

BILL

No. 59 of 1913.

An Act to Amend The Town Act, being Chapter 2 of the Acts of 1911-12.

(Assented to 1913.)

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

1. Chapter 2 of the Acts of 1911-12, *The Town Act*, is hereby amended by adding thereto the following section:

"372. The council of the municipality of the Town of Macleod may pass a by-law for paying the mayor of said town a sum not exceeding ten dollars for every meeting of the said council attended by the said mayor and each of the other members of the said council a sum not exceeding five dollars for each meeting of the said council attended by each of said councillors, provided however that neither the mayor nor any member of the council shall be entitled to receive remuneration for more than forty-eight meetings during any one year."

2. Chapter 2 of the Acts of 1911-12 of *The Town Act* is further hereby amended by repealing in so far as the same applies to the municipality of the Town of Macleod, sections 324 to 335 both inclusive, and substituting therefor as to the said Town of Macleod the following sections:

"324. Whenever any portion of taxes on any lands has been due for two years the secretary-treasurer shall submit to the mayor a list of all the lands in the books on which taxes are so due with the amount of arrears against each lot set opposite to the same and the mayor shall authenticate such list by affixing thereto the seal of the corporation and his signature and shall return such list to the secretary-treasurer with a warrant thereto annexed under his hand and seal of the municipality commanding him to levy upon the land for the arrears due thereon with costs and the said secretary-treasurer is hereby authorized to sell the same.

"325. The secretary-treasurer shall prepare a copy of the list of lands to be sold as authorized by this Act and shall include therein in a separate column a statement of the proportion of costs chargeable on each lot for advertising and the sum of twenty-five cents for each parcel advertised for sale and shall cause the said list to be published at least once a week for five consecutive weeks in at least one newspaper published in the said municipality.

"326. The said advertisement shall state also the day, time and place, where and when the said lands are to be sold and shall contain a notification that unless the arrears of taxes and costs are sooner paid the secretary-treasurer will proceed to sell the lands for taxes on the day and at the place mentioned in the advertisement.

"327. All the lots liable for sale in the municipality shall be included in the same statement and notice but any neglect or omission to include any land liable for sale in said list shall not be held to invalidate the sale or prevent the sale of such omitted land on any future occasion for all arrears of taxes that may be due thereon.

"328. The day of sale shall not be more than twenty days after the last publication as hereinbefore provided and the sale shall take place at such place in the municipality as the council shall from time to time by resolution appoint and in the absence of such appointment at such place in the municipality as the secretary-treasurer in his said notice shall name.

"329. The secretary-treasurer may adjourn the sale from time to time provided always that no such adjournment shall be for a period exceeding fifteen days.

"330. At the place, day and hour appointed for the sale of lands (if the taxes thereon including costs and charges have not previously been paid) the secretary-treasurer shall offer the lands for sale by public auction and in so doing shall make and declare the amounts stated in the list as the taxes due with his charges and costs as the upset price in each respective lot or parcel as offered for sale and shall thus sell the same to the highest bidder or to such person as may be willing to take it at the upset price, there being no higher bidder, but subject to redemption as hereinafter provided for.

"331. If no bidder appears for any land for the full amount of arrears of taxes, costs and charges the secretary-treasurer shall there and then sell the same to the municipality at the upset price.

"332. If the land sells for a greater sum than the taxes due together with all charges thereon the purchaser shall only be required to pay at the time of sale the amount of said taxes and charges and the balance of the purchase money shall be payable within one calendar month after the time of redemption of the said land shall have expired without the same having been redeemed within the time limited and if the said balance of purchase money shall not be so paid by the purchaser, his heirs or assigns, within the time above prescribed he and they shall forfeit all claim to the said land and to any transfer or conveyance thereof as well as the amount paid at the time of sale and such land shall thereupon cease to be affected by said sale.

"333. If the purchaser of any parcel of land fails immediately to pay the secretary-treasurer on account of said purchase the amount claimed for arrears of taxes and charges the treasurer shall forthwith again put up the property for sale.

"334. The secretary-treasurer after selling any land for taxes shall give to the purchaser a certificate describing the land as advertised stating the amount of taxes and costs paid and the total amount of purchase money and further saying that a transfer of the same to the purchaser or his assigns shall be executed by the secretary-treasurer on his or their demand within one month after the expiration of one year from the date of the certificate if the land be not previously redeemed and upon payment of the balance of the purchase money if any remains unpaid and upon payment of \$2 for said transfer.

"335. The purchaser shall on receipt of the secretary-treasurer's certificate of sale become the owner of the land so far as to have all necessary rights and powers for protecting the same from spoliation or waste until the expiration of the term during which the lands may be redeemed.

"336. A statement of the lands so sold for arrears of taxes with the names of the respective purchasers, the date of sale, the time of redemption and the amount required to redeem shall within thirty days of the date of sale or adjourned sale be made out and signed by the secretary-treasurer in duplicate and one copy shall be kept by the secretary-treasurer and the other delivered to the mayor and either of the said lists may be inspected at any time during office hours for a fee of ten cents for each lot of which inspection is desired.

"337. The owner of any land which may hereafter be sold for taxes or his heirs, executors, administrators or assigns or any other person on his or their behalf but in his name only may at any time within one year from the date of sale exclusive of that date redeem the real estate sold by paying to the secretary-treasurer before the hour of three o'clock in the afternoon of the said last day for redemption for the use and benefit of the purchaser or his legal representatives the sum paid by him together with ten per cent. thereon and any further sum which shall have been levied against said land and paid by the purchaser before date of redemption and the secretary-treasurer shall give the party paying such redemption money a receipt stating the sum paid and the objects thereof and such receipt shall be evidence of the redemption.

"338. For the purpose of this Act the day of sale shall be the day on which the sale was advertised to take place without reference to any adjournment or adjournments and all certificates shall be dated as of that day.

"339. From the time of payment to the secretary-treasurer of the full amount of redemption money required by this Act all rights and interests of the purchaser shall cease.

"340. Whenever such redemption is effected by a person not specially authorized the secretary-treasurer shall mention in the receipt given by him for the redemption money the name and designation of the person paying the same and the name of the person on whose behalf the payment is made and every redemption receipt shall be made out in duplicate; one copy shall be given to the person paying the redemption money and one shall remain on file in the office of the secretary-treasurer.

"341. The secretary-treasurer shall also immediately after the redemption of any land give notice by registered letter to the party appearing by his books to be purchaser of the same apprising him of the fact of such redemption and of the amount of money paid in for such purpose.

"342. If the land be not redeemed within the period allowed by this Act then on demand of the purchaser, his heirs or assigns or other legal representatives at any time within one month after the expiration of the time limited for the redemption upon payment of the balance of purchase money as aforesaid and of the further sum of \$2 the secretary-treasurer shall prepare and execute and deliver to him or them a transfer of the land sold provided that any land sold to the municipality under the provisions of this Act as hereinbefore provided shall be transferred to the municipality by the secretary-treasurer of the municipality immediately on the expiration of the time allowed for the redemption, without charge; such transfer shall be in form A given in the schedule to this Act or to the same effect and shall state the date and cause of sale and the price and shall have the effect (upon confirmation of the sale by a judge) of vesting the land in the purchaser, his heirs, assigns and other legal representatives in fee simple or otherwise according to the nature of the estate sold and no such transfer shall be invalid by reason of any error or miscalculation in the amount of taxes in arrear.

"343. Such transfer shall not only vest in the purchaser all rights of property which the original holder had therein, but shall also purge and disencumber such land from all payments, charges, liens, mortgages and encumbrances of whatever nature and kind other than existing liens of the municipality or Crown and whenever lands are sold for arrears of taxes, and the secretary-treasurer shall have given a transfer thereof, such transfer shall, notwithstanding any informality or defect in or preceding such sale, be valid and binding to all intents and purposes, except as against the Crown.

"(2) After the expiration of one year from the date of any such transfer the sale and transfer may be set aside only upon its being shown either:

- "1.** That there has been fraud or collusion; or
- "2.** That all taxes have been paid; or
- "3.** That the land was not liable to assessment.

"344. The secretary-treasurer shall keep a separate account of all sums paid to him as a balance of purchase money on lands sold for arrears of taxes, and not redeemed and shall enter in the book the amount received over the taxes and charges from the purchaser of any lots sold by him against said lot with date of sale and of receipt of balance and the aggregate amount so received shall form a fund to be called the tax sales fund and the secretary-treasurer shall in the month of January in each year and on request at any other time, furnish a statement to the council, giving the particulars respecting such fund and whenever any portion of such fund shall have remained in the hands of the secretary-treasurer for six years from the day of sale of the land of the purchase money of which it forms a part,

without any notice of claim or order for payment having been served on him as hereinafter provided, said portion or sum so remaining unclaimed shall have been forfeited and thereafter be the absolute property of the municipality and the said municipality shall for ever be discharged from any claim on account thereof.

"345. Any person claiming to have been the owner, heir, assignee or legal representative of the owner or otherwise interested in any parcel of land sold for taxes and transferred as aforesaid which shall have realized more than the amount due for taxes and charges shall be entitled to claim and receive the said overplus or sum held to the credit of said parcel of land in the tax sale fund or any portion thereof specified in the order hereinafter mentioned provided that written notice is served upon the secretary-treasurer previous to the time limited for forfeiture and upon producing and leaving with the secretary-treasurer within six months from the date of service of such notice of claim an order signed by a judge reciting that it had been proved to the satisfaction of said judge that the claimant was at the time of sale the lawful owner of the land in respect to which claim is made or was or is the heir, executor, assignee or legal representative of the said owner or otherwise interested in the said land and requiring the municipality to pay the said surplus money for the portion thereof specified in the order to the said claimant and such or any judge's order for payment of any part of said tax sale fund shall be kept by the secretary-treasurer and shall be the warrant and authority for making such payment.

"346. In seeking to obtain a judge's order any claimant upon said fund shall in person or by advocate petition the judge in writing for that purpose describing the land sold and setting forth the particulars of said sale and the title under which the said money is claimed and shall at the same time furnish such evidence of title as may be necessary for proving his title or interest to the satisfaction of the judge, and the facts set forth in the petition shall be verified by affidavit so far as may be necessary to satisfy the judge of the *bona fide* nature of the claim and the said judge may in his discretion require the claimant to serve a notice of his application upon the municipality or publish the same in any manner he may deem proper or substantiate his claim in any other manner and the judge may in his discretion order said money to be paid into the Supreme Court there to be dealt with in such manner as the court shall order and in such case a copy of his order stating the reason therefor shall be filed in the said court and served upon the secretary-treasurer.

"347. In any case where the judge deems it advisable to order notice to be served upon the municipality he shall in the final decision of the question if the claimant is successful order the costs of the municipality to be paid out of the funds in question and in case the claimant fails shall order execution to issue against him from the said court, after taxation for the costs of the municipality.

"348. The fact of claiming any surplus held to the credit of any lots sold for taxes in the said tax sale fund shall be considered an admission of the validity of the sale of the lot in question by the claimant and the said claimant and all claiming by, through or under him shall from and after the time of making such claim be debarred from taking any proceedings to question or set aside such sale notwithstanding that said claim shall have been made within the time otherwise limited for taking any proceedings to invalidate any tax sale and said sale shall thereafter be held to be in all respects valid and binding as against the claimant and those claiming by, through and under him as aforesaid.

"349. In no case shall the municipality be liable for damages or costs in any suit brought to set aside a tax sale or be liable for any damages or costs arising therefrom in any way further than, in case of sale held void by a competent court, refunding to the purchaser the amount of money actually received with legal interest.

"SCHEDULE.

"I, of the
in the Province of Alberta, secretary-treasurer of the municipality
of the Town of Macleod, by virtue of the authority vested in me
by *The Town Act* to sell lands for arrears of taxes do hereby in
consideration of the sum of dollars
paid to me by of
being the price for which the said land was sold at a sale by me
on the day of 191.. for arrears
of taxes due on said land to the said municipality, transfer to
the said, all that piece of land being
.....

"In witness whereof I have hereunto set my hand and the seal
of the said Municipality this day of
191...

"Signed by the above named }
in presence of }

.....

"Canada } "I,
Province of Alberta } of the Town of Macleod in the Province of
To wit: } Alberta,, make oath and say:

"1. I was personally present and did see
named in the within instrument who is personally known to me
to be the person named therein, he being the secretary-treasurer
of the municipality of the Town of Macleod, duly sign and execute
the within instrument for the purposes named therein;

"2. That the said instrument was executed at the Town of
Macleod in the said province; and that I am the subscribing wit-
ness thereto.

"3. That I personally know the said,
and he is in my belief of the full age of twenty-one years.

"Sworn before me at Macleod }
in the province of Alberta }
this day of }
1913. }

.....
"*A Commissioner in and for the Province of Alberta.*"

No. 59

FOURTH SESSION
SECOND LEGISLATURE
3 GEORGE V
1913

BILL

An Act to amend The Town Act, being
Chapter 2 of the Acts of 1911-1912.

Received and read the

First time

Second time

Third time.....

ROBERT PATTERSON

EDMONTON :
J. W. JEFFERY, Government Printer
A.D. 1913