

No. 13

3rd Session, 13th Legislature, Alberta
5 Elizabeth II, 1957

BILL 13

An Act to amend The Tax Recovery Act

HON. MR. HOOKE

EDMONTON, ALBERTA
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1957

Explanatory Note

2. At present section 13 gives the Minister authority to prescribe the method of fixing the reserve bid and conditions of sale. The proposed amendment turns that authority over to the municipality. Subsection (2) of the amending section is based on subsection (4) of the present section 13 which reads as follows:

"(4) For the purpose of ascertaining the value of any such parcel and fixing the minimum price thereof, the treasurer or any person duly authorized by him may enter upon the parcel and every part thereof and every building, structure and erection thereon, at any time in the day time."

3. Section 14 presently reads:

„14. The treasurer may adjourn the auction from time to time, but no such adjournment shall be for a period exceeding fifteen days, nor to a date later than the expiry of two months from the date of the auction as advertised, unless the Minister by order gives directions as to adjournment, in which case the treasurer shall adjourn the auction to such time or times as the Minister may from time to time direct."

The proposed amendment eliminates the 15-day limit on adjournments and the Minister's authority to order an adjournment.

Subsection (2) is new.

4. Self-explanatory.

BILL

No. 13 of 1957

An Act to amend The Tax Recovery Act

(Assented to _____, 1957)

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

1. *The Tax Recovery Act*, being chapter 334 of the Revised Statutes of Alberta, 1955, is hereby amended.

2. Section 13 is struck out and the following is substituted:

- "13.** (1) Every municipality shall, by resolution, fix
- "(a) a minimum sale price for each parcel, which shall be the reserve bid, and
- "(b) the conditions of sale upon which sales are to be made.

"(2) For the purpose of ascertaining the reserve bid of any parcel the treasurer, or any person duly authorized by the council, may enter upon the parcel and every part thereof and every building, structure and erection thereon."

3. Section 14 is struck out and the following is substituted:

"14. (1) The treasurer may adjourn the auction from time to time but no such adjournment shall be to a date later than two months from the date of the auction as advertised.

"(2) Upon the adjourning of an auction the treasurer shall post up in a conspicuous place at the place where the auction was to be held, a notice stating the place, day and hour to which the sale has been adjourned."

4. Section 20 is amended by adding immediately after subsection (4) the following subsections:

"(5) When land situate in an improvement district is acquired by the Minister under the provisions of this Act, or any Act providing for the forfeiture of lands for arrears of taxes, the Minister, on the expiry of the right to redeem, may transfer such land to another department of the government for administration.

"(6) The Minister may cancel the tax arrears against any land or minerals that become vested in him."

5. This amendment is intended to clarify subsection (1) and to provide that the former owner and any other interested person is kept aware of the tax situation. Subsection (2) is rewritten and is added to section 27 as subsection (4).

6. This section deals with the disposition of the proceeds from a sale. Clause (e) of subsection (1) previously read:

"27. (1) The proceeds of the sale of any parcel directed by this Act, whether sold at a public or private sale, or whether sold before or after the final acquisition thereof by a municipality, shall, notwithstanding the provisions of any other Act, be distributed in the following order:

"(e) in the discharge of all advances made by the municipality for seed, feed, fodder and fuel oil and legally charged upon the parcel;"

This amendment is intended to give the municipality further claims against the tax sale surplus.

Subsection (4) is a rewording of the basic requirement of subsection (2) of section 24 which is repealed by clause 5 of this Bill.

5. Section 24 is struck out and the following is substituted:

"24. When a certificate of title to a parcel has issued to a municipality then until the period of redemption has expired or the parcel has been disposed of

- "(a) the municipality and any reporting authority shall continue to assess the parcel and any taxes and penalties payable in respect thereof shall be charged against the property and carried over from year to year,
- "(b) the municipality shall be shown on the assessment roll as owner,
- "(c) the assessment roll shall also show the name of
 - "(i) the former owner, as having a redeemable interest, and
 - "(ii) any person whose name properly appeared on the assessment roll with respect to the parcel, at the date of final acquisition,
- "(d) the persons, other than the municipality, shown by name on the assessment roll
 - "(i) shall be sent such assessment and tax notices that they would be entitled to receive had title not been taken by the municipality, and
 - "(ii) may appeal an assessment in the manner provided by *The Assessment Act*."

6. Section 27 is amended

- (a) as to subsection (1) by striking out clause (e) and by substituting the following:
 - "(e) in the discharge of all moneys paid and advances made by the municipality and legally charged upon the parcel
 - "(i) for seed, feed and fodder,
 - "(ii) for fuel oil,
 - "(iii) on behalf of an indigent person or his legal dependants,
 - "(iv) under *The Juvenile Court Act*, or
 - "(v) under *The Child Welfare Act*,"
- (b) by adding immediately after subsection (3) the following subsection:
 - "(4) Where land is sold after the expiry of the redemption period
 - "(a) the treasurer shall calculate the taxes for each year that they were not levied and for such calculation shall use
 - "(i) the last assessed value of the parcel as shown on the assessment roll,
 - "(ii) the valuation on exempt property established for each year, and

7. Section 28 presently reads in part as follows:

"28. (1) Any surplus moneys that may remain and any money accruing thereto after distribution of the proceeds of sale as directed by section 27 shall be paid into a separate tax sale trust account.

"(2) The moneys paid into the tax sale trust account shall be paid out to the person or persons who

"(a) apply to a district court judge within three years from

"(i) the date when the parcel is actually sold, or

"(ii) the date when all the moneys owing under the agreement for sale of the parcel have been paid,

as the case may be, and

"(b) are declared by the district court judge to be entitled to the surplus moneys paid into the tax sale trust account."

Thus, when the land is sold for cash, the person entitled must apply within three years of the date of sale, but where the land is sold under agreement for sale the person entitled has up to three years after the agreement has been paid out to apply. This could be a period of 10 or 15 years after the date of sale. This amendment is intended to give all persons affected equal time in which to apply for tax sale surplus money.

Subsection (6) reads:

"(6) Notwithstanding subsections (2), (3) and (4), respecting payment of surplus moneys out of the tax sale trust account by declaration of a district court judge, where

"(a) the surplus moneys paid into the tax sale trust account are not in excess of two hundred dollars,

"(b) the former owner is still alive, and

"(c) the title to the parcel was, immediately prior to the sale, clear of all encumbrances other than the tax recovery notification,

the former owner or his agent may apply to the Minister, who by order may declare the former owner to be entitled to the surplus money and may direct payment thereof to him."

The amendment removes the monetary restriction and clears up a minor point regarding encumbrances on the title.

The new subsection (8) is intended to provide a procedure to make interested parties aware of a tax sale surplus. No such provision now exists.

8. Section 29 presently limits a lease to three years.

“(iii) the mill rate set for each year,
and

“(b) the amount calculated under clause (a) shall be added to the assessment roll and shall be deemed to be a part of the taxes due in respect of the parcel for the purposes of clause (c) of subsection (1).”.

7. Section 28 is amended

(a) as to subsection (2) by striking out clause (a) and by substituting the following:

“(a) apply to a district court judge within ten years from

“(i) the date of final acquisition, or

“(ii) the date of sale, if the parcel is sold prior to final acquisition,

“and”,

(b) as to subsection (6)

(i) by striking out clause (a),

(ii) by relettering clauses (b) and (c) as clauses (a) and (b) respectively,

(iii) by adding immediately at the end of the re-lettered clause (b) the words and figures “and the encumbrances and claims that under section 27, have been satisfied”,

(c) by adding immediately after subsection (7) the following subsection:

“(8) When, upon the sale or leasing of a parcel, it appears to the treasurer that surplus money will accrue, he shall notify by registered mail, the former owner and any other person whose name appears on the assessment roll

“(a) that the parcel has been sold or leased,

“(b) that it appears that surplus money will accrue from the sale or leasing,

“(c) of the probable amount of the surplus, and

“(d) that an application may be made within the time prescribed by subsection (2) for any surplus money.”.

8. Section 29 is amended by adding immediately after subsection (2) the following new subsection:

“(2a) Notwithstanding subsection (1), a municipality may after final acquisition grant a lease of any minerals or any interest therein on such terms and conditions as are prescribed by by-law but no such by-law has any force or effect until it is approved by the Minister.”.

9. This Act comes into force on the day upon which the Revised Statutes of Alberta, 1955, come into force.

No. 13

THIRD SESSION

THIRTEENTH LEGISLATURE

5 ELIZABETH II

1957

BILL

An Act to amend The Tax Recovery Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
