

Bill No. 50 of 1942.

A BILL TO AMEND THE LAND TITLES ACT.

NOTE.

This Bill amends *The Land Titles Act*.

Subsections (3), (4) and (5) of section 97 and section 124a, which are repealed by the Bill, provided for the holder of a mortgage or incumbrance against land and a person who had filed a caveat agreeing with subsequent incumbrancers to postpone the security to that of a subsequent incumbrancer. The provisions of the new subsections (3), (4) and (5) of section 97 consolidate these provisions and add to them authority for persons by agreement to postpone other instruments such as leases, etc.

The amendment to section 112 relates to the priority of an execution registered in the Land Titles Office. Under *The Limitation of Actions Act, 1935*, as amended in 1941, a judgment is barred after six years and the execution would fall with the judgment and subsequent mortgages or other incumbrances would take priority over it. The proposed amendment provides that if before a judgment is barred by *The Limitation of Actions Act*, an action is brought on the judgment and an execution is registered before the first execution lapses, the second execution will replace the first execution or rather, be given its priority on the register.

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. 50 of 1942.

An Act to amend The Land Titles Act.

(Assented to _____, 1942.)

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, 1942.*"

2. *The Land Titles Act*, being chapter 133 of the Revised Statutes of Alberta, 1922, is hereby amended as to section 97 by striking out subsections (3), (4) and (5) thereof and substituting therefor the following:

"(3) Any person entitled to the benefit of a mortgage, incumbrance, lease, caveat or other instrument registered against land, may postpone his rights thereunder by filing with the Registrar a postponement in Form Ua in the Schedule.

"(4) The Registrar shall thereupon register the postponement by entering upon the Certificate of Title and the Duplicate Certificate of Title a memorandum thereof.

"(5) Such registration shall have the effect of postponing the rights with regard to the land of the person mentioned in the postponement in the same way and to the same extent as if the postponed mortgage, incumbrance, lease, caveat or other instrument had been executed and registered immediately after the mortgage, incumbrance, lease, caveat or other instrument or the last of such instruments to which it is expressed to be postponed."

3. The said Act is further amended as to section 112 by adding immediately after the proviso to subsection (1) the following additional proviso:

"Provided further that if an action is brought upon a judgment before the date when the taking of such action would be barred by *The Limitation of Actions Act, 1935*, and there is at the time when the action is brought on file in the office of a Registrar of Land Titles a certified copy of a Writ of Execution which is still in force issued upon the said judgment and if while the said judgment is still in force or would be in force but for the obtaining of a judgment based thereon, the execution creditor files in the office of the Registrar a certified copy of a Writ of Execution issued upon a judgment in the said action, the last mentioned

Writ of Execution shall have the same priority as affecting lands situated within the Land Registration District as the Writ of Execution first hereinbefore mentioned and the Registrar shall endorse upon it and enter in the execution register a memorandum to such effect."

4. The said Act is further amended as to section 124a by striking out the same.

5. The said Act is further amended as to the Schedule by striking out Form Ua and substituting Form Ua in the Schedule hereto.

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

SCHEDULE

FORM Ua

(Section 97 (3))

POSTPONEMENT OF MORTGAGE OR OTHER INSTRUMENT

CANADA

PROVINCE OF ALBERTA

To the Registrar of the Alberta Land Registration District:

I, of
(the mortgager or incumbrancer
or as the case may be)

hereby agree to the postponement of my rights as
..... in the following lands, namely
(Here describe the

lands mentioned in the mortgage or incumbrance or other
..... to the rights in and to the said
instrument being postponed)

mortgage or incumbrance (or as the case may be)
(Here de-

scribe mortgage, incumbrance or other instrument that is
being given priority)

In witness whereof I have hereunto subscribed by name
this day of, A.D. 194....

SIGNED by the above named }
.....
in the presence of }
.....

No. 50.

SECOND SESSION
NINTH LEGISLATURE
6 GEORGE VI
1942

BILL

An Act to amend The Land
Titles Act.

Received and read the

First time

Second time.....

Third time.....

HON. MR. ABERHART.

EDMONTON:
A. Shnitka, King's Printer
1942