

No. 30

3rd Session, 15th Legislature, Alberta
14 Elizabeth II

BILL 30

A Bill to amend The Tax Recovery Act

HON. MR. HOOKE

Explanatory Note

- 1.** This Bill will amend chapter 334 of the Revised Statutes.
- 2.** Self-explanatory.
- 3.** Notice to be given when property not sold at public auction.

BILL

No. 30 of 1966

An Act to amend The Tax Recovery Act

(Assented to _____, 1966)

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* is hereby amended.

2. Section 17 is amended by adding the following subsection:

(4) Notwithstanding subsections (1) and (2), a councillor or official may purchase any parcel,

(a) at a sale by public auction, or

(b) at a private sale, if

(i) an advertisement is made in one issue of a newspaper circulating in the municipality for two successive weeks to the effect that sealed tenders will be accepted for the sale of the parcel at a specified time, place and date, which shall not be earlier than two weeks after the final publication of the notice,

(ii) the parcel is sold to the highest bidder, and

(iii) the sale is approved by the Local Authorities Board.

3. The following section is added after section 17:

17a. Where a parcel is not sold at the first public auction held by a municipality after a tax recovery notification has been placed upon the certificate of title, the treasurer shall within sixty days thereafter send, by registered mail, a notice advising

(a) that the parcel was not sold at the public auction,

(b) that the parcel will not be subject to sale prior to final acquisition,

(c) that final acquisition will take place upon the expiry of one year from the date of the aforementioned public auction, and

(d) that if taxes are not paid by that date the parcel will be finally acquired and thereafter may be sold without further notice,

to every person whose name actually appears on the assessment roll as having an interest in any parcel that was offered for sale at the public auction and not sold.

4. Section 18, subsection (1) presently reads:

18. (1) Any parcel that is not sold at the first public auction held by a municipality after a tax recovery notification has been placed upon the certificate of title thereto may be sold **either before or after** final acquisition by the municipality as hereinafter provided.

5. Section 20, subsection (1) reads in part:

20. (1) Subject to section 18 every parcel with respect to which there is a subsisting tax recovery notification or caveat is finally acquired by the municipality concerned, upon the expiry of one year from the date of the sale, and the municipality may take title to the parcel and thereupon becomes the owner thereof **subject**

6. Section 22 is revised for purposes of clarification.

7. Section 27, subsection (1), clause (a) presently reads:

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:

- (a) in the discharge of the **prescribed costs** and all other expenses lawfully incurred by the municipality in respect of the parcel, including a commission to the municipality of five per cent of the surplus moneys referred to in section 28;

4. Section 18, subsection (1) is amended by striking out the words "either before or" and by substituting the word "only".

5. Section 20 is amended by adding the following subsection after subsection (1):

(1a) Any final acquisition title issued to a municipality shall be marked "Tax Forfeiture" by the Registrar.

6. The heading preceding section 22 and section 22 are struck out and the following heading and section are substituted:

Redemption

22. (1) Any parcel that has not been sold or disposed of by the municipality may be redeemed by any person at any time during the redemption period stated in subsection (2) upon the payment or discharge of

- (a) all taxes that are shown on the records of the treasurer as being due with respect to the parcel, other than taxes of the current year, and
- (b) the prescribed or actual costs, whichever is the greater.

(2) The right to redeem a parcel that has not been sold or disposed of shall be exercised before the expiration of a four year period from the date of first public auction.

(3) Where the parcel being redeemed has not been finally acquired or title to the parcel being redeemed has not been taken on final acquisition by the municipality, the treasurer shall notify the Registrar to remove the tax recovery notification from the certificate of title of the parcel and the Registrar shall forthwith do so.

(4) Where title to the parcel being redeemed has been taken on final acquisition by the municipality, the treasurer shall notify the Registrar and thereupon the Registrar shall cancel the certificate of title issued to the municipality and shall revive the certificate of title that was cancelled on the issue of title to the municipality.

(5) Where a certificate of title is revived pursuant to subsection (4) the title is subject

- (a) to the same notifications, charges and encumbrances to which it would have been subject had no certificate of title been issued to the municipality, and
- (b) to any estate or interest or encumbrance created while the parcel was held by the municipality.

7. Section 27, subsection (1), clause (a) is amended by striking out the words "prescribed costs" and by substituting the words "prescribed or actual costs, whichever is the greater,".

8. Section 28, subsection (6) presently 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 former owner is still alive, and

(b) the title to the parcel was, immediately prior to the sale, clear of all encumbrances other than the tax recovery notification, and the encumbrances and claims that under section 27, have been satisfied,

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.

9. Self-explanatory.

10. The procedure followed under the 1919 and 1922 Tax Recovery Acts was to acquire a provisional title prior to offering the property for sale at public auction. The property was required to be offered within a limited time. In many instances the date of offering such property for sale was not done within the time limit. The object of the amendment is to validate the titles.

11. Commencement of Act.

8. Section 28 is amended by striking out subsection (6) and by substituting the following:

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

- (a) where, within ten years of the date of final acquisition of a parcel or the date the parcel was sold at public auction, whichever first occurred,
 - (i) the former owner or his agent applies, or
 - (ii) the widow of the former owner applies and all beneficiaries of the former owner's estate have quit claimed, or
 - (iii) the administrator of the estate of the former owner applies on behalf of the estate,

and

- (b) where the title to the parcel was, immediately prior to the sale, or final acquisition, clear of all encumbrances other than the tax recovery notification and encumbrances and claims that have been satisfied,

the Minister may, by order, declare the applicant to be entitled to the surplus money and may direct payment thereof to the applicant.

9. Section 37 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) Where any parcel becomes part of another municipality and the title to the parcel rests in the name of the old municipality, the Registrar shall, upon receipt of an order of the Minister, place the title to the lands in the name of the new municipality.

10. The following section is added after section 41:

42. When any title has been acquired by a municipality under the provisions of the 1919 or 1922 *Tax Recovery Acts*, the municipality shall be deemed to have complied with all the requirements of the aforementioned Acts.

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

No. 30

THIRD SESSION
FIFTEENTH LEGISLATURE
14 ELIZABETH II
1966

BILL

An Act to amend
The Tax Recovery Act

Received and read the

First time

Second time

Third time

HON. MR. HOOKE
