

Bill No. 76 of 1941.

A BILL TO AMEND THE DEBT ADJUSTMENT
ACT, 1937

NOTE.

This Bill amends *The Debt Adjustment Act, 1937*.

Those portions of the Act giving the Board power to make disposition of a debtor's property have been eliminated. The Act is made to apply to judgments obtained before July 1st, 1936, and the Clerk of the Court and Sheriff are directed not to issue execution or make a seizure under such judgment unless a permit has been issued by the Board.

The Bill also provides the right of appeal from a decision of the Debt Adjustment Board granting or refusing a permit to bring an action or other proceedings. The appeal is to a Judge of the Supreme Court with a jury and the procedure to be followed in taking such an appeal and in having it heard is set out in the Bill.

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. 76 of 1941.

An Act to amend The Debt Adjustment Act, 1937.

(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 Debt Adjustment Act, 1937, Amendment Act, 1941.*"

2. *The Debt Adjustment Act, 1937*, being chapter 9 of the Statutes of Alberta, 1937, is amended as to section 6 thereof by striking out the words "and as to the disposition of the property of any such person", where they appear in the fourth and fifth lines of the said section, and by substituting therefor the words "resident farmer", and by striking out the words "farmer or resident home owner", where they appear in the said section and by substituting therefor the words "debtor or resident farmer".

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

(a) by adding at the end of subsection (3) the following new paragraph:

"(c) Any judgment which was obtained before the first day of July, 1936."

(b) by adding the following new subsection:

"(7) With respect to any judgment to which this section applies, no writ or execution shall be issued by the Clerk of the Court nor shall any seizure or distress be effected by the sheriff unless the judgment creditor or execution creditor, as the case may be, shall have produced and filed with the clerk or sheriff, a permit issued by the Debt Adjustment Board giving consent to the issue of proceedings by way of execution or seizure or distress under this section.

4. The said Act is further amended as to section 10,—

(a) by striking out all the words following the words "adjourn the application", where the same appear in the eighth line of subsection (1) thereof, and by substituting therefor the words "for such length of time as the Board may deem advisable under the circumstances";

(b) by striking out subsections (2) and (3) thereof.

5. The said Act is further amended as to section 24 by striking out the same.

6. The said Act is further amended as to section 32 by striking out the same and by substituting therefor the following:

"32. If any person wilfully takes or continues any action or procedure or makes or continues any seizure or sells or disposes of a chattel in violation of the provisions of this Act or the regulations, he shall be liable upon summary conviction to a fine not exceeding two hundred and fifty dollars and in default of payment to a term of imprisonment with hard labour not exceeding three months or to both."

7. The said Act is further amended as to section 36 by striking out the same and by substituting therefor the following new section:

"36.—(1) Any person who deems himself aggrieved by the action of the Board in granting or refusing a permit consenting to the taking of any action or other proceedings under this Act or in cancelling or refusing to cancel a permit previously given or in respect of any direction given by the Board, may file with the Clerk of the Supreme Court and serve upon the Board within twenty days from the date of the action of the Board then in question, a notice of appeal appealing from such action to a Judge of the Supreme Court sitting with a jury of six persons.

"(2) At the time of filing such notice of appeal, the appellant shall deposit with the Clerk of the Supreme Court such sum as the Clerk considers sufficient for the payment of the jurors' fees and the expenses of summoning them.

"(3) Upon any such notice of appeal being given to the Board in the manner and within the time prescribed by this Act, the Board shall with all reasonable dispatch and in any event within seven days thereafter, transmit to the Clerk of the Supreme Court, a return showing the evidence, documents and other material upon which the Board acted in granting, refusing, cancelling or refusing to cancel the permit in question, or in respect of any direction given by the Board.

"(4) Within fifteen days after the filing of the return by the Board, the person appealing from its decision shall apply to a Supreme Court Judge to fix a date for the hearing of the appeal and for directions as to the persons to be served with notice of the hearing, the manner of service and such other directions as may be necessary for the determination of the appeal, and the appellant shall comply with the directions so given by the Court.

"(5) If more than one notice of appeal has been filed from a decision of the Board, a judge shall, in so far as possible, fix the same date for the hearing of all such ap-

peals and a jury selected for the hearing of the first appeal may hear any additional or subsequent appeals under this Act.

“(6) The costs incidental to the summoning of the panel, jurors’ fees and all other lawful expenses in connection therewith, shall, at the end of the hearing of all appeals be apportioned between the appellants by the Clerk of the Court.

“(7) Upon the hearing of the appeal, after the jury has been chosen and sworn, the appellant and any other person who has been served with notice of the appeal pursuant to the directions of the judge may call witnesses and introduce evidence as at the trial of an action, and the rules relating to procedure and admissibility of evidence in civil actions shall be applicable to such hearing.

“(8) The question as to the action of the Board in withholding, granting, cancelling or refusing to cancel a permit, or in giving a direction under this Act, shall be a question of fact for the determination of the jury under proper instructions from the judge and there shall be no appeal from such determination or from any judgment or order made thereon and no proceedings in relation to any appeal or any judgment or order made thereon, shall be restrained by injunction, prohibition or any other process or proceedings in any Court nor be removable by *certiorari* or similar proceedings in any Court.

“(9) A copy of every judgement made on the hearing of an appeal shall be kept on file at the office of the Board.

“(10) Subject to the provisions of this Act, the procedure with respect to appeals, the hearing of the appeal and the selection of the jury, shall be governed by *The Jury Act* and the Consolidated Rules of Court in so far as they are applicable thereto.”

8. The said Act is further amended as to section 37 by striking out the same.

9. The said Act is further amended as to section 40*a* by striking out the words “to be continued in force so far as the same relates to any time prior to the eighth day of April, 1938”, and by substituting therefor the words “to have been in force and to have been continued in force as if the said section had not been repealed and the said section is hereby re-enacted as part of this Act”.

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

No. 76.

**FIRST SESSION
NINTH LEGISLATURE
5 GEORGE VI
1941**

BILL

An Act to amend The Debt Adjust-
ment Act, 1937.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1941