
Second Session, Forty-third Parliament
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Legislative Assembly of British Columbia

BILL M ____

**DEFUNDING ABORIGINAL TITLE
CLAIMS AFFECTING PRIVATE
PROPERTY ACT**

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Explanatory Note

This Bill authorizes the Attorney General to suspend all non-essential provincial funding to an Indigenous governing body that commences or supports an aboriginal title claim affecting private property in British Columbia. The suspension does not apply to funding required under treaties, court orders and constitutional obligations, or for essential public services such as health, education, public safety and emergency services. The Bill also prohibits the use of provincial funding in respect of an aboriginal title claim affecting private property in British Columbia and deems all provincial funding arrangements with Indigenous governing bodies to include this restriction.

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**DEFUNDING ABORIGINAL TITLE CLAIMS
AFFECTING PRIVATE PROPERTY ACT**

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 In this Act:

“**Indigenous governing body**” has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*;

“**non-essential provincial funding**” means all provincial funding provided to an Indigenous governing body other than provincial funding that is required to be provided

- (a) under a treaty,
- (b) by an order of a court,
- (c) pursuant to a constitutional obligation of the Province, or
- (d) for the provision of health services, education services, public safety services or emergency services;

“**private property interest**” means an interest in land that is not held by the Province or by a municipality and that is

- (a) an estate in fee simple, or
- (b) an interest in land derived from, burdening or relating to a fee simple estate, including mortgages, easements, covenants, rights of way, strata interests and leasehold interests;

“**provincial funding**” means all transfers, grants, contributions, program funding or other financial support provided to an Indigenous governing body by the Province;

“suspension notice” means a notice issued under section 3 to suspend the provision of non-essential provincial funding to the Indigenous governing body identified in the notice;

“title claim proceeding affecting private property” means a proceeding in which aboriginal title is asserted in respect of land in British Columbia that includes one or more private property interests.

Conflict with other enactments, agreements or instruments

- 2** If a provision of this Act is inconsistent or in conflict with a provision of another Act or with a provision of an agreement or other instrument, the provision of this Act prevails.

Suspension notice

- 3** (1) The Attorney General must issue a suspension notice in respect of an Indigenous governing body if the Attorney General determines that the Indigenous governing body
- (a) has commenced a title claim proceeding affecting private property, or
 - (b) is a party, intervenor or other participant in a title claim proceeding affecting private property and supports the assertion of aboriginal title in that proceeding.
- (2) A suspension notice must specify all of the following:
- (a) the Indigenous governing body to which the notice applies;
 - (b) the relevant title claim proceeding affecting private property;
 - (c) the non-essential provincial funding that is suspended.

Suspension of funding

- 4** (1) If a suspension notice is issued under section 3, the non-essential provincial funding specified in the notice is suspended until the notice is revoked under section 5.
- (2) While a suspension notice is in effect, no person may knowingly provide, transfer, distribute or otherwise make available non-essential provincial funding specified in a suspension notice to the Indigenous governing body specified in the notice.

Revocation of suspension notice

- 5** (1) The Attorney General may revoke a suspension notice if the Attorney General is of the opinion that the suspension no longer serves a useful purpose.
- (2) Without limiting subsection (1), the Attorney General may revoke a suspension notice if
- (a) the Indigenous governing body is no longer a participant in the title claim proceeding affecting the private property in question,
 - (b) the Indigenous governing body ceases to support the assertion of aboriginal title in the title claim proceeding affecting the private property in question,
- or

- (c) the title claim proceeding affecting the private property in question is finally determined by a court.

Conditions of provincial funding

- 6 Every grant, contribution, transfer, agreement or other arrangement providing provincial funding to an Indigenous governing body is deemed to include a condition that the funding must not be used, directly or indirectly, to finance or support a title claim proceeding affecting private property.

Prohibition on use of provincial funding

- 7 (1) An Indigenous governing body must not use any provincial funding to directly or indirectly finance or support a title claim proceeding affecting private property.
- (2) For certainty, subsection (1) applies whether the provincial funding is used
- (a) to commence a title claim proceeding affecting private property, or
 - (b) to participate in or support such a proceeding as a party, intervenor or other participant.

Offence Act

- 8 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

Power to make regulations

- 9 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

Commencement

- 10 This Act comes into force on the date of Royal Assent.