

# B I L L

No. 145

## An Act respecting the Waiver of Fees and making consequential amendments to other Acts

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(Assented to )

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### Short title

1 This Act may be cited as *The Fee Waiver Act*.

#### Interpretation and application

2(1) In this Act:

(a) “**court**” means:

- (i) subject to subsection (2), the Provincial Court of Saskatchewan;
- (ii) the Court of Queen’s Bench; or
- (iii) the Court of Appeal;

(b) “**fee**” means a prescribed fee that is payable to a court or public body with respect to a proceeding in or before that court or public body and includes a fee that is payable with respect to the enforcement of an order of a court or public body;

(c) “**fee waiver certificate**” means a fee waiver certificate issued pursuant to section 3;

- (d) **“official”** means a clerk, registrar or other person who is assigned responsibility by a court or public body to administer fee waiver certificates pursuant to this Act;
- (e) **“prescribed”** means prescribed in the regulations;
- (f) **“proceeding”** means any matter before a court or public body, and includes an application, investigation, hearing, review, dispute resolution process or the issuance of a document or certificate;
- (g) **“public body”** means:
  - (i) the Automobile Injury Appeal Commission;
  - (ii) the Office of Residential Tenancies; and
  - (iii) any other prescribed board, commission, ministry, Crown corporation or government body;
- (h) **“special circumstances”** means special circumstances as defined in the regulations.

(2) This Act applies to the Provincial Court of Saskatchewan only with respect to proceedings brought or relief sought that is within the jurisdiction of that court pursuant to *The Small Claims Act, 1997*.

#### **Application for fee waiver certificate**

- 3(1)** A person, other than a corporation, may apply pursuant to this section for a fee waiver certificate with respect to a proceeding by submitting an application in the prescribed form to an official of the court or public body in which the proceeding is or is to be commenced.
- (2) An application pursuant to this section may be made:
    - (a) before a proceeding commences;
    - (b) at any stage during the proceeding; or
    - (c) subject to subsection (3), after an order is made in a proceeding.
  - (3) After an order is made in a proceeding, a person who has not previously obtained a fee waiver certificate may apply for a fee waiver certificate with respect to fees relating to the enforcement of the order.
  - (4) An official of a court or public body who receives an application pursuant to subsection (1) may issue a fee waiver certificate to the applicant if:
    - (a) the applicant meets the prescribed requirements; or
    - (b) subject to the regulations, the applicant demonstrates that there are special circumstances that justify the issuance of a fee waiver certificate.
  - (5) An official of a court who receives an application pursuant to this section may refer the application to a judge of the court to which the application has been made to determine whether to issue a fee waiver certificate.

(6) An official of a public body who receives an application pursuant to this section may refer the application to the public body to which the application has been made to determine whether to issue a fee waiver certificate.

(7) Notwithstanding any other provision of this section but subject to the regulations, an official may waive the requirement for a person to apply for a fee waiver certificate.

(8) If an official waives the requirement for a person to apply for a fee waiver certificate in accordance with subsection (7), the person is deemed to be the holder of a fee waiver certificate issued by the court or public body for which the official is responsible for administering fee waiver certificates.

(9) Subject to the regulations, the decision of an official, judge or public body pursuant to this section is final.

#### **No fee payable**

4 No fee is payable to apply for a fee waiver certificate pursuant to this Act.

#### **Fee waiver certificate**

5 On and after the date a fee waiver certificate is issued by a court or public body, the person who is issued the fee waiver certificate is excused from paying any fee of the court or public body with respect to a proceeding in or before that court or public body.

#### **Cancellation of fee waiver certificate**

6 Subject to the regulations, an official, a judge or a public body may cancel a fee waiver certificate at any time.

#### **Costs**

7(1) In this section, “costs” means any payment by one party to another party in a proceeding that is intended to reimburse the recipient for any fee or expense paid by the recipient with respect to that proceeding.

(2) Subject to the regulations, a court or public body maintains discretion to make an order for costs to or against the holder of a fee waiver certificate in accordance with any Act, regulation, rule or policy that governs the court or public body.

(3) When determining whether to make an order for costs to or against the holder of a fee waiver certificate, a court or public body may take into account one or more of the following:

- (a) access to justice;
- (b) fairness to the parties;
- (c) the conduct of the parties;
- (d) any other factor that the court or public body considers appropriate.

**Waiver of fees without a certificate**

**8** Nothing in this Act prevents a court or public body from exercising any existing power to waive fees for a person notwithstanding that the person has not been issued a fee waiver certificate pursuant to this Act.

**Act and regulations prevail**

**9** This Act and the regulations prevail if there is any conflict between this Act or the regulations and any other Act, regulation, rule of court or law.

**Regulations**

**10** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing any fee for the purpose of clause 2(1)(b);
- (c) prescribing public bodies for the purpose of clause 2(1)(g);
- (d) defining special circumstances for the purpose of clause 2(1)(h);
- (e) prescribing procedures to be followed with respect to applications for fee waiver certificates pursuant to section 3;
- (f) prescribing forms and providing for their use;
- (g) prescribing requirements for the purpose of clause 3(4)(a);
- (h) prescribing rules respecting the issuance of fee waiver certificates based on special circumstances;
- (i) prescribing circumstances in which the requirement for a person to apply for a fee waiver certificate can be waived;
- (j) prescribing rules respecting the payment of lawyers' fees by the holder of a fee waiver certificate;
- (k) prescribing procedures for the review of decisions of officials, judges and public bodies made pursuant to section 3;
- (l) prescribing rules respecting the cancellation of a fee waiver certificate by an official, a judge or a public body and the effect of a cancellation on the holder of a fee waiver certificate, including prescribing rules respecting providing notice and prescribing rules respecting any appeal of a decision to cancel a fee waiver certificate;
- (m) prescribing any matter for the purposes of section 7;

(n) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;

(o) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

**Transitional**

**11** A Needy Person Certificate that was issued by The Saskatchewan Legal Aid Commission in accordance with *The Queen's Bench Rules* and that is outstanding on the date that this Act comes into force is deemed to be a fee waiver certificate and may be dealt with pursuant to this Act as if it were a fee waiver certificate issued pursuant to this Act.

CONSEQUENTIAL AMENDMENTS

**R.S.S. 1978, c.A-35, section 193 amended**

**12** *The Automobile Accident Insurance Act* is amended by repealing subsection 193(3) and substituting the following:

“(3) Subject to *The Fee Waiver Act*, a claimant who commences an appeal to the appeal commission must pay any prescribed fee”.

**S.S. 2006, c.R-22.0001 amended**

**13(1)** *The Residential Tenancies Act, 2006* is amended in the manner set forth in this section.

**(2)** Subsection 70(2) is amended by adding “and *The Fee Waiver Act*” after “Subject to subsection (14)”.

**(3)** Clause 76(2)(b) is amended by adding “subject to *The Fee Waiver Act*,” before “at the request of a party”.

**Coming into force**

**14** This Act comes into force on proclamation.





FOURTH SESSION

**Twenty-seventh  
Legislature**

SASKATCHEWAN

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**B I L L**

No. 145

An Act respecting the Waiver of Fees and making  
consequential amendments to other Acts

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Received and read the

First time

Second time

Third time

And passed

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Honourable Gordon Wyant

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