

Bill No. 72 of 1941.

A BILL TO AMEND AND CONSOLIDATE AN ACT  
EXEMPTING CERTAIN PROPERTY FROM SEIZ-  
URE AND SALE UNDER EXECUTION

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NOTE.

This Bill amends and consolidates *The Exemptions Act*, being chapter 95 of the Revised Statutes of Alberta, 1922, and considerably enlarges the exemptions allowed to an execution debtor by virtue of a seizure under a writ of execution.

Paragraph (c) of section 2 of the Bill extends the live stock, grain and other agricultural produce formerly exempted to provide the following additional exemptions:

- (a) Medical and hospital services for the debtor and his family for the preceding twelve months;
- (b) Moneys borrowed and debts incurred for harvesting expenses and for feed for the live stock of the execution debtor for the preceding six months;
- (c) Payment of one year's taxes and one year's arrears or one year's instalment of consolidated arrears;
- (d) Expenses of farming operations and the repair and replacement of machinery of execution debtor for the preceding twelve months.

Paragraph (d) of section 2 extends the number of horses and other equipment which may be required by the execution debtor for the efficient conduct of his farming operations for the next ensuing twelve months.

Paragraph (e) of section 2 increases the exemption formerly allowed to one tractor *and* one automobile or motor truck required by the execution debtor for agricultural purposes or in his trade or calling.

Paragraph (f) of section 2 extends the exemption for seed grain to sufficient to enable the execution debtor to seed all his land under cultivation from the former exemption which was limited to one hundred and sixty acres.

Section 8 of the Bill permits a reference to a judge in case any dispute arises in respect of the claim for exemptions.

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. 72 of 1941.

An Act to Amend and Consolidate an Act Exempting Certain Property from Seizure and Sale Under Execution.

(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 Exemptions Act, 1941.*"

2. The following real and personal property of an execution debtor is hereby declared exempt from seizure by virtue of all writs of execution, namely:

- (a) The necessary and ordinary clothing of himself and his family;
- (b) Furniture and household furnishings and household appliances to the value of five hundred dollars;
- (c) Cattle, sheep, pigs, domestic fowls, grain, flour, vegetables, meat, dairy or agricultural produce whether prepared for use or on foot, or any of them as will be sufficient either by themselves or when converted into cash to provide,—
  - (i) food and other necessities of life required by the execution debtor and his family for the next ensuing twelve months;
  - (ii) payment for medical and hospital services provided for the execution debtor and his family during the next preceding twelve months, not to exceed two hundred dollars;
  - (iii) the payment of any sums necessarily borrowed or debts necessarily incurred by the execution debtor in growing and harvesting his crop, or any sums necessarily borrowed or debts necessarily incurred by him during the preceding period of six months for the purpose of feeding and preparing his live stock for market;
  - (iv) the payment of any current taxes and one year's arrears of taxes or in case taxes have been consolidated, one year's instalment of the consolidated arrears;
  - (v) for the necessary cash outlays for the ordinary farming operations of the execution debtor during the next ensuing twelve months and

the repair and replacement of necessary agricultural implements and machinery during the same period;

- (d) All horses or animals and farm machinery, dairy utensils and farm equipment which are reasonably necessary for the proper and efficient conduct of the execution debtor's agricultural operations for the next ensuing twelve months;
- (e) One tractor and one automobile or motor truck required by the execution debtor for agricultural purposes or in his trade or calling;
- (f) Seed grain sufficient to seed the execution debtor's land under cultivation;
- (g) The books of a professional man required in his profession;
- (h) The necessary tools and necessary implements used by the execution debtor in the practice of his trade or profession;
- (i) The homestead of an execution debtor actually occupied by him, provided the same be not more than one hundred and sixty acres; in case it be more, the surplus may be sold subject to any lien or encumbrance thereon;
- (j) The house actually occupied by the execution debtor and buildings used in connection therewith, and the lot or lots on which the same are situate according to the registered plan of the same; provided the value of such house, building and lots does not exceed three thousand dollars, but if such value does exceed three thousand dollars, the house, building and lots may be offered for sale, and if the amount bid thereat, after deducting all costs and expenses exceeds three thousand dollars, the property shall be sold, and the amount to the extent of the exemption shall at once be paid over to the execution debtor and shall till then be exempt from seizure under any legal process, but no such sale shall be carried out or possession given to any person thereunder, until the execution debtor shall have received three thousand dollars.

**3.** Notwithstanding anything contained in any Act in force in the Province or in any agreement to the contrary, any person who hereafter executes any chattel mortgage of any of the chattels mentioned in section 2 of this Act shall, in case of seizure under the mortgage, have the right to claim as exempt from seizure and from sale any such chattels covered by the mortgage which cannot be seized or sold without depriving the mortgagor of the number or part of the number of the kind of such chattels which by virtue of section 2 of this Act he may hold free from seizure under execution.

4. Nothing in this Act shall exempt from seizure any article the price of which forms the subject matter of the judgment upon which the execution is issued, except articles intended for the food, clothing and bedding of the execution debtor and his family.

5. In case of the death of an execution debtor, or of a mortgagor referred to in section 3, his property exempt from seizure under execution or under the mortgage as the case may be, shall be exempt from seizure under execution as long as the said property is in the use and enjoyment of the widow and infant children or widow or infant children of the deceased, and is necessary for the maintenance and support of his widow and infant children or any of them.

6. The execution debtor or mortgagor as the case may be, his widow or family or in the case of infants, their guardian, may select from the greater quantity of the same kind of chattels, the chattels which are hereby exempted from seizure.

7. The provisions of section 2 shall not apply,—

- (a) where the debtor has absconded or is about to abscond from the Province, leaving no wife or husband or infant children within the Province; or
- (b) to any execution issued upon any judgment or order for the payment of alimony or for the payment of maintenance by a husband to his wife or his former wife, as the case may be, or for the payment of maintenance for any child of the debtor.

8. In case a claim is made for exemptions and any dispute arises thereunder, the sheriff shall upon his own motion refer the matter to a judge of the District Court for summary determination upon such notice or notices as the judge may direct.

9. *The Exemptions Act*, being chapter 95 of the Revised Statutes of Alberta, 1922, and amendments thereto, is hereby repealed.

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

FIRST SESSION  
NINTH LEGISLATURE  
5 GEORGE VI  
1941

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**BILL**

An Act to Amend and Consolidate an  
Act Exempting Certain Property  
From Seizure and Sale Under  
Execution.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MAYNARD.

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EDMONTON:  
A. Shultka, King's Printer  
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