

1974 Bill 56

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 56

The Alberta Property Tax Reduction Amendment Act, 1974

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Third Reading

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1974

THE ALBERTA PROPERTY TAX REDUCTION AMENDMENT ACT, 1974

(Assented to _____, 1974)

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

1. *The Alberta Property Tax Reduction Act is hereby amended.*

2. *Section 1 is amended by adding the following new clause after clause (a) :*

(a1) "Deputy Minister" means the Deputy Minister of Municipal Affairs or such employee in his Department as may be designated by him;

3. *Section 3 is amended*

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

3. (1) In this Part,

(a) "farm land" means farm land as defined in *The Municipal Taxation Act*, but does not include land owned by a corporation other than

(i) a private company, all the shareholders of which are members of the same immediate family, or

(ii) an association as defined by *The Co-operative Associations Act* or a co-operative association incorporated by an Act of the Parliament of Canada;

(b) "homeowner" means a person qualified as a homeowner pursuant to section 8;

(c) "homeowner refund" means a tax refund a homeowner is entitled to pursuant to section 8;

(d) "mobile unit" means any structure, whether ordinarily equipped with wheels or not, that is constructed or manufactured to be moved from one point to another by

Explanatory Notes

1. This Bill will amend chapter 46 of the Statutes of Alberta, 1973.

2. Definition added.

3. The definitions in Part 1 are revised in connection with the revision of Division 1 - see clause 4 of this Bill.

being towed or carried and to provide living accommodation for use by one or more persons, but does not include a vacation trailer;

- (e) “mobile unit licence fee” means a licence fee imposed in respect of a mobile unit pursuant to *The Municipal Government Act* or *The Improvement Districts Act*;
- (f) “municipal taxes” means,
 - (i) with reference to a residence or farm land, taxes levied on land or improvements or both by a local authority in any year for municipal, school and other purposes or any of them, but does not include special frontage assessments or special local benefit assessments referred to in *The Municipal Taxation Act*, or
 - (ii) with reference to a mobile unit that is not taxed under *The Municipal Taxation Act*, the mobile unit licence fee imposed by a local authority in any year in respect of that residence, and includes the amount of the property education tax reduction;
- (g) “owner” means, with reference to a residence or farm land,
 - (i) a person registered under *The Land Titles Act* as the owner of a fee simple estate or a life estate in land on which the residence is situated or which is farm land, or
 - (ii) a person who is purchasing or has purchased or is otherwise acquiring or has acquired ownership of a fee simple estate or life estate in the land on which the residence is situated or which is farm land, or
 - (iii) a person who is an occupier under a lease, licence or permit of Crown land on which the residence is situated or which is farm land, or
 - (iv) a person who owns an assessable and taxable residence situated on land owned by someone other than the person owning the residence,and with reference to a mobile unit means a person who is the owner or purchaser of the mobile unit;

- (h) "property education tax reduction" means the tax reduction authorized by section 6;
- (i) "Provincial school levy" means
 - (i) with reference to a residence or farm land, that portion of the municipal taxes imposed on land or improvements or both in any year for the purpose of meeting the requisition of the Province under section 129 of *The School Act* for that year, or...
 - (ii) with reference to a mobile unit that is not taxed under *The Municipal Taxation Act*, that portion of the mobile unit licence fee for any year, as determined pursuant to subsection (2), that is treated as being the Provincial school levy for that residence for that year;
- (j) "renter assistance credit" means a renter assistance credit under *The Alberta Income Tax Act*;
- (k) "residence" means
 - (i) any building or part thereof, designed, intended or used for residential occupancy by one family, or
 - (ii) every part of a residence as defined in subclause (i) consisting of one or more rooms and which is separately rented for residential occupancy, or
 - (iii) every part of a building consisting of one or more rooms and which is designed for or used for separate residential occupancy,

but does not include a building or part thereof, used for other than residential purposes, and for the purpose of this definition, a mobile unit shall be deemed to be a building;
- (l) "senior citizen renter" means an individual who has attained at least 65 years of age and who, exclusively or in company with others, occupies as a normal place of residence for a total of not less than 120 days in any year one or more residences, not being
 - (i) a nursing home, or
 - (ii) an auxiliary hospital, or
 - (iii) an active treatment hospital,

and in respect of such occupation rent is paid by him or on his behalf;

(m) "senior citizen renter assistance grant" means a senior citizen renter assistance grant made pursuant to this Part.

(b) *as to subsection (2) by striking out the word "eligible" wherever it occurs.*

4. Division 1 of Part 1 is struck out and the following division is substituted therefor:

Division 1

Property Education Tax Reduction and Homeowners Refund

4. In this Division

- (a) "allowable municipal taxes" means the amount of the municipal taxes that is determined in accordance with section 7 for the purposes of calculating the amount of a property education tax reduction and homeowner refund, if any;
- (b) "allowable Provincial school levy" means the amount of the Provincial school levy that is determined in accordance with section 7 for the purposes of calculating the amount of a property education tax reduction and homeowner refund, if any.

5. This Division applies only with respect to 1974 and subsequent years.

Entitlement to Property Education Tax Reduction

6. (1) Subject to and in accordance with this Part and the regulations, the owner of

- (a) a residence, or
- (b) farm land,

upon which municipal taxes are leviable in any year is entitled in respect of that year to a property education tax reduction which, subject to subsections (2) and (3), shall be an amount equal to the allowable Provincial school levy with respect to that residence or farm land as calculated pursuant to section 7.

(2) Where the owner of farm land in any year also owns a residence

- (a) that is not situated on farm land, and
- (b) that he occupies as his normal place of residence, he is not entitled to a property education tax reduction for that year with respect to both the farm land and the residence but is entitled to only one property education tax reduction in an amount equal to whichever is the greater of
 - (d) the total of the property education tax reduction and the homeowner refund, if any, with respect to that residence, and
 - (e) the allowable Provincial school levy with respect to that farm land.

4. Division 1 is revised to replace the education tax refund scheme with an education tax reduction scheme.

(3) Where either or both of the following events have occurred in any year, namely,

(a) the licence for a mobile unit which is occupied as a residence was issued with respect to a portion of that year, or

(b) the licensed mobile unit which was occupied as a residence had ceased to be occupied as a residence,

the property education tax reduction and tax refund, if any, in respect of that eligible residence shall be a portion of the full property education tax reduction and tax refund, if any, for the year in the proportion that the number of days the residence was licensed in that year bears to the total number of days in that year.

Calculation of Allowable Provincial School Levy

7. (1) In any case where a residence consists of a whole building and the owner thereof is also the owner of the land upon which the residence is situated,

(a) the allowable municipal taxes shall be the amount of the municipal taxes attributable to, and

(b) the allowable Provincial school levy shall be the amount of the Provincial school levy attributable to, the assessment of the land on which the residence and ancillary residential improvements are located and the assessment of the residence and the ancillary residential improvements.

(2) In any case where a residence consists of a whole building and the owner thereof is not the owner of the land upon which the residence is situated,

(a) the allowable municipal taxes shall be the amount of the municipal taxes attributable to, and

(b) the allowable Provincial school levy shall be the amount of the Provincial school levy attributable to, the assessment of that building and the assessment of any ancillary residential improvements situated on that land and owned by the owner of the residence.

(3) In any case where a residence consists of a part of a building and the owner thereof is not the owner of the land upon which the residence is situated,

(a) the allowable municipal taxes shall be the amount of the municipal taxes attributable to, and

(b) the allowable Provincial school levy shall be the amount of the Provincial school levy attributable to, the assessment of that part of the building which comprises the residence and the assessment of any ancillary residential improvements situated on that land and owned by the owner of the residence.

(4) In any case where a residence consists of part of a building or consists of a whole building and is located on land on which other buildings and improvements (not being ancillary residential improvements) are located and the owner of the residence is also the owner of the land upon which the residence is situated,

(a) the allowable municipal taxes shall be the amount of the municipal taxes attributable to, and

(b) the allowable Provincial school levy shall be the amount of the Provincial school levy attributable to, the assessment of that part of the building or that building which comprises the residence and the ancillary residential improvements together with the proportion of the assessment of the land in the same ratio that the assessed value of the residence bears to the assessed value of all buildings and other improvements on the parcel, including that of the residence.

(5) In the case of farm land,

(a) the allowable municipal taxes shall be the amount of municipal taxes attributable to, and

(b) the allowable Provincial school levy shall be the amount of the Provincial school levy attributable to, the assessment of that farm land.

(6) An assessment referred to in subsections (1) to (5) may consist of or include a supplementary assessment made pursuant to a supplementary assessment by-law.

Entitlement to Homeowner Refund

8. (1) Where

(a) a person qualifies under this section as the homeowner of a residence or farm land, and

(b) the allowable Provincial school levy is less than the total of the property education tax reduction and homeowner refund as calculated under section 9, the homeowner is (upon application therefor) entitled to a homeowner refund which, subject to section 6, subsection (3), shall be an amount equal to the difference between

(c) the total of the property education tax reduction and homeowner refund, and

(d) the allowable Provincial school levy.

(2) Where a residence or farm land is occupied in whole or in part as a normal place of residence by an individual who is an owner thereof for a total of not less than 120 days during the year, that owner is qualified as a homeowner for the purposes of this Part for that year.

(3) Where

- (a) in any year a residence is or was unoccupied and not revenue-producing and the owner thereof was unable to occupy that residence for at least 120 days because he is or was
 - (i) a member of the Canadian Forces, or
 - (ii) resident in a senior citizens' home, correctional institution, nursing home, sanatorium or other institution, or
 - (iii) resident elsewhere because of infirmity or ill health,or
 - (b) a residence is occupied by the spouse or a dependant of the owner for a period of not less than 120 days during a year,
- the person who owns the residence shall be deemed to be a homeowner with respect to that residence for the purposes of this Part for that year.

(4) Where

- (a) a residence of a deceased or mentally incompetent person is being administered by his estate, or
 - (b) a building or part thereof forming part of the property of a deceased or mentally incompetent person being administered by his estate is occupied as a residence by a spouse or dependant of the deceased or mentally incompetent person,
- then, for the purposes of this Part, the estate of the deceased or mentally incompetent person shall be deemed to be a homeowner with respect to that residence.

(5) Where

- (a) a private company, all of the shareholders of which are members of the same immediate family, is the owner of real property, and
 - (b) a building, or part thereof, forming part of that real property is occupied by one or more of the shareholders of that company as a residence,
- then, for the purposes of this Part, the private company shall be deemed to be a homeowner with respect to that residence.

(6) Where

- (a) a residence or farm land is owned by a co-operative association that is
 - (i) an association operating under *The Co-operative Associations Act*, or
 - (ii) an association incorporated by or under an Act by the Parliament of Canada,for the purpose of carrying on a co-operative housing or farming undertaking, and

(b) a member of the co-operative association resides in the residence or farms the farm land,
then, for the purposes of this Part, that member shall be deemed to be a homeowner with respect to that residence or farm land.

Calculation of Homeowner Refund

9. (1) The total of the property education tax reduction and homeowner refund in any year to a homeowner of a residence or farm land shall be

- (a) in any case where the amount of the allowable municipal taxes is \$100, or less, an amount equal to the allowable municipal taxes for that year;
- (b) in the case where the amount of the allowable municipal taxes is greater than \$100 but the allowable Provincial school levy is less than \$100, the sum of \$100;
- (c) in the case where the allowable Provincial school levy is greater than \$100, an amount equal to the allowable Provincial school levy.

(2) Where the homeowner or one of the homeowners of a residence or farm land was in receipt of the Guaranteed Income Supplement to the Old Age Security Pension for any month of a year, the property education tax reduction and homeowner refund to the homeowner for that year shall be

- (a) in the case where the amount of the allowable municipal taxes is \$200 or less, an amount equal to the allowable municipal taxes for that year;
- (b) in the case where the amount of the allowable municipal taxes is greater than \$200 but the allowable Provincial school levy is less than \$200, the sum of \$200;
- (c) in the case where the allowable Provincial school levy is greater than \$200, an amount equal to the allowable Provincial school levy.

(3) Where an estate is deemed to be a homeowner by virtue of section 8, subsection (3), then subsection (2) of this section only applies to that owner in a year if

- (a) the deceased person or his estate was entitled to the Guaranteed Income Supplement to the Old Age Security Pension for the month in which he died, or
- (b) the mentally incompetent person was in receipt of the Guaranteed Income Supplement to the Old Age Security Pension for any month of that year.

Implementation of Education Property Tax Reduction

10. (1) With respect to property, other than farm land, the clerk shall in each year determine the entitlement of

the property to a property education tax reduction in that year and the amount of the property education tax reduction.

(2) Where with respect to taxable property of an owner for which a separate tax notice will issue (other than farm land), the clerk determines that the property education tax reduction equals the full Provincial school levy on that property then, notwithstanding section 93, subsection (1), clause (g) of *The Municipal Taxation Act*, the clerk shall not impose the Provincial school levy against that property in that year but he shall notify the owner on the tax notice of the amount of the property education tax reduction.

(3) Where with respect to taxable property of an owner for which a separate tax notice will issue (other than farm land), the clerk determines that the property education tax reduction is less than the full Provincial school levy on that property, the clerk shall impose the full Provincial school levy against that property and then show the amount of the property education tax reduction as a credit against the taxes imposed.

11. (1) With respect to farm land, the clerk shall in each year impose against it the Provincial school levy but he shall notify the owner that subject to section 6, subsection (2), he may be entitled to a property education tax reduction upon application therefor in accordance with the regulations.

(2) Upon receipt of an application as provided in subsection (1) and upon being satisfied of the owner's entitlement and the amount thereof, the clerk shall enter the amount of the property education tax reduction in his records as a credit against the taxes imposed.

12. (1) Where

- (a) the clerk determines that any owner's property is not entitled to a property education tax reduction in any year, or
- (b) the owner of a residence or farm land is not satisfied that the amount of his property education tax reduction is properly determined in any year
the owner may apply to the clerk to reconsider his decision
- (c) at any time prior to November 1 in that year, or
- (d) if the application arises out of a supplementary assessment, within 90 days after the mailing of the tax notice with respect to the supplementary assessment.

(2) Upon receipt of an application pursuant to subsection (1), the clerk shall reconsider his decision, and

- (a) if he determines that his original decision was incorrect he shall correct his records accordingly, and
 - (b) if he determines that his original decision was correct he shall mail a notice of refusal to the applicant.
- (3) Where an application is refused pursuant to subsection (2), an appeal may be made to the Minister not later than 30 days after the mailing of the notice of refusal and the Minister shall advise the clerk and the applicant of his decision and the reasons therefor and the clerk shall, when necessary, amend his records accordingly.

Implementation of Homeowner Refund

13. (1) A homeowner is not entitled to the homeowner refund for any year unless he has filed an application in the prescribed form for the refund in accordance with this section and in any case, where eligible, is entitled to a refund for only one residence or farm land.

(2) Only one application in any year may be made in connection with the same residence or farm land.

(3) An application for a homeowner refund in respect of residence or farm land for any year

- (a) may be made at any time after municipal taxes have been levied by the local authority in that year;
- (b) shall not be made later than the close of business on the last business day of the month of March in the following year;
- (c) shall be filed with the Deputy Minister;
- (d) shall be accompanied by the homeowner's tax notice.

(4) Where he considers it advisable the Deputy Minister may require that an application filed pursuant to this section be accompanied by documentary evidence that proves to his satisfaction that the applicant is entitled to the homeowner refund.

14. (1) Upon receipt of an application filed with him under section 13 and not sooner, the Deputy Minister

- (a) shall determine whether or not the applicant is entitled to the homeowner refund and the amount thereof, and
- (b) if he determines that the applicant is not entitled to the homeowner refund, shall, within such time after the date of receipt of the application as may be prescribed by the regulations, mail to the applicant the reasons for his determination.

(2) A determination of the Deputy Minister under subsection (1) may be reversed by the Deputy Minister in the

event that he ascertains that his original determination was made

(a) by mistake, or
(b) as the result of the applicant having filed with him an incorrect application for the homeowner refund, and the Deputy Minister shall amend his records accordingly.

(3) A decision of the Deputy Minister pursuant to this section may be appealed to the Minister.

(4) The Minister shall advise the Deputy Minister of the decision made pursuant to subsection (3).

(5) Upon the homeowner's entitlement to a homeowner's refund being determined under this section, the Deputy Minister shall pay the homeowner refund to the homeowner.

15. Where a person was entitled to a homeowner refund with respect to any property in any year but because of a supplementary assessment on that property in that year there is a reduction in the amount of homeowner refund he is entitled to, that person shall repay to the Deputy Minister, as a debt due the Crown, the amount he was overpaid.

5. Section 16, subsection (1), clause (a) is amended by striking out the words "education tax".

6. Section 23, subsection (1) is amended by striking out clauses (a) and (b) and by substituting the following:

(a) files an application for the property education tax reduction, homeowner refund or senior citizen renter assistance grant under this Part knowing that he is not then entitled to receive the property education tax reduction, tax refund or senior citizen renter assistance grant applied for, or

(b) knowingly receives any property education tax reduction, homeowner refund or senior citizen renter assistance grant that he is not entitled to receive, or

7. Section 25 is struck out and the following is substituted.

25. The Lieutenant Governor in Council may make regulations

(a) defining any expression used in this Part and not defined herein;

(b) extending the time by which any of the provisions of this Part may be complied with;

5. Section 16, subsection (1) presently reads:

16. (1) No person who receives for any year
- (a) a homeowner education tax refund, or
 - (b) a renter assistance credit,
- is eligible to apply for or receive a senior citizen renter assistance grant in respect of that same year.

6. Section 23, subsection (1) presently reads:

23. (1) Every person who
- (a) files an application for a homeowner education tax refund or senior citizen renter assistance grant or renter assistance credit under this Part knowing that he is not then entitled to receive the homeowner refund or senior citizen renter assistance grant or renter assistance credit applied for, or
 - (b) knowingly receives any homeowner refund or senior citizen renter assistance grant or renter assistance credit that he is not entitled to receive, or
 - (c) knowingly aids or abets any other person in a contravention of clause (a) or (b),
- is guilty of an offence and liable on summary conviction to a fine of not more than \$500.
- 7. The section authorizing regulations is revised to reflect the changes made in the education tax reduction programs.**

- (c) specifying the form of and the manner of completing any declaration by an owner of a residence or farm land or a senior citizen renter and specifying the form of the explanatory notes incidental thereto;
- (d) specifying the form of and the manner of completing any return or certified statement required by the Minister, the Provincial Auditor or the Provincial Treasurer;
- (e) respecting the payment of any amounts as homeowner refunds or senior citizen renter assistance grants and directing to whom such amounts are to be or may be paid;
- (f) governing applications for property education tax reductions, homeowner refunds or senior citizen renter assistance grants and prescribing powers and duties of clerks and employees of the Department of Municipal Affairs in connection with such applications;
- (g) governing appeals to the Minister;
- (h) prescribing any additional rules respecting the calculation of rent for the purposes of determining the amount of a senior citizen renter assistance grant;
- (i) prescribing the manner in which senior citizen renter assistance grants shall be applied for and made;
- (j) providing for any case in which a property education tax reduction or a homeowner refund may be applied for and given or made in cases where the applicant is otherwise technically ineligible under this Act to receive the reduction or refund but where in the circumstances it is fair and reasonable and consistent with the other provisions of this Act to permit him to do so, but subject to any conditions or limitations that may be prescribed;
- (k) prescribing any additional rules regarding eligibility or ineligibility for property education tax reductions homeowner refunds or senior citizen renter assistance grants for the purpose only of preventing two or more refunds or grants in any year being paid to the same person or in respect of the same residence or farm land;
- (l) prescribing the circumstances under which a senior citizen renter is ineligible to apply for a senior citizen renter assistance grant;
- (m) prescribing any special rules considered necessary in cases where two or more individuals are the renters of the same place of residence;
- (n) prescribing the circumstances under which a person who has applied for or received a senior citizen

renter assistance grant in respect of any year may subsequently apply for and receive a homeowner refund in respect of the same year, and prescribing the extent of any additional grant that may be made;

- (o) prescribing the circumstances under which a person who has applied for or received a homeowner refund in respect of any year may subsequently apply for and receive a senior citizen renter assistance grant in respect of the same year, and prescribing the extent of any additional grant that may be made;
- (p) providing for any proceeding, matter or thing for which express provision is not made in this Part or for which only partial provision is made;
- (q) governing the reporting by clerks of the amounts granted as property education tax reductions and governing the manner of reimbursement by the Minister, which may be by direct payment to the municipalities or by payments on their behalf into the School Foundation Program Fund;
- (r) respecting any other matter necessary or advisable to carry out effectively the purposes of this Part.

8. Section 28 is amended

- (a) *as to subsection (1) by striking out the words "31st day of January" and by substituting the words "1st day of September",*
- (b) *as to subsection (3), clause (a) by striking out the words "September 1 and November 30 of the previous year" and by substituting the words "April 1 and June 30 of that year".*

9. The Legislative Assembly Act is amended as to section 12, clause 16, subclause (iii) by striking out the words "education tax".

10. The Municipal Taxation Act is amended

- (a) *as to section 93, subsection (1) by striking out clause (g) and by substituting the following:*
 - (g) *subject to The Alberta Property Tax Reduction Act, the requisition of the Province pursuant to The School Act, and*
- (b) *as to section 93, subsection (2) by striking out the words "subsections (1) and (3)" and by substituting the words "subsection (1)",*
- (c) *as to section 93 by striking out subsections (3) and (3.1),*
- (d) *by striking out section 116.1.*

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

8. Section 28, subsections (1) and (3) presently read:

28. (1) On or before the 31st day of January in each year, in the form prescribed by the Minister, each local authority (other than the Minister or a summer village) shall forward to the Deputy Minister of Municipal Affairs an affidavit of the clerk setting out the population and such other relevant information pertaining to the municipality as may be required by the Minister for the calculation of grants under this Part.

.....

(3) The population figure referred to in subsection (1) shall be compiled either

(a) by the taking of an actual census by the local authority between September 1 and November 30 of the previous year where the census so taken is subsequent to the latest population census taken pursuant to the *Statistics Act* (Canada), or

(b) by the latest population census under that Act.

9. Section 12, clause 16, subclause (iii) reads:

16. applying for or receiving

10. Consequential amendments.