

Property Rights Statutes Amendment Act, 2022

Overview

- Before the *Property Rights Statutes Amendment Act, 2022* took effect, someone who had been occupying privately owned land for which they are not the registered owner could go to court and potentially claim ownership.
- Adverse possession claims could only be made against private landowners; public land, municipal land, and irrigation districts were exempted.
- The *Property Rights Statutes Amendment Act, 2022* abolishes the ability of squatters to make a claim and gives private landowners the same protections once only reserved for government.
- The act amends the *Law of Property Act*, the *Land Titles Act*, and the *Limitations Act*.
- People will no longer be able to go to court to claim adverse possession of land they are occupying. If someone is possessing land for which they are not the registered owner, the registered owner can get a court order to regain possession at any time.

Reasons for the act

- This act protects Albertans' property rights and ensures that people who aren't the registered owners of a piece of property can't take ownership of it.
- For over a decade, advocates and past governments have pushed to abolish adverse possession. In 2021, the Select Special Committee on Property Rights was formed. The Committee tabled its final report in June of 2022, recommending the abolishment of adverse possession.
- The act saves landowners from the worry of losing their land and needing to monitor and protect it to prevent people from taking possession.
- Removing the ability for squatters to potentially claim ownership on land brings peace of mind to Alberta's rightful property owners and allows them to use and enjoy their property.

Adverse possession

- Adverse possession, commonly called squatter's rights, allows a person who has occupied another's land for at least 10 years to go to court and potentially claim ownership of that land.

Squatting in Alberta

- It is not possible to know for sure how often squatting occurs in Alberta because it may not always go to court or get reported.
- However, when it does occur it can create stress for landowners about the possibility of losing their land and needing to monitor and protect it to keep people from

taking possession, for example by monitoring property lines and continually fixing fences.

- Removing the ability for squatters to potentially claim ownership on land brings peace of mind to Alberta's rightful property owners and allows them to use and enjoy their property without the ongoing burden of ensuring no one is using the property and potentially beginning an adverse possession claim.

Adverse possession court cases

- In an April 2020 report to Alberta's government, the Alberta Law Reform Institute listed nine cases in the eight years up to 2020. However, there may be cases that were not listed, and the exact number of adverse possession court cases is not known.
- Regardless of whether a case goes to court, adverse possession causes worry for landowners that they could lose their land and need to monitor and protect it to prevent people from taking possession.

Consultation

- For over a decade, advocates and past governments pushed to abolish adverse possession.
- The MLA Select Special Committee on Real Property Rights did extensive public consultations in 2021 and early 2022 and received multiple requests to abolish adverse possession. The committee included a recommendation to abolish adverse possession in its June 2022 report.
- The Property Rights Advocate Office recommended abolishing adverse possession in its 2016 annual report.
- In response to a 2017 request from Justice and Solicitor General, the Alberta Law Reform Institute reviewed adverse possession law, and, in April 2020, provided the government with seven recommendations to end "squatter's rights". This legislation is largely based on the institute's recommendations.

Other provinces or territories

- Adverse possession has been eliminated or significantly eliminated in jurisdictions that operate a land titles system similar to Alberta's. In Saskatchewan, New Brunswick and the Yukon adverse possession has been abolished. Adverse possession has been removed in British Columbia, Ontario, and Manitoba except in specific situations when the claim occurred before the land was first registered at land titles.