

Bill No. 75 of 1941.

A BILL TO PROVIDE FOR THE ORDERLY PAYMENT  
OF MORTGAGES AND AGREEMENTS FOR  
THE SALE OF LAND

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NOTE.

This Act is to prescribe a plan according to which debtors under mortgages of land and agreements for sale of land shall for the limited period fixed by the Act make payments to their creditors and to further provide that so long as payment is made according to such plan no action can be brought to enforce the terms of the mortgage or agreement for sale.

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. 75 of 1941.

An Act to provide for the Orderly Payment of Mortgages  
and Agreements for the Sale of Land.

(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 Orderly Payment of  
Land Debts Act.*"

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

- (a) "Farmer debtor" means a person who is a debtor under and by virtue of a mortgage on farm lands or an agreement for the sale of farm lands other than a mortgage or an agreement for sale where the creditor is The Canadian Farm Loan Board or the Soldiers' Settlement Board;
- (b) "Judge" means a Judge of the Supreme Court of Alberta or a Judge of the District Court of the district in which the debtor resides;
- (c) "Urban debtor" means a person who is a debtor under and by virtue of a mortgage on lands situate within the limits of an incorporated city, town or village or under and by virtue of an agreement for the sale of such lands.

**3.** From and after the coming into force of this Act and until the first day of May, 1943, notwithstanding the terms of any mortgage on land or any agreement for the sale of land no farmer debtor shall be deemed to be in default under any such mortgage or agreement for sale,—

- (a) if the crop grown and harvested upon the lands covered by the mortgage or agreement for sale in any year during the period from the date of the coming into force of this Act until the said first day of May, 1943, shall amount to less than ten bushels per acre; or
- (b) so long as any such debtor shall deliver or offer to deliver to his creditor without any deductions whatsoever a share of all crops grown and harvested upon the lands covered by the mortgage or agreement for sale in each year during the period from the date of the coming into force of this Act until the said first day of May, 1943, in accordance with the following provisions:

- (i) If the crop shall amount to not less than ten bushels per acre and less than fifteen bushels, one-quarter share or its equivalent in cash;
- (ii) If the crop shall amount to fifteen bushels per acre or more, one-third share or its equivalent in cash.

4. From and after the coming into force of this Act and until the first day of May, 1943, notwithstanding the terms of any mortgage on land or any agreement for the sale of land, no urban debtor shall be deemed to be in default under such mortgage or agreement for sale,—

- (a) if the gross income of any such debtor and his spouse during the twelve months immediately preceding the date of the coming into force of this Act and during each succeeding twelve months be less than one thousand dollars; or
- (b) so long as any such debtor shall make or shall tender a payment to his creditor in each of the years 1941 and 1942 in accordance with the following provisions:
  - (i) If the gross income of the debtor and his spouse was not less than one thousand dollars and less than fifteen hundred dollars, a sum equal to at least ten per centum of such gross income;
  - (ii) If the gross income of the debtor and his spouse was not less than fifteen hundred dollars and less than two thousand dollars, a sum equal to at least fifteen per centum of such gross income;
  - (iii) If the gross income of the debtor and his spouse was not less than two thousand dollars and less than twenty-five hundred dollars, a sum equal to at least twenty per centum of such gross income.

5. From and after the coming into force of this Act and until the first day of May, 1943, no action or proceeding against a farmer debtor for the sale under or foreclosure of a mortgage on land or for cancellation, rescission or specific performance of an agreement for sale of land or for recovery of possession of such land shall be commenced unless and until it has been established to the satisfaction of a Judge that such farmer debtor has made default in delivering or offering to deliver a share of crop or its equivalent in accordance with the terms prescribed by section 3.

6. From and after the coming into force of this Act and until the first day of May, 1943, no action or proceeding against an urban debtor for the sale under or foreclosure of a mortgage on land or for cancellation, rescission or

specific performance of an agreement for sale of land or for recovery of possession of such land shall be commenced unless and until it has been established to the satisfaction of a Judge that such urban debtor has made default in making or tendering payment in accordance with the terms of payment prescribed by section 4.

**7.** This Act shall not apply to any contract made or entered into by a debtor where the whole of the original consideration for the contract arose on or after the first day of July, 1936, but shall apply to,—

- (a) any agreement, contract, stipulation, covenant or arrangement made since that date which purports to substitute a new indebtedness in the place of any indebtedness created or arising before the first day of July, 1936, or has the effect of extinguishing the last mentioned indebtedness and substituting therefor a new indebtedness or constitutes a novation of the agreement under which such indebtedness was payable; and to
- (b) any guarantee whensoever made for the payment of any debt payable in respect of any contract the whole of the original consideration for which arose before the first day of July, 1936, or any contract mentioned in paragraph (a) of this section.

**8.** The period during which a farmer debtor or an urban debtor, by virtue of the provisions of paragraph (a) of section 3 and paragraph (a) of section 4, is deemed to not be in default under a mortgage or an agreement for sale shall not be included in the time within which an 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.

**9.** The Lieutenant Governor in Council may make regulations prescribing the manner of delivery and the place of delivery of the share of crop which a farmer debtor is required to make pursuant to section 3.

**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 provide for the Orderly  
Payment of Mortgages and Agree-  
ments for the Sale of Land.

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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. Shnitka, King's Printer  
1941