



SPRING 2019

The Beef Brief

Policy Recommendations for Alberta's Beef Industry

PREPARED BY: WESTERN STOCK GROWERS' ASSOCIATION

Please note additional background information is included to add context and provide more information for the following recommendations.

SECTION 1: CHANGES TO CURRENT LEGISLATION

- Rescind Bill 24 - Carbon Capture and Storage Statutes Amendment Act 2010
 - Replace Bill 6 - Enhanced Protection for Farm and Ranch Workers Act. Create new legislation customized to the rural lifestyle and agriculture industry through robust and meaningful consultation with affected stakeholders.
 - Amend Bill 30 - Occupational Health and Safety Act. There are a number of recommendations for amendments to this act to reduce the burden of regulation on farms and ranches.
 - Amend Sections 11 and 19 of the Alberta Land Stewardship Act to strengthen property rights within this document and guarantee compensation for regulatory takings. Enact Section 23 to establish a marketplace for ecosystem goods and services (EGS) and assigning property rights to EGS to enable said marketplace.
 - Amend the Surface Rights Act
 - Protect surface and subsurface property rights. Surface rights owners should not suffer regulatory takings at the hands of the subsurface rights owners.
 - Uphold the compensation payments under the heads of damage in the Surface Rights Act. The value of EGS that a property produces needs to be recognized.
 - Section 27 contains no enforcement measures for operator non-compliance which has the potential to undermine amicable relations between surface and sub-surface owners.
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SECTION 2: NEW LEGISLATION

- Develop new legislation to protect and enshrine the agricultural right to water.
- Develop new Farm and Ranch Safety legislation customized to the rural lifestyle and agriculture industry through robust and meaningful consultation affected stakeholders.
- Pass the Property Rights Preservation Bill after robust and meaningful consultation.

SECTION 3

GENERAL POLICY

- Reinststate the funding to the Western Canadian Veterinary School at the University of Saskatchewan
 - Address the inadequacies of the current wildlife damage and predation.
 - Reconsider funding to conservation organizations such as AWA, the Land Trust Grant Program, NCC, MultiSAR etc. who undermine and act as barriers to the proper stewardship of the land by land owners and/or land managers.
 - Prohibit environmental/conservation departments within Government from purchasing agricultural land and/or operating an agricultural enterprise wherein a competitive private market exists. Deeded agricultural lands currently owned by government should be sold to those in the private sector.
 - Reduce bureaucracy to increase efficiencies and reduce duplication with private sector
 - Work with the federal government:
 - To eradicate TB and Brucellosis in northern Alberta Wood Bison due to the high risk of transmission to cattle; initiate consultation with cattle producers, the Province and Federal Government immediately.
 - To address the succession problems that come out of estate taxes and rollover.
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SECTION 4:

GRAZING LEASE POLICY

- Adopt the Alberta Public Land Grazing Framework to modernize the grazing lease system and pass the required legislative requirements for implementation.
- Allow subletting of grazing leases to facilitate succession
- Implement 20-year tenure for eligible grazing leases as stated in regional plans.
- Move Rangelands out of the department of Environment and Parks and into the department of Agriculture and Forestry
- Continuation of the Grazing Disposition Holders Operational Committee as a vital link between government and leaseholders
- Recreational Access – at the very least, uphold the current regulations for recreational access. The rights and investment of the leaseholder need to be respected.

SECTION 5: ADDITIONAL CONSIDERATIONS

Create a Marketplace for Ecosystem Goods and Services

Ecosystem Goods and Services (EGS) is a new emerging agriculture product

There is potential for the agriculture industry to economically benefit from providing EGS by participating in a market-based system. This system would be enabled through the Alberta Land Stewardship Act (ALSA)

For example, the external market force from the carbon tax could be easily handled through a market place for sequestered carbon. So instead of heavy-handed regulation that is expensive to government, a market for carbon sequestration will actually meet environmental objectives while also saving the government time and money

BACKGROUND

This section is included to add context and provide more information to the recommendations.





SECTION 1:

CHANGES TO CURRENT LEGISLATION

Bill 24 - Carbon Capture and Storage Statutes Amendment Act

This Act provides an example of the most egregious example of government legislating a regulatory taking on its rural citizens. The Act claws back the pore space from landowners' titles and vests it to the Crown.

In Alberta's race to portray itself as "green", government confiscated land owners' pore spaces through the Act, thereby providing a pore space for large emitters to store carbon dioxide. It is worth noting that in other jurisdictions such as Ontario, the land owner can rent their pore space for that purpose.

The truly ironic part is that agriculture, with the use of plants and photosynthesis, sequesters large amounts of carbon dioxide and stores it in the soil. In some instances, up to 10 tons of carbon per acre per year is sequestered and stored. And the carbon is stored in pore spaces. This brings to question, who actually owns the carbon in governments pore spaces.

Unfortunately, the Carbon Storage and Capture Act did not take into consideration this basic scientific principle when it was written. This Act is a significant deterrent in the development of an Environmental Goods and Services market place where land managers could sell carbon storage into the market place.

RECOMMENDATION: *Abolish the Carbon Capture and Storage Statutes Amendment Act*

Bill 6 – Enhanced Protection for Farm and Ranch Workers Act

The plan for this bill is to rescind and rebuild. Proper robust and meaningful consultation will result in common sense legislation that meets the objectives and intent while also allowing commerce to thrive in the agriculture industry.

RECOMMENDATION:

- **Insurance:** *Mandatory insurance is acceptable but employers should have the choice of WCB or equivalent insurance from the private sector.*
- **OH&S Exemptions:** *Operations with three full time equivalent employees or less should be exempt from OH&S and WCB provisions for farms and ranches. For smaller operations, full OH&S requirements are crippling and not necessary. For operations over three FTE employees, OH&S rules and regulations should apply although it would be prudent to examine the rules and make sure they are not going to be onerous to the point of inciting contravention. Consultation will play a key role in this.*



Bill 30 - Occupational Health and Safety Act

This legislation applies to all industries, not just farms and ranches but now affects farms and ranches as they now fall under the OH&S rules. There are some specific recommendations in regards to the agriculture industry and this Act.

Joint Work Site Health & Safety Committees

When the Technical Committees reviewed this, these work site health and safety committees were only required a) under a Ministerial Order and b) by companies that were repeat offenders of the OH&S Act. Under Bill 30 they are required in some form by everyone.

RECOMMENDATION: *The legislation revert back to this requirement of having health and safety committees only on Ministerial Order.*

OH&S Advisory Council and Alberta Labour Relations Board

Currently there is limited or no information on how these council/boards are structured.

RECOMMENDATION: *Implement a transparent process for how participants are selected and with at least as much representation from employers as from labour.*

Near Misses

The mandatory reporting of near misses will create confusion on what constitutes a near miss and will create excessive bureaucratic burdens especially for the small farm and ranch.

RECOMMENDATION: *No reporting of near misses*

WCB Act

RECOMMENDATION: *The employer should have the right to replace an employee if the employee cannot work for more than three (3) months and should not be required to re-hire the employee.*

Amendments to the Alberta Land Stewardship Act

Part 1 of the Alberta Land Stewardship Act (ALSA) continues to present significant issues with regard to property rights. For example:

Section 11(1) For the purpose of achieving or maintaining an objective or a policy of a regional plan, a regional plan may, by express reference to a statutory consent or type or class of statutory consent, affect, amend or extinguish the statutory consent or the terms or conditions of the statutory consent

Examples of a statutory consent include –

- a development permit, subdivision plan approval issued by a municipality;
- a water licence issued under the Water Act to an irrigation district, food processor, cattle feedlot, or municipal users;
- an approval or registration issued by the Natural Resources Conversation Board for a confined feeding operation (dairy, poultry, cattle or hog operation);
- a Crown grazing lease, grazing permit or other disposition under the Public Lands Act;
- approvals for drainage works under the Water Act;



Agricultural production depends on many forms of statutory consent from government. ALSA provides legislation to extinguish or amend statutory consents with no provision for compensation. All of agriculture depends on the statutory consent of a water license, yet government has the power to literally extinguish an agriculture operation through water license amendments. Some rural Albertans have recently experienced the threat of an amended water license.

Section 19 of ALSA deals with compensation when a regulatory taking occurs. This section provides for compensation under 19.1, Part 3, Division 3. Section 19.1 refers to a "compensable taking", but unless the government acquires an interest in the land while denying the owner all reasonable private uses, there is no "taking" at all. In practical terms sections 19 and 19.1 only create a right of compensation for owners whose lands are sterilized by a conservation directive, thus the legislation is in almost all cases a regulatory taking. The use of the conservation directive has been severely limited since ALSA was proclaimed in 2009.

This Act further complicates and, in some cases, prevents a market place for ecosystem goods and services. Although the Act was intended to protect the environment, in this case it may do the opposite.

The only new compensation provided by ALSA is in the case of conservation directives, and only when there is a loss in market value of land as a result of the directives. Otherwise, compensation is only available as already allowed under Alberta's laws, such as under the Expropriation Act.

RECOMMENDATION: *Amendments to Sections 11 and 19 to uphold property rights*

RECOMMENDATION: *Enact Section 23 to enable the creation of a marketplace for EGS*

RECOMMENDATION: *If the Alberta Property Rights Protection Act is passed, then the amendment of Part 1, Division 1 of the Alberta Land Stewardship Act will be a necessity.*

Surface Rights Act

The original intent of the Surface Rights Act was to 2) provide a right to the surface so a mineral owner can access their property and 3) foster amicable relations between both the surface and subsurface owners. It is assumed that both property owners – above and below are equal in property rights. When an oil and gas installation is abandoned without clean up then the surface owners have suffered a regulatory taking.

Government, through its Property Rights Legislation, needs to protect all property owners – surface and subsurface.

We need changes to the Surface Rights Act that take into consideration the value of EGS the property produces. Section 25(1) that deals with compensation might accommodate this.



From the Surface Rights Act - Determining compensation

25 (1) The Board, in determining the amount of compensation payable may consider

- (a) The amount the land granted to the operator might be expected to realize if sold in the open market by a willing seller to a willing buyer on the date the right of entry order was made,*
- (b) The per acre value, on the date the right of entry order was made, of the titled unit in which the land granted to the operator is located, based on the highest approved use of the land,*
- (c) The loss of use by the owner or occupant of the area granted to the operator,*
- (d) The adverse effect of the area granted to the operator on the remaining land of the owner or occupant and the nuisance, inconvenience and noise that might be caused by or arise from or in connection with the operations of the operator,*
- (e) The damage to the land in the area granted to the operator that might be caused by the operations of the operator, and*
- (f) Any other factors that the Board considers proper under the circumstances.*

Section 27 of the Surface Rights Act obliges operators to notify landowners of the opportunity to renegotiate leases but provides no enforcement measures for operator non-compliance. This undermines the goal of facilitating amicable relations. Since renegotiating a compensation agreement will cost operators money in administration as well as the possibility of higher compensation payments due to changes in the per acre value of the land, the actual loss of use and other increased adverse effects and damage, many operators do not comply with the requirement to renegotiate every five years.

RECOMMENDATION: Amend the Surface Rights Act



SECTION 2: New Legislation

Water Rights and Agriculture

Water is vital to all aspects and sectors of agriculture. Simply put, without water, we don't eat. In December 2017 and into spring of 2018, rural residents received letters from the government which essentially removed their water registrations and were told if they continued to access the water sources in question, they would be in contravention of the Water Act and punishable by law. These water sources were used to care for livestock and, in some cases, were used to supply the houses of these Albertans.

Rural Albertans should not live in fear of the government removing or diminishing their water rights.

RECOMMENDATION: *Given the essential need for access to water for rural residents to survive, access to water through registrations under the Water Act needs to be enshrined in legislation in Alberta.*

Property Rights Preservation Bill

It has been interesting to note that over the 123 years of WSGA operations, many issues WSGA has dealt with have been directly related to property rights. WSGA was a founding participant in the establishment of Canadian Property Rights Research Institution (CANPRI) as well as the Alberta Property Rights Initiative (APRI). All three organizations have championed education and awareness of property rights issues in Alberta.

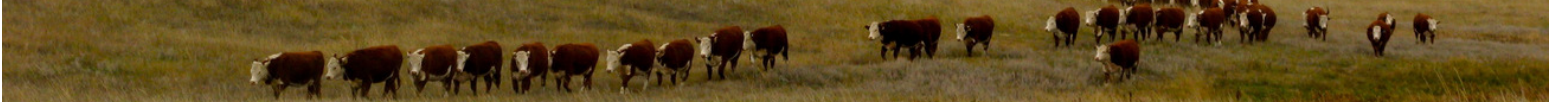
APRI specifically researched and developed the Property Rights Preservation Bill, which was never enacted. The Preservation Bill preamble states:

"It is the Intent and Policy of the democratically elected Government of the Province of Alberta that no Private Property, or the Use of Private Property, may be taken from a Resident of Alberta for Public Interest by governmental Action without Payment of just and fair Compensation, in accordance with the Meaning ascribed to in these Precepts of Due Process of Common Law through the Court of Queen's Bench of Alberta."

A critical aspect of property rights is the ability for citizens to receive compensation from government if there has been a partial taking. In many cases, legislation diminishes property value and statutory rights provided by government to manage property. This, "Regulatory Taking" has adversely affected cattle producers across the province. Environmental legislation has in many cases negatively altered the livelihood of ranchers but most critically has severely impacted the environment that the legislation was intended to protect.

RECOMMENDATION: *With that context of Property Rights and Western Stock Growers Association, we wish to provide further discussion on issues related to future property rights policy.*

Attached in the Appendix you will find the full text of the Property Rights Preservation Bill.



SECTION 3: General Policy

Funding the Western Canadian Veterinary School at the University of Saskatchewan

- *Alberta has over fifty years of successful participation in the four-way provincial partnership that established and funded the Western College of Veterinary Medicine. Over those years, Alberta has consistently registered more veterinarians than it has funded.*
- *When comparing the two schools, they have different teaching models, particularly for clinical experience. Alberta students should be granted the choice to decide which teaching model best suits their learning abilities and lifestyle.*
- *Alberta's withdrawal from the WCVM funding partnership will challenge the viability of the entire WCVM program – unfairly affecting not just Alberta students but Western Canadian students.*

RECOMMENDATION: *Funding to the Western Canadian Veterinary School should be reinstated.*

Wildlife Damage and Predation

It may be hard to find any one of Alberta's 18,000 cattle producers who have not faced issues with Alberta's mismanaged wildlife. Wildlife intrude on property rights required for ranching operations – sometimes by their abundance and sometimes by their scarcity. The elk herds in northern Alberta, in the Suffield area and in the Eastern Slopes have all reached levels of extreme destruction. The greater sage grouse habitat emergency protection order under the federal Species At Risk Act was invoked after the Alberta and Saskatchewan governments were deemed to have failed in their attempts to protect the species. Other regions suffer from wolf, cougar or grizzly bear predation; again with the Crown failing to manage their wildlife property in a balanced manner. Surely if it is in the public interest to have the current levels of wildlife populations – or to increase those levels in the case of species at risk – then it is the Crown's responsibility as the agent of the public to compensate for the damages those populations cause to private property.

Unfortunately compensation programs are limited, restrictive, and largely ineffective. For example, predator losses must be found while still sufficiently intact to determine predation as the cause of death; perennial crops such as pasture are not eligible for adequate compensation even though wildlife cause production losses, and stored feed losses are ineligible unless the feed is located in a fenced enclosure (which is not always practical).

This severely limits certain management options that may be more cost effective. Furthermore, scientific studies have revealed the bio-security concerns resulting from the co-mingling of domestic livestock and wildlife. Zoonotic diseases have recently been identified in cowherds in the northern region, with elk being the likely source of infection.

Wildlife / agriculture interactions are not unique to Alberta. Many other jurisdictions have devised systems which allow wildlife habitat and presence of wildlife to be a revenue source for the landowner / manager. Alberta has legislation and policies which specifically preclude such solutions here.

RECOMMENDATION: *Decrease regulatory burden that impedes proper management of wildlife and improve compensation programs for damages and predation by wildlife.*



Bison Protection and the Cattle Industry

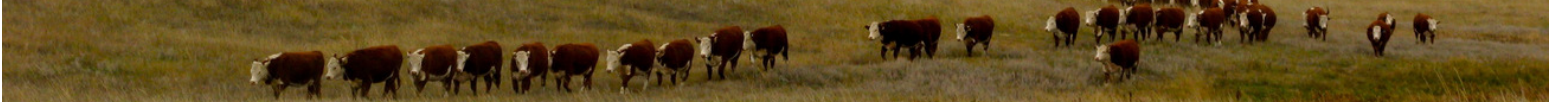
The Federal Government has initiated a recovery plan for Wood Bison in Northern Alberta. One of the main threats to a healthy bison population has been the issue of infected tuberculosis (TB) and brucellosis bison within the area. Canada continues to be tuberculosis (TB) free in captive bison and cattle populations. This after approximately 11,500 cattle were destroyed and \$39 million dollars paid in compensation to producers in Alberta as a result of a successful eradication program, which ended in April of 2018.

“Jody and Messier (2004) found overall prevalence rates in WBNP bison of 49% and 31% for tuberculosis and brucellosis respectively, which was consistent with prevalence data from Tessaro (1987 on bison tested from 1983 to 1985). In the greater WBNP ecosystem, bison are the host reservoir for these zoonotic, reportable cattle diseases and are capable of maintaining infection under a broad range of population densities. In the absence of management intervention, the pathogens will likely be maintained indefinitely in the ecosystem (Connelly et al. 1990). (Taken from the Status of the American Bison in Alberta Update 2017)”

One of the results of the 2016 Alberta bovine TB investigation was that it did not yield a source of the disease, simply stating it was a strain never seen in Canada before. In the current bovine TB investigation in BC, we again have a strain that has never before been detected in Canada. This is a major cause for concern because it completely shoots holes in the current practice of buffer zones to contain disease spread. One of the main purposes of government is to protect its citizens and its citizens' property. The government needs to address how it is going to deal with this obvious source of federal reportable diseases.

There is also concern that, should Crown land be sold north of Le Crete, a non-diseased herd of Wood Bison and a larger cattle population within the area are at risk.

RECOMMENDATION: *The Province work with the Federal Government on eradicating TB and Brucellosis in northern Alberta Wood Bison as they pose a disease risk to cattle and that consultation with cattle producers, the Province and the Federal Government be initiated immediately.*



Funding Grants to Organizations

There are a number of organizations stating to be stakeholders in the areas of conservation and preservation but in reality, many outcomes of their efforts do not align with their stated objectives. There are several examples of NCC purchasing land with taxpayer dollars then not continuing with the proper adaptive management of these lands thus contributing to the degradation of the health of the landscape they are trying to preserve. Other organizations that claim to work with landowners often apply prescriptive management schemes while ignoring the traditional ecosystem knowledge the landowner brings to the table. The degradation of the health of the landscapes under the auspices of MultiSAR is an example of this.

If preserving and conserving biodiversity and natural landscape is the objective, these organizations are not succeeding. They are continually being granted taxpayer dollars to carry out their stated duties to the detriment of the landscape and cost to Albertans.

RECOMMENDATION: *Funding to these organizations could be better and more efficiently used to develop marketplace mechanisms for ecosystem goods and services. At the very least, the effectiveness of these organizations at actually increasing or protecting the health of the landscape needs to be studied.*

Reducing Bureaucracy

The government should consider searching for options to create efficiencies through tapping into private programs to deliver what is also currently being delivered by government. This could have significant budget impacts while also supporting eager small businesses.

RECOMMENDATION: *A review of government programs that may be better delivered by existing private organizations / programs.*



SECTION 4: GRAZING LEASE POLICY

Timely and adaptive management policies and procedures are necessary to maintain the overall healthy function and value provided by Crown land. Recent research reveals that grazed rangelands have higher biodiversity and more active carbon sequestration than perennially ungrazed rangelands. This supports the continuance of the grazing disposition system given the objectives of the Land Use Framework.

Grazing dispositions have been present in Alberta since 1880 and have helped ensure that Alberta's rangelands are maintained and provide all the benefits of a healthy, functioning, natural ecosystem. Alberta Environment and Parks works to manage public lands by ensuring grazing disposition holders apply appropriate stewardship principles to sustain the health and productivity of rangelands. This, in turn, assures that these lands provide a broad suite of services to all Albertans. Grazing disposition holders undertake a significant stewardship role on public lands; they are responsible for maintaining rangeland health and serve to both protect and maintain environmental values. This public land grazing framework has effectively served as an instrument to conserve and maintain native and non-native rangelands and the goods and services they provide. The extensive experience and knowledge of grazing disposition holders is an important resource in ensuring the health of the rangelands.

Alberta Public Land Grazing Framework

The previous provincial government declined to implement a proposed modernization on Crown land grazing disposition rental rates and assignment fees. The proposal that has industry-wide support and developed in conjunction with government was to address the issues of exposure to criticism and market vulnerabilities. Should rumblings of countervail from the USA escalate to the actual challenge, the result could have drastic and negative implications not only for Alberta but for Canadian beef and other agricultural products.

Subletting of grazing leases to facilitate succession

The average age of producers is rising and we need to encourage rather than discourage young people to become producers. Not allowing subletting of leases is a barrier of entry for young producers. Firstly, many young producers cannot afford to purchase an entire ranch or grazing lease. Renting or subletting is a more feasible option that offers the opportunity for young producers to get established. Secondly, many older producers would like to slow down and downsize until the next generation is in a position to take over. Having the flexibility to sublet the leaseland until the next generation can step in creates a continuity of stewardship that would benefit the health of the lease landscape.

Subletting would not diminish the role of the province in the stewardship of the land. There would have to be regulations built around subletting to ensure the department is still comfortable with the management of range health and to protect against abuse of the system. Consultation with the Grazing Disposition Holders Operational Committee would flush out the risks and benefits of instituting a subletting scheme.

Implementing 20-year-tenure for grazing leases

Security of tenure will allow for leaseholder buy-in and facilitate proper stewardship of the land under grazing disposition. The leaseholders who are committed to stewardship of the grassland resource should be rewarded with longer tenure. These are the ranchers you want to retain as leaseholders and should be treated as such.

Alberta is the only province in Canada that has a grazing lease tenure of under 20 years.



Moving Rangelands in to the Department of Agriculture

It cannot be denied that the management of Crown lands under grazing disposition has a definite economic driver – the beef industry. Understanding that there is an economic driver in the system that also manages for social and environmental values is key to a grazing lease system that works and delivers on objectives. The role of the agriculture industry in managing for healthy rangelands is best understood by the Department of Agriculture. Having a better relationship with the department will definitely result in better management and stewardship of the province's rangeland resource. It's a cycle that supports the three pillars of economic, environmental and social sustainability.

Continuation of the Grazing Disposition Holders Operational Committee

The intent of the Committee is to provide a forum of open dialogue between the department and grazing disposition holders that allows for timely and meaningful feedback on operational issues associated with government policies and programs pertaining to Alberta's public land grazing framework. This will assist the department in creating and implementing adaptive solutions for operational public land use issues.

This Committee is especially beneficial for addressing technical operational issues due to the expertise of Committee members. A common understanding of the issues in combination with experience and knowledge will allow for effective and beneficial exchange of information, ideas and workable solutions that are acceptable to grazing disposition holders and the department.

The functional role of the Committee is to provide input and feedback between Government and grazing disposition holders.

This committee has already been successful in developing the Public Land Grazing Framework. This document represents an unprecedented collaboration of all public land stakeholder groups in Alberta. The committee is currently working on a new standards manual for grazing dispositions.

Recreational Access on Public Lands

The current Recreational Access Regulations grant reasonable access to those who wish to recreate on Crown land. The regulations grant rights to the leaseholder as the occupant of the land. There is a certain amount of politics of envy in the recreational community in regards to these rights but caution needs to be exercised when being tempted to grant unfettered access to the public and undermine the role of the leaseholder in the continued health of the landscape. In a simplified relationship sense – the leaseholder is the producer of the ecosystem goods and services product by way of their management of the land and the recreationalist is the consumer of the ecosystem goods and services product. The consumer would not have the quality of product it currently enjoys without the producer's management. Undermining the rights of the producer could lead to a decrease in the quality of the product.

RECOMMENDATION: *Work closely with the Grazing Disposition Holders Operational Committee to address policy issues.*

APPENDIX

PROPERTY RIGHTS PRESERVATION BILL

Her Majesty, by and with the Advice and Consent of the Legislative Assembly of Alberta, enacts as follows:

Section 1. Preamble.

- A. It is the Intent and Policy of the democratically elected Government of the Province of Alberta that no Private Property, or the Use of Private Property, may be taken from a Resident of Alberta for Public Interest by governmental Action without Payment of just and fair Compensation, in accordance with the Meaning ascribed to in these Precepts of Due Process of Common Law through the Court of Queen's Bench of Alberta.
- B. The Purpose of this Act is to require Provincial Agencies, guided and overseen by the Attorney General, to evaluate Proposed Government Actions that may result in Taking of Private Property, or Taking the Use of Private Property, in order to avoid unnecessary Burdens on the Public Treasury and unwarranted Interference with Private Property Rights. It is not the Purpose of this Act to affect the Scope of Private Property Protections afforded by any Common Law Rights provided to Albertans by way of the English Common Law prior to the Canadian Federal Constitution enacted in 1982.

Section 2. Short Title. This Act shall be known as the "Property Rights Preservation Act".

Section 3. Definitions. As used in this Act:

- A. "Provincial Agency" means the Province of Alberta and any Officer, Physical Board, Commission, Department or similar body of the Executive Branch of Provincial Government, and any of the political subdivisions of the province or agencies thereof;
- B. "Government Action" means:
 - i. existing and proposed Rules and Regulations that, if adopted or enforced, may limit the use of Private Property;
 - ii existing or proposed License issuance Requirements, Leasing or Permitting Conditions, Requirements or Limitations on the use of Private Property;
 - iii. required Dedications or Exactions of Private Property;
- C. The term "Government Action" does not include:
 - i. The Forfeiture or Seizure of Private Property by Law Enforcement Agencies as Evidence of a Crime or for Violations of Law;

- D. "Taking(s)" for the purposes of this Act means, the Taking of Private Property or any Interest thereof by Government Action such that this Property Rights Preservation Act requires Compensation to the Owner of that Property.
- E. "Property" for the purposes of this Act, refers to, and includes all Chattels, Land and Intellectual Property.

Section 4. Criteria for Determining Takings

- A. The Attorney General for Alberta shall develop and provide to Provincial Agencies fair and equitable Criteria to assist in the Identification and Evaluation of Government Actions that may result in a Taking of Private Property from any Resident of Alberta. The Attorney General shall update the Criteria at least on an Annual Basis to take account of Changes in the Law and to ensure Equity prevails.
- B. In developing such criteria, and subject to the provisions of subparagraph A. of this Section, the Attorney General shall adhere the following principles:
 - i. if Government Actions shall result in a Physical Invasion or Occupancy of Private Property or decrease the Value or limit the Use of Property, these Actions shall constitute a Taking;
 - ii. Government Action shall amount to a Taking even though it constitutes less than a complete deprivation of all use or value of all separate and distinct interest in the same property or, the action is only temporary in nature;
 - iii. the mere assertion of a public purpose is sufficient to constitute a Taking only if Government Actions to protect the public health and safety or otherwise to further the public interest, should be taken in response to a real and substantial public need and shall be designed significantly to address that need;
 - iv. although reasonable government processes do not ordinarily constitute Takings, undue or unreasonable delays in decision making that interfere with private property use, shall be a Taking.
 - v. In addition, a delay in Processing may increase significantly the Size of Compensation due if a Taking is later found to have occurred; and
 - vi. these Protections relative to the Taking of Private Property or the Use of Private Property, are Self-executing and require Compensation regardless of whether the Underlying Authority for the Action contemplated a Taking or authorized the Payment of Compensation.

Section 5. Designation of Responsible Official.

The Attorney General shall designate an Official within the Office of the Attorney General who shall be responsible for ensuring Compliance with this Act.

Section 6. Takings Assessment by Provincial Agency.

Before a Provincial Agency takes any Government Action, the Provincial Agency shall prepare a Written Assessment of the Taking and the Implications of such Action, in Compliance with the Guidelines developed pursuant to Section 4 of this Act. The Provincial Agency shall deliver Copies of this Assessment to the Premier of Alberta, the affected Landowner, the respective Municipal Government, the appropriate Financial Management Authority and the Attorney General. The Provincial Agency's assessment shall:

- A. assess the likelihood that the Government Action may result in a Taking;
- B. clearly and specifically identify the Purpose of the Government Action;
- C. explain why the Government Action is substantially Necessary to advance that purpose, and why no alternative action is available that would achieve the Provincial Agency's Goals while reducing the Impact on the Private Property Owner;
- D. estimate the potential Cost to the Government if a Court determines that the Action constitutes a Taking;
- E. identify the source of payment within the Provincial Agency's Budget for a Compensation that may be ordered;
- F. assess the consequential Effect on the local Tax Base for Municipal Purposes; and
- G. certify that the Benefits of the Government Action exceed the estimated Compensation Costs.

Section 7. Emergency Action.

If there is an immediate threat to Public Health and Safety that constitutes an Emergency and requires an Immediate Response, the Takings' Assessment required by Section 6 of this Act may be made when the response is Completed.

Section 8. Source of Compensation.

Any Award made to an owner of private property from a government Agency in lieu of a Taking, including any Award of Solicitor (lawyer) – client Fees and Cost, shall come from the Agency's existing Budget unless the Agency has previously disclosed an Estimate of the Costs to the appropriate financial Management Authority and Funds were included in the Budget for that Purpose.

Section 9. Solicitor – Client Fees and Cost.

An Owner of private property who successfully establishes that a government Action is a Taking of such Owner's Property, required Payment of just Compensation shall be awarded reasonable Solicitor – Client Fees and other reasonable Costs incurred in establishing that claim, including reasonable expert Evidence required by the property owner, in addition to other Remedies provided by Law.

Section 10. Causes of Action.

- A. An aggrieved Property Owner shall have a Legal Cause of Action against a Provincial Agency that violates this Act for Compensatory Damages; including Writs of Mandamus or Prohibition, or other appropriate legal or equitable Relief.
- B. A Municipality may seek Relief and Cost Recovery from the Provincial or Federal Government for any Loss or incurred Expense resulting from a Taking through subject government Action.
- C. The Attorney General may bring an Action to Enforce Compliance with this Act.

Section 11. Valuation of Property.

The effect of Government Action that is a Taking on the Fair Market Value of Private Property shall be reflected in the assessed Valuation of such Property for Taxes, Levies and similar Purposes.

Section 12. Effective Date.

This Act is effective January 1, 20__.