

BCLI is BC's independent law reform agency. This project deals with property ownership under BC law and proposes changes to how underlying interests are managed when a personal property ownership interest ends. It proposes ways to modernize the law for all British Columbians and to align the law with UNDRIP and the *Constitution Act, 1982*.

What we want to know from you:

- Do the proposed changes work for you?
- Do you have any concerns or other suggestions?

What is escheat?

Escheat means land reverts to the Crown when it appears to have no owner. It is based on a presumption that all land ultimately belongs to the Crown.

The law of escheat recognizes that land is not owned outright. There are underlying interests in land. When personal ownership interests end, land reverts to the underlying interest-holder. This area of law is governed by the BC *Escheat Act* and the common law.

When personal ownership interests end, it also presents an opportunity for respecting the underlying rights and interests of First Nations. This project explores that opportunity and ways of modernizing this area of law generally.

Who is impacted by escheat?

Corporations can dissolve and their property, not just land, can end up with the Crown. People can die without a will or an heir and their property can end up with the Crown.

Changes being suggested:

- Clear timelines for individuals and corporations to recover property interests.
- Province acting as custodian over property without a clear owner.
- Province holding responsibilities to identify property with a lapsed ownership interest and to notify First Nations and the general public.
- Province to consult and cooperate with First Nations whose inherent rights may be impacted by the creation of a new ownership interest.
- Province to identify and address liabilities on property with a lapsed ownership interest.
- Clear pathways and timelines for the return of property, or other forms of redress, to First Nations whose rights may be impacted.
- Respect for First Nations laws governing lands, waters, property of cultural significance, and inheritance of a member's property in line with UNDRIP.

BCLI staff can review the suggested changes with you in a phone conversation. To arrange a call contact us at: consultations@bcli.org



What is this project about?

How land and other forms of property can be managed in ways that uphold Indigenous rights as affirmed in UNDRIP when private ownership interests lapse.

Private ownership interests in property can lapse when a person or corporation dies and there is no one to inherit or take responsibility for the property. When this happens, the BC *Escheat Act* allows the province to manage the property. This includes authority to grant new interests in lands and resources.

What does the project propose?

It proposes new provincial legislation to replace the law of escheat in BC. The proposed framework would establish clear pathways for the province to respect First Nations rights, including title.

What types of property are involved?

Land, buildings, water systems, and personal property other than money. These are the types of property covered by the BC *Escheat Act*.

Why is this important?

Current BC law is based on old principles of English property law and assumed Crown title. It is not well suited to modern contexts and does not respect First Nations rights. This project aims to support modernizing the law for British Columbians generally and aligning the law with rights affirmed in UNDRIP.

What is BCLI?

BCLI is an organization independent of government that engages in research to support modernizing BC laws. We collaborate with community members to develop recommendations for changing BC laws. Before finalizing recommendations, we invite public input on draft recommendations.

Who should give input?

This work is strengthened with broad public input. BCLI encourages all people and organizations with an interest in this project's topics to participate in the consultation. Participants may have an interest in escheat law, corporate law, wills & estates, First Nations rights and title, or a general interest in law reform. It is okay to give feedback on some aspects of the project, and not all.

How is this different from consultations led by the province?

The province has its own processes for public engagement on legislation and it has obligations to consult and cooperate with First Nations on legislative amendments that may affect their rights. BCLI's consultation does not replace those processes.

How can I participate?

Contact BCLI for more information: consultations@bcli.org
Or review the consultation paper and provide feedback by email or through the survey. Visit our website to access the paper and survey link: <https://www.bcli.org/escheat-act-modernization/>