

1974 Bill 39

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 39

The Agriculture Statutes Amendment Act, 1974 (No. 2)

MR. FLUKER

First Reading

Second Reading

Third Reading

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Bill 39
Mr. Fluker

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THE AGRICULTURE STATUTES AMENDMENT ACT, 1974 (NO. 2)

(Assented to , 1974)

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

The Co-operative Associations Act

1. *(1) The Co-operative Associations Act is amended by this section.*

(2) Section 2, clause (b) is amended by striking out the words "incorporated under this Act" and by substituting therefor the words "incorporated or registered under this Act".

(3) Section 11 is amended

(a) by striking out clause (d) and by substituting therefor the following:

(d) supplying of natural gas, liquefied petroleum gas, water or electrical energy or power;

(b) by adding after clause (f), the following:

(g) purchasing farm machinery.

(4) Section 19, subsection (8) is amended by striking out the words "ten per cent" and by substituting therefor the words "one-sixth".

(5) Section 25 is amended by striking out subsection (7) and by substituting therefor the following:

(7) Where

(a) not less than 10 per cent of the members of an association notify the association in writing at least seven days before a meeting of its members that they wish the auditor of the association to attend the meeting, or

Explanatory Notes

1. (1) This section will amend chapter 67 of the Revised Statutes of Alberta 1970.

(2) Section 2, clause (b) presently reads:

(b) "association" means an association incorporated under this Act or heretofore incorporated under any of the following Acts: The Co-operative Associations Act, chapter 12, Statutes of Alberta, 1913; The Co-operative Associations Act, chapter 160, Revised Statutes of Alberta, 1922; The Co-operative Associations Act, chapter 66, Statutes of Alberta, 1937; The Co-operative Associations Act, chapter 250, Revised Statutes of Alberta, 1942; The Co-operative Marketing Associations Act, chapter 5, Statutes of Alberta, 1924; The Co-operative Marketing Associations Act, chapter 251, Revised Statutes of Alberta, 1942; and The Co-operative Associations Act, chapter 6, Statutes of Alberta, 1946; and includes The Viking Co-operative Creamery Association;

This provision will include in the definition of "association" extra-provincial co-operatives which are registered in Alberta. With this alteration in the definition it will allow extra-provincial co-operatives to come within the provisions of section 13 and also to come within the exemption provided for in section 19, subsection (2), clause 7 of *The Securities Act*.

(3) (a) Section 11, clause (d) presently reads:

11. An association may be incorporated for the purpose of conducting and carrying on a co-operative undertaking, business or industry, and, without limiting the generality of the foregoing, for one or more of the following purposes:

(d) providing electric power;

(b) Provides that one of the purposes that a co-operative association may be incorporated for is to purchase farm machinery.

(4) Section 19 (8) presently reads:

(8) No member is entitled to hold, directly or indirectly, more than ten per cent of the total issued share capital of the association.

(5) Section 25 (7) presently reads:

(7) An association, upon receipt, not less than seven days before a meeting of members, of a written application of not less than ten per cent of the members of the association that the auditor of the association be requested to attend the meeting, shall forthwith in writing request the auditor to attend that meeting, and the auditor shall so attend.

(b) the Director advises the association that he wishes the auditor of the association to attend the next meeting of its members,
the association shall forthwith request the auditor to attend the meeting and the auditor shall so attend.

(6) Section 28, subsection (4), clause (a) is amended by striking out the word "only".

(7) Sections 34, 35 and 36 are struck out.

(8) Section 37 is struck out and the following is substituted therefor:

37. Where an association pledges the credit of the association in a manner not permitted by this Act,

(a) that association, and

(b) every director and officer of that association who had knowledge of the pledging of credit and acquiesced in or authorized the pledging of credit,

is guilty of an offence.

(9) Section 39, subsection (1), clause (b) is amended by striking out the word "ten" and by substituting therefor the word "five".

(10) Section 40 is struck out and the following is substituted therefor:

40. Unless the by-laws of an association otherwise provide, the directors of an association may, by a resolution passed by a majority of not less than three-fourths of those present at a duly called board meeting, order the expulsion of a member from the association.

(6) Section 28, subsection (4), clause (a) presently reads:

- (4) At meetings of the association
 - (a) a member shall have one vote only regardless of the number of shares held by him, and

(7) Sections 34, 35 and 36 presently read:

34. Except as otherwise provided in this Act no association shall sell goods, wares or merchandise to its patrons or customers on credit or in any other manner than for cash.

35. An association may sell goods, wares or merchandise on credit,

- (a) if pursuant to a written agreement the property in the goods, wares or merchandise remains in the association until the purchase price is paid and if such agreement is taken and registered in conformity with The Conditional Sales Act, or

- (b) if the delivery of the goods, wares or merchandise is upon the order of a duly authorized representative of the Government of Canada, a Province of Canada or a municipality or an institution operated by a municipality.

36. (1) An association that has working capital in excess of five thousand dollars may by supplemental by-law authorize the selling of goods on credit.

(2) No association shall exercise the power conferred by a by-law referred to in subsection (1) until permission to do so has been given by the Director in writing.

(3) No association shall exercise the power conferred by a by-law referred to in subsection (1) so as to have owing to the association at any time with respect to credit sales an amount in excess of two-thirds of the amount of the working capital as shown by the previous year's audited annual report.

(4) The annual audited return made by an association to the Director is prima facie proof of the amount of the then working capital of the association.

(5) For the purposes of this section and of section 39 "working capital" shall be construed to include share capital, debenture or bond indebtedness, general reserve fund, deferred dividend or participation reserves, and undistributed surplus or deficit accounts.

(8) Section 37 presently reads:

37. An association that sells goods, wares or merchandise on credit in a manner not authorized by sections 35 and 36, or that pledges the credit of the association in a way prohibited by this Act, and every director and officer of the association, is guilty of an offence.

(9) Section 39 (1) presently reads:

39. (1) Members may withdraw from membership in an association as prescribed by by-law and subject to the following conditions:

- (a) the directors may require notice not exceeding six months of a proposed withdrawal of a member's equity;
- (b) the association is not required to permit the withdrawal in a fiscal year of more than an amount equal to ten per cent of the working capital of the association at the beginning of that fiscal year;
- (c) the association is not required to permit the withdrawal of a member's equity at a time when in the opinion of the board of directors such withdrawal would impair the financial stability of the association.

(10) Section 40 presently reads:

40. (1) The directors of an association may, by a resolution passed by a majority of not less than three-fourths of those present at a duly called board meeting, order the expulsion of a member from the association in the manner provided in the standard by-laws.

(2) Upon the expulsion of a member from membership in the association, section 39, subsections (2) and (3) shall apply mutatis mutandis to the expulsion as if the member had withdrawn from the association.

The Co-operative Marketing Associations Guarantee Act

2. (1) *The Co-operative Marketing Associations Guarantee Act is amended by this section.*

(2) *Section 3, subsection (1), clause (d) is amended by striking out the figure "\$10,000,000" and by substituting therefor the figure "\$50,000,000".*

(3) *Section 12 is amended*

(a) *by striking out subsection (1) and by substituting therefor the following subsections:*

12. (1) Where an association applies to have a loan guaranteed pursuant to section 3, the Provincial Treasurer may require that the association obtain lien notes from those members who have not fully paid up their share of the cost of constructing the pipe lines or works required by the association.

(1.1) Where land against which the association has a lien pursuant to section 14 is sold, the association may refuse to supply natural gas, liquefied petroleum gas, water or electrical energy or power to the purchaser of the land until the purchaser becomes a member of the association and executes a lien note.

(1.2) The lien note shall be in Form 1 in the Schedule and shall

- (a) be payable to the order of the association,
- (b) be in the amount that remains unpaid by the member to the association,
- (c) bear interest at the same rate as that payable by the association to the lender, and
- (d) set out
 - (i) the date from which interest is to be computed,
 - (ii) the number and amount of the equal annual instalments of principal by which payment of the note is to be made, and
 - (iii) the date when each instalment of principal, and the accrued interest on the unpaid principal, is to be paid,and
- (e) describe either
 - (i) the land to which natural gas, liquefied petroleum gas, water or electrical energy or power is to be conveyed through or by the pipe lines or works of the association, or
 - (ii) any land in which the maker of the lien note has an interest whether or not natural gas, liquefied petroleum

2. (1) This section will amend chapter 68 of the Revised Statutes of Alberta 1970.

(2) Increases the total amount of borrowings by co-operative associations that the Province may guarantee.

(3) Section 12 presently reads:

12. (1) Where an association applies to have a loan guaranteed pursuant to section 3, the Provincial Treasurer may require that the association obtain from those members who have not fully paid up their share of the cost of constructing the pipe lines or works required by the association a lien note in triplicate in Form 1 in the Schedule

- (a) payable to the order of the association,
- (b) in the amount that remains unpaid by the member to the association,
- (c) bearing interest at the same rate as that payable by the association to the lender,
- (d) setting out
 - (i) the date from which interest is to be computed,
 - (ii) the number and amount of the equal annual instalments of principal by which payment of the note is to be made, and
 - (iii) the date when each instalment of principal, and the accrued interest on the unpaid principal, is to be paid,
- and
- (e) against the land of the member or the interest of the member in the land to which natural gas, liquefied petroleum gas, or electrical energy is to be conveyed.

(2) The note shall be made and signed in the presence of an officer of the association obtaining it, and shall be certified by the officer.

(3) The lien note shall affect only the interest of the member in the surface rights of the land.

(4) The notes shall be delivered to the Director of Co-operative Activities.

gas, water or electrical energy or power is conveyed to that land, whichever the Director of Co-operative Activities prescribes.

(1.3) Upon a lien note being made by the purchaser under subsection (1.1), the Director of Co-operative Activities may cancel the lien note made by the vendor or made by any former owner of the land.

(1.4) Where the person to whom the natural gas, liquefied petroleum gas, water or electrical energy or power is to be supplied is not the registered owner of the land upon which the pipe lines or works are to be constructed, the association may take a lien note made or co-signed by the registered owner of the land.

- (b) *as to subsection (2), by striking out the word "note" and by substituting therefor the words "lien notes", and*
- (c) *as to subsection (4), by striking out the word "note" and by substituting therefor the words "lien notes".*

(4) *Section 14 is amended*

- (a) *by striking out subsection (1) and by substituting therefor the following subsection:*

14. (1) Where a lien note is made pursuant to section 12, subsection (1), the Director of Co-operative Activities shall, within 30 days of the execution of the guarantee by the Provincial Treasurer, cause a Notice of Lien in Form 2 in the Schedule to be filed against the land described in the lien note in the appropriate land titles office.

- (b) *by striking out subsection (5) and by substituting therefor the following subsections:*

(5) Notwithstanding that a lien note has been cancelled and replaced by a new lien note under section 12 and notwithstanding any other Act, a lien created pursuant to this Act in respect of land or an interest in land continues to be a lien against that land or interest until the total indebtedness, including interest, owing in respect of which the lien was registered has been repaid in full.

(6) Notwithstanding *The Limitation of Actions Act*, a lien created pursuant to this Act remains enforceable until

- (a) the total indebtedness, including interest, owing on the current lien note has been repaid in full, or
- (b) a settlement is concluded between the debtor and the lien holder.

(4) Section 14, subsections (1) and (5) presently read:

14. (1) Within 30 days after the execution of the guarantee by the Provincial Treasurer, the Director of Co-operative Activities shall cause a notice of the lien note in Form 2 in the Schedule to be filed in the appropriate land titles office.

(5) Notwithstanding anything in any other Act, a lien filed pursuant to this Act in respect of land or an interest in land continues to be an encumbrance against that land registered in the name of a subsequent owner until the total indebtedness, including interest, in respect of which the lien was registered has been repaid in full.

Subsection (6) provides that as long as the lien remains against the land it shall be enforceable.

(5) *Section 15 is amended*

(a) *by striking out subsection (1) and by substituting therefor the following:*

15. (1) Upon a Notice of Lien being filed under section 14 in the appropriate land titles office,

(a) the association has a lien upon the land described in the Notice of Lien or upon the interest of the maker of the lien note in the land described in the Notice of Lien for the total indebtedness, including interest, owing in respect of which the Notice of Lien is registered, and

(b) the lien has the same priority as if it were a mortgage under *The Land Titles Act* to secure the total amount of the lien note of the member and registered in the proper land titles office at the time at which the Notice of Lien was filed in the land titles office.

(b) *as to subsection (2), by striking out the words "notice of a lien note" and by substituting therefor the words "Notice of Lien".*

(6) *The following section is added after section 17:*

18. Where the maker of a lien note does not pay an instalment together with accrued interest on the unpaid balance when it falls due as set forth in the lien note, the whole of the principal and accrued interest owing at the time of default shall become due and payable at the option of the holder of the lien note.

The Rural Electrification Long Term Financing Act

3. (1) *The Rural Electrification Long Term Financing Act is amended by this section.*

(2) *Section 7 is amended*

(a) *as to subsection (1), by striking out clause (e) and by substituting therefor the following:*

(e) describing either

(i) the land to which the electricity is to be conveyed, or

(ii) any land in which the maker of the lien note has an interest, whether or not electricity is to be conveyed to that land,

whichever the Director prescribes.

(5) Section 15 presently reads:

15. (1) When a notice in Form 2 in the Schedule is filed, the association has a lien

(a) upon the land of the member to which natural gas, liquefied petroleum gas, or electrical energy is to be conveyed, and

(b) upon the interest of the member in the land to which natural gas, liquefied petroleum gas or electrical energy is to be conveyed,

as the case may be, to the amount of the lien note of the member held by the association and the lien has the same priority as if it were a mortgage under The Land Titles Act, to secure the total amount of the note of the member and registered in the proper land titles office at the time at which the notice referred to in section 14 was filed in such land titles office.

(2) Land in respect of which notice of a lien note has been filed shall, for the purposes of this Act, be deemed not to be a homestead within the meaning of The Dower Act.

(6) Self explanatory.

3. (1) This section will amend chapter 324 of the Revised Statutes of Alberta 1970.

(2) Section 7 presently reads:

7. (1) Before applying to the Director for a loan, an association shall obtain from those of its members who have not fully paid their share of the cost of constructing the works of the association a lien note, in duplicate and in Form A in the Schedule,

(a) payable to the order of the association,

(b) in the amount remaining unpaid by the member to the association,

(c) bearing interest at the rate of 3½ per cent per annum,

(d) setting out, as directed by the Director, the date from which interest is to be computed, the number and amount of the equal monthly instalments, which shall not be less than \$5 a month, by which payment of the lien note is to be made, and the date in the month when the monthly instalments are to be paid, and

(e) subject to subsection (3), expressed to be a lien and charge upon the land of the member or upon his interest in the land to which the electricity is to be conveyed, or upon both.

(2) The lien note shall be made and signed in the presence of an officer of the association obtaining it, and shall be certified by such officer.

(3) Where the Director considers it expedient to do so, he may approve a lien note expressed to be a charge or lien upon land to which electricity is not to be conveyed by the association or upon any interest of a member in land whether or not electricity is to be conveyed to that land by the association.

(4) A lien note affects only the interest of the member in the surface rights of land.

- (b) *by adding the following subsections after subsection (1):*

(1.1) Where land against which the association has a lien pursuant to section 17 is sold, the association may refuse to supply electricity to the purchaser of the land until the purchaser becomes a member of the association and executes a lien note.

(1.2) Upon a lien note being made by the purchaser under subsection (1.1), the Director may cancel the lien note made by the vendor or made by a former owner of the land.

(1.3) Where the person to whom the electricity is to be conveyed is not the registered owner of the land to which the electricity is to be conveyed, the association may take a lien note made or co-signed by the registered owner of the land.

- (c) *by striking out subsection (3).*

- (3) *Section 16 is amended*

- (a) *by striking out subsection (1) and by substituting therefor the following subsection:*

16. (1) Within 30 days after a loan is approved by the Director, he shall cause a Notice of Lien in Form B in the Schedule to be filed against the land described in the lien note in the appropriate land titles office.

- (b) *by striking out subsection (5) and by substituting therefor the following subsections:*

(5) Notwithstanding that a lien note has been cancelled under section 7, subsection (1.2) and notwithstanding any other Act, a lien created pursuant to this Act in respect of land or an interest in land continues to be a lien against that land or interest until the total indebtedness, including interest, in respect of which the lien was registered has been repaid in full.

(6) Notwithstanding *The Limitation of Actions Act*, a lien created pursuant to this Act remains enforceable until

- (a) the total indebtedness, including interest, owing on the current lien note has been repaid in full,
or
(b) a settlement is concluded between the debtor and the lien holder.

(3) Section 16, subsections (1) and (5) presently read:

16. (1) Within 30 days after a loan is approved by the Director, he shall cause a notice of the lien note, in Form B in the Schedule, to be filed in the land titles office in the district in which is situated the land for which the association holds the lien notes.

(5) Notwithstanding anything in any other Act, a lien filed pursuant to this Act in respect of land or an interest in land continues to be an encumbrance against that land registered in the name of a subsequent owner until the total indebtedness, including interest, in respect of which the lien was registered, has been repaid in full.

Subsection (6) provides that as long as the lien remains against the land it shall be enforceable.

(4) *Section 17 is amended*

(a) *by striking out subsection (1) and by substituting therefor the following:*

17. (1) Upon a Notice of Lien being filed under section 16 in the appropriate land titles office

(a) the association has a lien upon the land described in the Notice of Lien or upon the interest of the maker of the lien note in the land described in the Notice of Lien for the total indebtedness, including interest, owing in respect of which the Notice of Lien is registered, and

(b) the lien has the same priority as if it were a mortgage under *The Land Titles Act* to secure the total amount of the lien note of the member and registered in the proper land titles office at the time at which the Notice of Lien was filed in the land titles office.

(b) *as to subsection (2), by striking out the words "notice of a lien note" and by substituting therefor the words "Notice of Lien".*

The Rural Electrification Revolving Fund Act

4. (1) *The Rural Electrification Revolving Fund Act is amended by this section.*

(2) *Section 9 is amended*

(a) *as to subsection (1), by striking out clause (e) and by substituting therefor the following:*

(e) describing either

(i) the land to which the electricity is to be conveyed, or

(ii) any land in which the maker of the lien note has an interest, whether or not electricity is to be conveyed to that land,

whichever the Director of Co-operative Activities prescribes.

(b) *by adding the following subsections after subsection (1):*

(1.1) Where land, against which the association has a lien pursuant to section 18, is sold, the association may refuse to supply electricity to the purchaser of the land until the purchaser becomes a member of the association and executes a lien note.

(1.2) Upon a lien note being made by the purchaser under subsection (1.1), the Director of Co-operative Activities may cancel the lien note made by the vendor or made by a former owner of the land.

(4) Section 17 presently reads:

17. (1) When notice in Form B in the Schedule is filed the association has a lien
- (a) upon the land of a member to which electricity is to be conveyed, or
 - (b) upon the interest of a member in the land to which electricity is to be conveyed, or
 - (c) upon the land or the interest in the land of a member in respect of which the association holds a lien under this Act,
- to the amount of the lien note of the member held by the association and the lien has the same priority as if it were a mortgage under The Land Titles Act to secure the total amount of the note of the member registered in the proper land titles office at the time at which the notice of lien was filed in such land titles office.
- (2) Land in respect of which notice of a lien note has been filed shall be deemed for the purposes of this Act, not a homestead within the meaning of The Dower Act.

4. (1) This section will amend chapter 325 of the Revised Statutes of Alberta 1970.

(2) Section 9, presently reads:

9. (1) The association shall obtain from those members who have not fully paid up their share of the cost of constructing the works required by the association a lien note in duplicate in Form A in the Schedule
- (a) payable to the order of the association,
 - (b) in the amount that remains unpaid by the member to the association,
 - (c) bearing interest at the rate of three and one-half per cent per annum,
 - (d) setting out
 - (i) the date from which interest is to be computed,
 - (ii) the number and amount of the equal annual instalments of principal by which payment of the note is to be made, and
 - (iii) the date when each instalment of principal, and the accrued interest on the unpaid principal, is to be paid,and
 - (e) against the land of the member, or the interest of the member in the land, to which the electricity is to be conveyed.
- (2) Where the Director of Co-operative Activities deems it expedient to do so he may approve a lien note against
- (a) any land of the member whether or not electricity is to be conveyed to that land, or
 - (b) any interest of the member in land whether or not it is an interest in land to which electricity is to be conveyed.
- (3) The note shall be made and signed in the presence of an officer of the association obtaining it, and shall be certified by the officer.
- (4) The lien note shall affect only the interest of the member in the surface rights of land.

(1.3) Where the person to whom the electricity is to be conveyed is not the registered owner of the land to which the electricity is to be conveyed, the association may take a lien note made or co-signed by the registered owner of the land.

- (c) *by striking out subsection (2), and*
- (d) *as to subsection (3), by striking out the word "note" and by substituting therefor the words "lien note".*

(3) *Section 17 is amended*

- (a) *by striking out subsection (1) and by substituting therefor the following subsection:*

17. (1) Within 30 days after a loan is approved by the Director of Co-operative Activities, he shall cause a Notice of Lien in Form B in the Schedule to be filed against the land described in the lien note in the appropriate land titles office.

- (b) *by striking out subsection (5) and by substituting therefor the following subsections:*

(5) Notwithstanding that a lien note has been cancelled under section 9, subsection (1.2) and notwithstanding any other Act, a lien created pursuant to this Act in respect of land or an interest in land continues to be a lien against that land or interest until the total indebtedness, including interest, in respect of which the lien was registered has been repaid in full.

(6) Notwithstanding *The Limitation of Actions Act*, a lien created pursuant to this Act remains enforceable until

- (a) the total indebtedness, including interest, owing on the current lien note has been repaid in full, or
- (b) a settlement is concluded between the debtor and the lien holder.

(4) *Section 18 is amended*

- (a) *by striking out subsection (1) and by substituting therefor the following:*

18. (1) Upon a Notice of Lien being filed under section 17 in the appropriate land titles office

- (a) the association has a lien upon the land described in the Notice of Lien or upon the interest of the maker of the lien note in the land described in the Notice of Lien for the total indebtedness, including interest, owing in respect of which the Notice of Lien is registered, and

(3) Section 17, subsections (1) and (5) presently read:

17. (1) Within thirty days after a loan is approved by the Director of Co-operative Activities the Director shall cause a notice of the lien note in Form B in the Schedule to be filed in the land titles office in the district in which is situated the land for which the association holds a lien note.

(5) Notwithstanding anything in any other Act, a lien filed pursuant to this Act in respect of land or an interest in land continues to be an encumbrance against that land registered in the name of a subsequent owner until the total indebtedness, including interest, in respect of which the lien was registered, has been repaid in full.

Subsection (6) provides that as long as the lien remains against the land it shall be enforceable.

(4) Section 18 presently reads:

18. (1) When a notice in Form B in the Schedule is filed, the association has a lien

(a) upon the land of the member to which electricity is to be conveyed, or

(b) upon the interest of the member in the land to which electricity is to be conveyed, or

(c) upon the land or the interest in the land of the member in respect of which the association holds a lien as provided by section 9, subsection (2),

as the case may be, to the amount of the lien note of the member held by the association, and the lien has the same priority as if it were a mortgage under The Land Titles Act to secure the total amount of the note of the member and registered in the proper land titles office at the time at which the notice referred to in section 17 was filed in such land titles office.

(2) Land in respect of which notice of a lien note has been filed shall, for the purposes of this Act, be deemed not to be a homestead within the meaning of The Dower Act.

- (b) the lien has the same priority as if it were a mortgage under *The Land Titles Act* to secure the total amount of the lien note of the member and registered in the proper land titles office at the time at which the Notice of Lien was filed in the land titles office.
- (b) *as to subsection (2), by striking out the words "notice of a lien note" and by substituting therefor the words "Notice of Lien".*

Commencement

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