

No. 26

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4th Session, 13th Legislature, Alberta  
6 Elizabeth II, 1958

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## **BILL 26**

A Bill to amend The Farm Purchase Credit Act

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HON. MR. HALMRAST

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Edmonton, Alberta, 1958

## **Explanatory Note**

General. This Bill amends The Farm Purchase Credit Act, being chapter 23 of the Statutes of Alberta, 1957.

**2.** The present definition of "council" means also the Minister of Municipal Affairs in the case of an improvement district or special area. This part of the definition is being removed as it creates language difficulties elsewhere in the Act.

**3.** The application of this section to improvement districts and special areas in its present form creates some uncertainty and the section is accordingly clarified.

(a) Subsection (2) presently speaks of a "by-law of a municipality" only; it is altered to speak of an order of the Minister of Municipal Affairs in the two cases described.

(b) (i) The words struck out presently read as follows:

"(3) The application shall be submitted by the secretary-treasurer of the municipality to the Minister and shall contain or have attached thereto the following information:".

(b) (ii) Clause (c) of subsection (3) of section 8 presently reads:

"(3) . . . . .

"(c) the member of the council nominated to represent the municipality on the proposed board."

# BILL

No. 26 of 1958

An Act to amend The Farm Purchase Credit Act

(Assented to \_\_\_\_\_, 1958)

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

**1.** *The Farm Purchase Credit Act*, being chapter 23 of the Statutes of Alberta, 1957, is hereby amended.

**2.** Section 2 is amended by striking out clause (b) and by substituting the following:

“(b) “council” means the council of a county or municipal district;”.

**3.** Section 8 is amended

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

“(2) The application shall be authorized by by-law in the case of a county or municipal district or by the order of the Minister of Municipal Affairs in the case of an improvement district or special area, and not otherwise.”,

(b) as to subsection (3)

(i) by striking out all the words preceding clause (a) and by substituting the words:

“(3) The application shall be submitted to the Minister by the secretary-treasurer of a county or municipal district or, in the case of an improvement district or special area, the Deputy Minister of Municipal Affairs, and shall contain or have attached thereto the following information:”,

(ii) by adding at the end of clause (c) the words: “or, in the case of an improvement district or special area, the person nominated by the Minister of Municipal Affairs, to represent the improvement district or special area on the proposed board.”.

4. This section deals generally with the composition and powers of a Farm Purchase Board. The amendments being made thereto by this Bill will make provision for circumstances not now provided for or inadequately provided for.

(a) Subsection (2) of section 10 presently reads as follows:

"(2) A board shall consist of three or more persons, one of whom shall be nominated by the municipality, one of whom shall be nominated by the Department of Agriculture and one of whom shall be nominated by the Provincial Treasurer."

The membership is now limited to five members, though three representative members are required.

This amendment removes a possible ambiguity. The reference to a common seal is unnecessary because of The Interpretation Act. Subsection (3) of section 10 presently reads:

"(3) Upon the making of the order establishing the Farm Purchase Board, the members of a board become a corporation and shall have a common seal."

(b) New subclauses are here added to make provision for the following matters:

(5) Principal office of boards.

(6) Appointment of chairman.

(7) Vacancies occurring from time to time and the filling thereof.

(8) Effect of vacancy on powers of board.

(9) How members hold office.

(10) Quorum for meetings.

5. See note to clause 3.

4. Section 10 is amended

- (a) by striking out subsections (2) and (3) and by substituting the following:

“(2) The order establishing a Farm Purchase Board shall appoint thereto the person nominated to represent the municipality in which the board is situate, a person nominated by the Minister of Agriculture to represent him, a person nominated by the Provincial Treasurer to represent him and such other persons as the Minister deems advisable, but a board shall not be composed of more than five members.

“(3) Upon the making of an order establishing a Farm Purchase Board, the members thereby appointed to the board and their successors in office become and are a corporation.”,

- (b) by adding immediately after subsection (4) the following subsections:

“(5) The principal office of a Farm Purchase Board shall be in such place within the municipality for which it has been established as may be specified in the order establishing the board, or as may from time to time be designated by the Minister.

“(6) The chairman of a board shall be designated from time to time by the Minister, and in the absence of the chairman at a meeting of the board, the members present may appoint from among themselves a chairman to conduct the meeting.

“(7) A vacancy occurring on a board by reason of death or resignation or for any other reason shall be filled by a person appointed by the Minister upon the nomination of the authority, municipal or provincial, whose representation on the board is thereby vacated.

“(8) No vacancy existing on a board impairs the right of the remaining member or members on the board to act until the vacancy is filled.

“(9) Each member of the board shall hold office during the pleasure of the Minister, but a member representing a council ceases to be a member of the board when he ceases to be a member of the council that he was appointed to represent.

“(10) Two members of a board constitute a quorum unless the Minister otherwise prescribes, except when because of vacancies only one member remains on the board in which case the sole member constitutes the board until the vacancies are filled.”.

5. Section 12 is amended

(a) Subsection (1) of section 12 presently reads:

"12. (1) A council may pass by-laws applying for the establishment of one or more Farm Purchase Boards within the area of the municipality."

(b) Subsection (3) of section 12 presently reads:

"(3) A council may by by-law authorize the doing of any act or thing that may be required to be done in order to obtain for the municipality the establishment within the municipality of a Farm Purchase Board."

**6.** The matter of present section 13 is provided for in the amendments in clause 4 hereof, particularly subsection (9) thereof. Section 13 presently reads:

"13. A member of a council may be appointed, from time to time, to represent the municipality on any board established by the Minister in the municipality."

The new subsection will permit municipalities a limited power to change their representations from time to time.

**7.** Subsection (3) of section 19 presently reads:

"(3) No loan from the Fund for any single purchase of farm lands shall exceed seven thousand five hundred dollars or forty per cent of the purchase price, whichever amount is the lesser, and no loan shall be made that is not secured by a first mortgage in favour of the Province upon lands suitable for agricultural purposes."

This amendment will remove the mandatory requirement that a board mortgage its land to obtain a loan under this Act.

**8.** See note to clause 7 above. This amendment would require a promissory note rather than a mortgage from a board.

(a) Subsection (4) of section 20 presently reads:

"(4) The amount advanced from the Fund shall be secured by a mortgage upon the farm lands in favour of Her Majesty in the right of the Province and shall be prepared and given to the Provincial Treasurer at the time the first sums are advanced from the Fund to the board."

(b) Subsection (5) of section 20 presently reads:

"(5) The amount of the loan under this Act shall be paid to the vendor when the land has been registered in the name of the board in the proper land titles office and the mortgage of the Crown registered in respect thereof."

**9.** Section 23 does not make the purpose of the assurance fund sufficiently clear; nor does it permit advances to the fund in its earlier days when all its resources may be drawn upon at once by reason of a local crop failure or other emergency, for which the new section makes provision in subsection (3). Subsections (4) and (5) set out the method of recourse to this fund. Section 23 presently reads:

"23. (1) In every year, the board shall forward to the Provincial Treasurer five per cent of all payments on principal made to it by a purchaser, which shall be set aside by the Provincial Treasurer in a fund to be known as a Farm Purchase Assurance Fund, and invested in such manner as the Provincial Treasurer deems advisable."

"(2) Any interest obtained from the investment of the Farm Purchase Assurance Fund shall be credited to such fund, and that fund shall be used to make payments on behalf of a board to any vendor in any case where the vendor would otherwise not receive the full or any part of the payments due him in that year.

"(3) When any purchase agreement is not in default and all instalments have been paid, the moneys deposited in the assurance fund in respect of that agreement shall be distributed without interest thereon to the vendor of the lands and the Province in the same proportions as a payment of instalment under the purchase agreement."

- (a) as to subsection (1) by striking out the words "may pass by-laws applying" and by substituting the words: "by by-law or the Minister of Municipal Affairs in the case of an improvement district or special area, by order, may apply",
- (b) as to subsection (3) by adding immediately after the word "by-law" the words ", or the Minister of Municipal Affairs in the case of an improvement district or special area, may by order,".

**6.** Section 13 is struck out and the following section is substituted:

**"13.** A council by resolution or the Minister of Municipal Affairs in the case of an improvement district or special area, by notice, may request the Minister to appoint to the board a named person in place of the member then representing the municipality on the board, and the Minister may in his discretion accede to the request."

**7.** Section 19, subsection (3) is amended by striking out the words ", and no loan shall be made that is not secured by a first mortgage in favour of the Province upon lands suitable for agricultural purposes".

**8.** Section 20 is amended

- (a) as to subsection (4) by striking out the words "secured by a mortgage upon the farm lands" and by substituting the words: "advanced upon the promissory note of the board";
- (b) as to subsection (5) by striking out the words "and the mortgage of the Crown registered in respect thereof".

**9.** Section 23 is struck out and the following is substituted:

**"23.** (1) As soon as possible after a payment of principal has been made to a board in any year by a purchaser, the board shall forward to the Provincial Treasurer, with notice to the Minister thereof, five per cent of the payment on principal, which shall be set aside by the Provincial Treasurer when received by him in a fund to be known as the Farm Purchase Assurance Fund, hereinafter called the assurance fund.

"(2) The assurance fund may from time to time be invested in such manner as the Provincial Treasurer deems advisable, and any interest therefrom shall be credited to

**10.** This amendment corrects a typographical error.

**11.** (a) Subsection (1) of section 25 reads as follows:

"25. (1) When a sale has been made of farm lands by a board and any instalment, whether for principal or interest, and payable under the agreement for sale is not punctually paid, or if the purchaser makes default in performance of any of the terms of such agreement, a judge of the Supreme Court, upon the application of the Provincial Treasurer, may appoint a receiver for the farm lands."

(b) Subsection (3) of section 25 presently reads:

"(3) With the written approval of the Minister and upon such terms and conditions as the Minister deems fit, a receiver may sell the purchaser's interest in the farm lands and may execute such assignments and documents as are necessary to dispose of the purchaser's interest in the lands."



and held as part of the assurance fund for the purposes of this Act.

“(3) Where the moneys in the assurance fund are at any time insufficient to meet the requirements upon the fund, or where the moneys have been invested and urgent demands are made upon the assurance fund, the Provincial Treasurer may advance to the assurance fund from the General Revenue Fund such sums as may be required upon such terms and conditions as may be prescribed.

“(4) Where in any year a board is unable to meet a payment due pursuant to any agreement with a vendor, the board may apply to the Provincial Treasurer for a temporary loan to it from the assurance fund of sufficient moneys to meet the payment under its agreement less the five per cent of principal provided for by subsection (1), and if the Minister approves of the application, the Provincial Treasurer may in his discretion lend without interest the moneys required by the board.

“(5) Any moneys obtained by a board by way of a temporary loan from the assurance fund shall be paid to the vendor of the board in accordance with the board's agreement with the vendor, and so soon as the board receives from its purchaser any payment of principal on his purchase of land from the board, the assurance fund shall be repaid the amount loaned therefrom.

“(6) When all the instalments under a purchase agreement are fully paid as to principal and interest by a purchaser and no further sums are accruing due or due to the board under the agreement, the moneys deposited in the assurance fund under subsection (1) in respect of that agreement shall be distributed, without interest being computed or paid thereon, to the vendor of the lands and to the Provincial Treasurer in the same proportions as a payment of instalment under the purchase agreement.”.

**10.** Section 24, subsection (1) is amended by striking out the words “owing to the purchaser” and by substituting the words “owing to the vendor”.

**11.** Section 25 is amended

- (a) as to subsection (1) by striking out the words “Provincial Treasurer” and by substituting the words “the board”,
- (b) by striking out subsection (3) and by substituting the following:

“(3) A receiver may be appointed under this section before any action on the agreement for sale is instituted by a board against a purchaser or an application may be made in an action brought upon the agreement for sale or after the commencement of any such action by the board; and the judge may, upon application by the receiver, give the receiver such further orders or directions and empower him to do such other things from

(c) Subsection (6) which makes reference to The Dower Act is unnecessary and is repealed.

The amendment made to subsections (1) and (3) of this section will permit a board to ask for a receiver instead of the Provincial Treasurer; and will permit ordinary methods of rescinding or cancelling purchase agreements by court action rather than the special method presently prescribed.

**12.** This section appears to conflict with section 32(a) of this Act and section 3(j) (xiii) of The Attorney General Act. The amendment will remove this apparent conflict. Section 26 presently reads:

"26. All notices, mortgages, agreements, discharges, agreements for sale, or other documents of every kind or description made or used under this Act shall be prepared by the Provincial Treasurer or by some person designated by the Provincial Treasurer."

**13.** The present subsection (2) of section 30 is not needed, but the matter of determining when a "loss" occurs, for the purpose of guarantees, requires statutory determination. Subsection (2) of section 30 presently reads:

"(2) An agreement of indemnity made pursuant to this section shall first be approved by order of the Lieutenant Governor in Council."

**14.** Boards authorized to pay insurance premiums, taxes, etc., when the purchaser fails to do so. The money required may be borrowed from the Fund and is repayable with and as part of the original loan.

**15.** Date of commencement.

time to time, in addition to the powers and duties specified in this section, as the circumstances may require.”,

(c) by striking out subsection (6).

**12.** Section 26 is struck out and the following is substituted:

“**26.** Where the form of any notice, by-law, agreement, discharge, agreement for sale or other document of any kind or description is to be prescribed for use under or pursuant to this Act, the Minister shall, subject to subclause (xiii) of clause (j) of section 3 of *The Attorney General Act*, prepare the form thereof for recommendation to the Lieutenant Governor in Council.”.

**13.** Section 30 is amended by striking out subsection (2) and by substituting the following:

“(2) For the purposes of this section a loss shall be deemed to have occurred when, pursuant to an action by a board against its purchaser upon an agreement for sale, the land thereunder is sold by judicial process and the proceeds thereof are insufficient to permit the board to meet its obligations in respect of that land to the Provincial Treasurer and to the vendor thereof to the board.”.

**14.** The following new section is added immediately after section 33:

“**33a.** (1) Where a purchaser fails to make any payment, whether for insurance premiums, taxes or otherwise, in respect of the land as required by an agreement for sale with a board, the board, if it deems advisable, may pay such sums of money and the amount of any sums so paid by the board shall be added to the principal owing by the purchaser under the agreement for sale.

“(2) Any sums required by a board for the purpose of making the payments referred to in subsection (1) may be advanced to the board from the Fund and the amount of any sums so advanced shall be added to the amount of the loan made to the board pursuant to section 19.”.

**15.** This Act comes into force on the day upon which it is assented to.

FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

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**BILL**

An Act to amend The Farm Purchase  
Credit Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. HALMRAST

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