided, however, that the lands comprising such area shall be contiguous."

8. The said Act is further amended as to section 71,—

(a) by striking out the words "whose respective signatures" where the same occur in subsection (1) thereof, and by substituting therefor the words "and the signature of the owner";

(b) by adding thereto the following new subsection:

"(3) The registration in the Land Titles Office of a plan of subdivision of land into lots or blocks not within the limits of an incorporated city shall vest title to all streets, avenues, highways, lanes or thoroughfares, Public Works Reserves or Park Reserves shown on such plan, in His Majesty in the right and to the use of the Province of Alberta, and no change or alteration in the boundaries of

any such street, avenue, highway, lane or thoroughfare, shall be made without the consent of the Minister of Public Works having been first obtained."

**9.** The said Act is further amended by adding immediately after section 78 the following new section:

"**78a.**—(1) Where in any plan heretofore or hereafter filed or registered there is an omission, error, or other defect, a judge upon the application of the Registrar, may order the correction of the same.

"(2) Upon the making of any such order, the Registrar shall forthwith make the correction directed to be made, and the corrected plan shall be deemed to be substituted for the original, and thereafter the original shall for all purposes be deemed to have been so amended or corrected from the time of registration and the description in any instrument of land therein shall be construed as if it referred to the corrected plan, but such amendments or corrections by the Registrar shall not affect the rights of any person existing at the date of the making of the said order."

**10.** The said Act is further amended as to section 79 by adding thereto immediately after the words "he shall issue a certificate of title for such lands", where the same occur in subsection (1) thereof, the words "free of all encumbrances".

**11.** The said Act is further amended as to section 111*a* by adding at the end of paragraph (*d*) of subsection (1) thereof the following words: "nor were there any infants interested in the estate of the deceased owner at the time of his death."

**12.** The said Act is further amended as to section 142 by striking out the following words where the same occur in subsection (4) thereof: "or at his option the valuation may be fixed at the amount of the consideration for the transfer", and by substituting therefor the following: "subject to the provisions of section 3 of *The Unearned Increment Tax Act*".

**13.** The said Act is further amended as to section 156*c* by striking out paragraph (*b*) thereof and by substituting therefor the following:

"(*b*) by reason of any error, omission, or misdescription in a certificate of title unless the same is brought within six years of the time when such error, omission or misdescription was first known or discovered by the person taking the proceedings";

**14.** The said Act is further amended as to section 162 by renumbering the present section as subsection (1) and by adding thereto the following new subsection:

“(2) In particular and without limiting the generality of the foregoing, in any case where a title to land has been issued and the owner has entered into any contract relating to the sale or disposition thereof and where it can be shown to the satisfaction of the judge that,—

“(a) the applicant is entitled to a transfer of the said land and to be registered as owner thereof, and that the registered owner has no further interest in the said land; and

“(b) the registered owner is dead and no transfer of the said land to the purchaser has been made; or

“(c) the registered owner has not been located after a reasonable inquiry and no transfer of the said land to the purchaser has been made,—

upon the giving of such notice to such persons as the judge may require, the judge may by order direct the registrar to cancel the existing certificate of title and issue a new certificate of title in the name of the purchaser.”

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

No. 63.

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FIRST SESSION  
NINTH LEGISLATURE  
5 GEORGE VI  
1941

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**BILL**  
An Act to amend The Land Titles  
Act.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. ABERHART.

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EDMONTON:  
A. Shnitka, King's Printer  
1941