

Bill No. 54 of 1942.

A BILL TO AMEND THE LIMITATION OF
ACTIONS ACT.

NOTE.

This Bill amends *The Limitation of Actions Act*.

Section 7 is amended to make it clear that a promise to pay, acknowledgment or part payment has the same effect on a judgment debt as on an ordinary debt.

Section 12 is amended to conform to *The Judicature Act*, which abolished proceedings for recovery of money under a personal covenant contained in a mortgage on land. Reference to moneys secured by any mortgage are accordingly omitted. The limitation period in the section is also reduced from ten to six years.

Section 13 is struck out because proceedings for the recovery of money payable under an agreement for sale are also barred by *The Judicature Act*.

Section 34 is amended by changing the reference from section 31 to section 37. The latter section contains a clear statement of the kind of acknowledgment applicable.

Section 39 is amended by reducing the period of limitation from ten to six years so as to avoid confliction with paragraph (f) of subsection (1) of section 3 of this Act.

Section 47 is amended. A person under disability presently has the right to take proceedings at any time within six years after the cessation of his disability irrespective of the time ordinarily limited for the taking of such proceedings. The amendment alters this by giving the person under disability the right to take action after the cessation of his disability within the time ordinarily limited for the taking of such actions.

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. 54 of 1942.

An Act to amend The Limitation of Actions 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 Limitation of Actions Act Amendment Act, 1942.*"

2. *The Limitation of Actions Act*, being chapter 8 of the Statutes of Alberta, 1935, is hereby amended as to section 7 by adding immediately after the words "would have been but for the effluxion of time liable to an action", where the same occur in subsection (1) thereof, the words "on a judgment or order for the payment of money or".

3. The said Act is further amended as to section 12 by striking out subsection (1) thereof and by substituting therefor the following:

"**12.**—(1) No proceedings shall be taken to recover any sum of money charged upon or payable out of any land, or to recover any legacy whether it is or is not charged upon land, or to recover the personal estate or any share of the personal estate of any person dying intestate and possessed by his personal representative, but within six years next after the present right to recover the same accrued to some person capable of giving a discharge therefor or a release thereof, unless prior to the expiry of the six years some part of the sum of money, legacy or estate or share, or some interest thereon, has been paid by a person bound or entitled to make a payment thereon, or his agent in that behalf, to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to the sum of money, legacy, estate or share, signed by any person so bound or entitled, or his agent, in that behalf, has been given to a person entitled to receive the same, or his agent, and in such case, no action shall be brought but within six years after the payment or acknowledgment, or the last of such payments or acknowledgments if more than one was made or given."

4. The said Act is further amended as to section 13 by striking out the same.

5. The said Act is further amended as to section 34 by striking out the words and figures "section 31" where the same occur therein, and by substituting therefor the words and figures "section 37".

6. The said Act is further amended as to section 39 by striking out the words "ten years", wherever the same occur therein, and by substituting therefor the words "six years".

7. The said Act is further amended as to section 47 by striking out subsection (1) thereof and by substituting therefor the following:

"**47.**—(1) If at the time at which the right to take any proceedings referred to in Parts II, III, IV or V first accrued to any person, he was under disability, then the right to take such proceedings shall be deemed to accrue at the time when the person first ceases to be under disability or dies, whichever event first happens, and the person or a person claiming through him may take proceedings at any time after the cessation of the disability or after the death, (*as the case may be*), within, and not after, the time limited by this or any other Act for the taking of such proceedings; provided that if the person died without ceasing to be under disability no further time to take proceedings shall be allowed by reason of the disability of any other person."

8. No action shall be barred merely by the operation of the provisions of sections 3, 6 and 7 of this Act, until the expiry of one year from its coming into force, provided that all actions that would have been barred by effluxion of time during the one year under the provisions of the law existing immediately prior to the coming into force of this Act shall be barred as if such law were still existing.

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

SECOND SESSION
NINTH LEGISLATURE
6 GEORGE VI
1942

BILL

An Act to amend The Limitation
of Actions Act.

Received and read the

First time

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1942