

1984 BILL 53

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 53

**RURAL ELECTRIFICATION STATUTES
AMENDMENT ACT, 1984**

THE MINISTER OF UTILITIES AND
TELECOMMUNICATIONS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 53

1984

RURAL ELECTRIFICATION STATUTES AMENDMENT ACT, 1984

(Assented to _____, 1984)

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

Co-operative Associations Act

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

(2) The following is added after section 42:

42.1(1) A rural electrification association may sell its physical assets to a utility company if the sale has been approved by a majority of not less than 66 $\frac{2}{3}$ % of the members or delegates entitled to vote who are present in person at a meeting called for that purpose.

(2) Notice specifying the intention to propose the sale of the physical assets of the rural electrification association to a utility company shall be duly given not less than 10 days before the date of the meeting.

Rural Electrification Long Term Financing Act

2(1) The Rural Electrification Long Term Financing Act is amended by this section.

(2) Section 1 is amended

(a) by repealing clause (b) and substituting the following:

(b) "Director" means the director appointed for the purposes of the *Rural Electrification Revolving Fund Act* by the Minister of Utilities and Telecommunications;

(b) by adding the following after clause (e):

(e.1) "person" includes a partnership;

(3) Section 2 is amended by adding "or a person" after "association".

Explanatory Notes

Co-operative Associations Act

- 1(1) This section will amend chapter C-24 of the Revised Statutes of Alberta 1980.
- (2) A proposed sale of the assets of a rural electrification association will require the consent of 66 $\frac{2}{3}$ % of the members voting.

Rural Electrification Long Term Financing Act

- 2(1) This section will amend chapter R-17 of the Revised Statutes of Alberta 1980.
- (2) Section 1(b) presently reads:
- 1 In this Act,*
- (b) "Director" means the Director of Co-operative Activities under the Co-operative Associations Act;*
- (3) Section 2 presently reads:
- 2 In lieu of loans under Part 1 of the Rural Electrification Revolving Fund Act an association may, in accordance with this Act, apply for and receive a loan from the fund.*

(4) Section 3(2) is amended by adding “or person” after “association”.

(5) Section 4 is amended

(a) by repealing subsection (1) and substituting the following:

4(1) When an association or person desires a loan under this Act, the association or person shall apply to the Director for his approval of the proposed borrowing.

(b) in subsection (3) by adding “by an association” after “application”;

(c) by adding the following after subsection (3):

(4) Together with an application for approval, a person shall furnish the Director with a statement of the particulars required by section 11.1(1) of the *Rural Electrification Revolving Fund Act*.

(5) Section 11.1(2) and (3) of the *Rural Electrification Revolving Fund Act* apply to an application by a person under this Act.

(6) The following is added after section 5:

5.1(1) When a person has

(a) entered into an agreement with a power company whereby the power company has agreed to provide the person with electricity,

(b) determined the cost of providing the person with electricity, and

(c) paid not less than \$100 to the power company,

the person may apply to the Director for a loan under this Act.

(2) With the application, the person shall furnish the Director with a statement of the total estimated cost of providing the person with electricity.

(7) The following is added after section 6:

6.1(1) The Director shall obtain from a person who applies for a loan a lien note in duplicate in the prescribed form

(a) payable to the order of the Crown in right of Alberta,

(b) in the amount of the loan applied for,

(c) bearing interest at 3½% per year,

(d) setting out

(i) the date from which interest is to be computed,

(4) Section 3(2) presently reads:

(2) The period of repayment of a loan shall be a period, subject to subsection (1), agreed on by the association applying therefor and approved by the Director.

(5) Section 4 presently reads:

4(1) When an association desires a loan under this Act, the association shall apply to the Director for its approval of the proposed borrowing.

(2) Together with its application for approval, the association shall furnish the Director with a statement of the particulars required by section 8 of the Rural Electrification Revolving Fund Act.

(3) Sections 9 and 10 of the Rural Electrification Revolving Fund Act apply to an application under this section.

(6) Sets out the requirements that a person must meet before applying for a loan.

(7) Sets out the lien note to be obtained if the loan applicant is a person.

(ii) the number and amount of the annual or other instalments of principal by which payment of the note is to be made, and

(iii) the dates on which the instalments of principal and the accrued interest on the unpaid principal are to be paid,

and

(e) describing either

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

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

whichever the Director prescribes.

(2) When the person applying for the loan is not the registered owner of the land to which the electricity is to be conveyed, the Director may take a lien note made or co-signed by the registered owner of the land.

(3) The lien note affects only the interest of the person signing it in the surface rights of the land.

(8) *Section 7 is amended*

(a) *in subsection (1) by adding “or the person” after “association”;*

(b) *in subsection (2)*

(i) *by adding “or the person, as the case may be,” after “with the association”;*

(ii) *in clause (c) by adding “if the applicant is an association,” before “the duties”;*

(c) *in subsection (3) by adding “or the person” after “association”.*

(8) Section 7 presently reads:

7(1) If the requirements of this Act have been complied with by the association, the Director may, in his discretion, approve the loan.

(2) If the Director approves the loan, he shall enter into an agreement with the association in respect of the loan and shall by the agreement provide for

(a) the amount of the loan and the events or times on which advances of the loan are to be made,

(b) the amounts and periods of repayment,

(c) the duties of the association and the power company with respect to the collection of instalments from the members of principal and interest, and

(d) any other matters and things the Director considers advisable.

(3) When the agreement has been executed, the Director shall so notify the Provincial Treasurer, who shall advance the amount of the loan to the Director to be advanced to the association in accordance with the terms of the agreement.

(4) The Provincial Treasurer thereafter has a first charge on all the works of the association that are paid for wholly or in part out of the money loaned to the association.

(5) If default is made by the association in any of its payments under the agreement with the Director, the Provincial Treasurer is subrogated to the rights of the association in respect of the lien notes of the members held by the association and may enforce payment of the lien notes in the same manner and to the same extent as the association could enforce payment.

(9) *The following is added after section 13:*

13.1(1) A person who receives a loan under this Act shall remit the annual or other payments to the Director at the times set out in the agreement referred to in section 7, and the Director shall pay the money to the Provincial Treasurer for deposit in the fund or in the General Revenue Fund as provided in section 4 of the *Rural Electrification Revolving Fund Act*.

(2) If default is made by a person in the due payment of instalments of the principal or accrued interest on the unpaid principal in respect of a lien note made by him, all money payable by that person under the lien note becomes due and payable.

(3) Notwithstanding subsection (2), if a person who is in default of payment of instalments of principal or accrued interest on the unpaid principal in respect of a lien note later pays the arrears of accrued interest on the unpaid principal and of instalments of the principal, the Director in his discretion may reinstate the lien note and thereafter the person shall pay the instalments of the principal and the accrued interest on the unpaid principal in accordance with the terms of the lien note.

13.2 Notwithstanding section 13.1, if the Director advances money to a person under section 7 and that money is not used to provide that person with electricity in accordance with the agreement referred to in section 7 within 1 year of the date on which the money was advanced, or any longer period to which the Director consents, all money payable by that person under the lien note becomes due and payable.

(10) *Section 15(3) is amended by striking out “by a member”.*

(11) *Section 16(1) is repealed and the following is substituted:*

16(1) On a notice of lien being filed in the appropriate land titles office,

(a) if the agreement referred to in section 7 is with an association, the association has a lien on the land described in the notice of lien or on the interest of the maker of the lien note in the land described in the notice of lien for the total indebtedness, including interest, in respect of which the notice of lien is registered, or

(b) if the agreement referred to in section 7 is with a person, the Crown in right of Alberta has a lien on the land described in the notice of lien or on the interest of the maker of the lien note in the land described in the notice of lien for the total indebtedness, including interest, in respect of which the notice of lien is registered.

(9) Provides for the repayment of a loan to a person.

(10) Section 15(3) presently reads:

(3) On receiving notice in writing, in the prescribed form, from the Director that a lien note in respect of which a memorandum has been endorsed against the title of any land has been discharged by a member, the Registrar of Land Titles shall without fee cancel the memorandum on the title to the land.

(11) Section 16(1) presently reads:

16(1) On a notice of lien being filed under section 15 in the appropriate land titles office

(a) the association has a lien on the land described in the notice of lien or on 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.

(1.1) On a notice of lien being filed in the appropriate land titles office, 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 and were registered in the appropriate land titles office at the time at which the notice of lien was filed in the land titles office.

(12) *Section 20(3) is repealed and the following is substituted:*

(3) If the Crown or an association fails to establish a valid lien, the Crown or the association, as the case may be, may nevertheless recover a personal judgment against a party to the proceedings for any sum that is due to the Crown or the association and that the Crown or the association may recover in an action against that party.

(13) *Section 22 is amended*

(a) *in clause (b) by striking out “names of the association” and substituting “name of the association, if any,”;*

(b) *by striking out “the association may” and substituting “, if the lien holder is an association, the association may or, if the lien holder is the Crown, the Director may”.*

(14) *The following is added after section 25:*

25.1 If the estimated cost of providing a person with electricity exceeds the actual cost,

(a) any refund payable by the power company shall be applied in repayment of any loan made to the person under this Act,

(b) the power company shall pay the refund to the Director as a debt due to the Crown in right of Alberta to the extent that any amount should be applied under clause (a),

(c) the Director shall credit the payment received from the power company as payment on the total outstanding balance of the amount loaned to the person under this Act, and

(d) the power company shall pay the balance of the refund, if any, to the person.

(15) *Section 26 is amended by adding the following after subsection (1):*

(1.1) A person may at any time with the approval of the Director and on an adjustment of interest that is equitable pay a lien note in full in advance of payment of all unpaid instalments of principal.

(12) Section 20(3) presently reads:

(3) If an association fails to establish a valid lien it may nevertheless recover a personal judgment against a party to the proceedings for any sum that is due to the association and that it might recover in an action against that party.

(13) Section 22 presently reads:

22 If sufficient money to satisfy the judgment and costs is not realized from the sale, the Court shall certify

(a) the amount of the deficiency,

(b) the names of the association entitled to recover the deficiency, and

(c) the persons by the judgment adjudged to pay the deficiency,

and the association may enforce payment by execution or otherwise as a judgment of the Court.

(14) Refund payable to the Director in reduction of a loan.

(15) Section 26 presently reads:

26(1) A member may at any time with the approval of the association or the Director and on an adjustment of interest that is equitable pay a lien note in full in advance of payment of all unpaid instalments of principal.

(2) The sums received by the association from any member who pays a lien note in full in advance of all instalments of principal shall be remitted forthwith to the Director irrespective of the dates for remittance specified in the agreement referred to in section 7.

Rural Electrification Revolving Fund Act

3(1) The Rural Electrification Revolving Fund Act is amended by this section.

(2) Section 1 is amended

(a) by repealing clause (b) and substituting the following:

(b) “Director” means the director appointed for the purposes of this Act by the Minister of Utilities and Telecommunications;

(b) in clause (f) by adding “or of a person referred to in section 7.1, as the case may be” after “section 7”;

(c) by adding the following after clause (f):

(f.1) “person” includes a partnership;

(3) Section 3 is amended by adding “or persons” after “associations”.

(4) Section 5 is amended

(a) by adding the following after subsection (1):

(1.1) Subject to sections 11.1 and 11.2, a person may apply for one or more loans under this Act.

(b) in subsection (2) by striking out “association” and substituting “applicant”;

(c) in subsection (4) by striking out “association” and substituting “applicant”.

(5) Section 6 is amended by renumbering it as section 6(1) and by adding the following after subsection (1):

(2) No application by a person for a loan shall be approved by the Director unless the person complies with and meets all the requirements of sections 11.1 and 11.2.

(6) The following is added after section 7:

7.1(1) The Director shall obtain from a person who applies for a loan a lien note in duplicate in the prescribed form

(a) payable to the order of the Crown in right of Alberta,

(b) in the amount of the loan applied for,

(3) On receipt of any sums pursuant to subsection (2) the Director and the association shall vary the amounts payable under the agreement in order to compensate for the change in the interest payable annually by the association arising out of the depletion of the principal of the loan occasioned by a member's payment of a lien note in full.

Rural Electrification Revolving Fund Act

3(1) This section will amend chapter R-18 of the Revised Statutes of Alberta 1980.

(2) Section 1(b) and (f) presently read:

1 In this Act,

(b) "Director" means the Director of Co-operative Activities under the Co-operative Associations Act;

(f) "note" means a lien note of a member referred to in section 7;

(3) Section 3 presently reads:

3 Subject to this Act payments may be made out of the fund by way of loans to associations.

(4) Section 5 presently reads:

5(1) Subject to sections 8 to 11, an association may apply for one or more loans under this Act.

(2) A loan shall be for a period of 10 years or any lesser period desired by the association and approved by the Director.

(3) A loan shall bear interest at the rate of 3½% per year, payable annually.

(4) A loan shall be repaid by annual payments sufficient to pay off the full amount of the principal within 10 years or the lesser period decided on by the association and the Director.

(5) On an equitable adjustment of interest being made and subject to the approval of the Director, a loan may be repaid in full at any time.

(5) Section 6 presently reads:

6 No application by an association for a loan shall be approved by the Director unless the association complies with and meets all the requirements of sections 8 to 11.

(6) Sets out lien note to be obtained if the loan applicant is a person.

- (c) bearing interest at 3½% per year,
- (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) describing either
 - (i) the land to which the electricity is to be conveyed, or
 - (ii) any land in which the person has an interest, whether or not electricity is to be conveyed to that land,

whichever the Director prescribes.

(2) When the person applying for the loan is not the registered owner of the land to which the electricity is to be conveyed, the Director may take a lien note made or co-signed by the registered owner of the land.

(3) The lien note affects only the interest of the person signing it in the surface rights of the land.

(7) *The following is added after section 11:*

11.1(1) Before applying to the Director for a loan, a person shall furnish him with a statement of

- (a) the total estimated cost of providing the person with electricity, and
- (b) the proposed route of the distribution lines.

(2) If, after receiving the statement referred to in subsection (1) from a person, the Director considers that

- (a) the proposed works, in the opinion of the Director, are uneconomical or not properly planned, or
- (b) any other act, matter or thing with respect to the person or the works should first be done or made,

the Director may require the person to do any act or execute any agreement or instrument within the powers of the person before applying for a loan.

(3) If the Director is satisfied that

- (a) the application by a person is in order, and
- (b) the proposed plan is economically feasible,

the Director shall permit the person to apply for a loan.

(7) Sets out the requirements that a person must meet before applying for a loan.

11.2(1) When a person has

- (a) entered into an agreement with an electric power company whereby the power company has agreed to provide the person with electricity,
- (b) determined the cost of providing the person with electricity, and
- (c) paid not less than \$100 to the power company,

the person may apply to the Director for a loan under this Act.

(2) With the application, the person shall furnish the Director with a statement of the total estimated cost of providing the person with electricity.

(8) *Section 12 is amended*

(a) *in subsection (2) by adding “or the person, as the case may be,” after “association”;*

(b) *in subsection 3(c) by adding “if the applicant is an association,” before “for the duties”;*

(c) *in subsection (5)(a) by adding “or the person” after “association”.*

(9) *The following is added after section 13:*

13.1(1) A person who receives a loan under this Part shall remit the annual payments to the Director at the times set out in the agreement referred to in section 12, and the Director shall pay the money to the Provincial Treasurer for deposit in the fund or in the General Revenue Fund as provided in section 4.

(8) Section 12 presently reads:

12(1) The Director in his discretion may either approve or disapprove the loan.

(2) If the Director approves the loan he shall enter into an agreement with the association in respect of the loan.

(3) The agreement shall provide

(a) for the amount of the loan and the events or times on which advances of the loan are to be made,

(b) for the amounts and periods of repayment,

(c) for the duties of the association with respect to the collection from the members of instalments of the principal, and of the accrued interest on the unpaid principal, and

(d) for any other matters or things the Director considers advisable.

(4) When the agreement has been executed, the Director shall notify the Provincial Treasurer.

(5) On receipt of the notice referred to in subsection (4),

(a) the Provincial Treasurer shall advance the amount of the loan to the Director who shall advance the amount to the association in accordance with the terms of the loan, and

(b) the Provincial Treasurer has thereupon a first charge on all the works of the association constructed and paid for wholly or in part out of the money loaned to the association.

(6) If default is made by the association in any of its payments under the agreement referred to in subsection (2), the Provincial Treasurer is subrogated to the rights of the association in respect of lien notes of the members held by the association, and may enforce payment of the lien notes in the same manner and to the same extent as the association could enforce payment.

(9) Provides for the repayment of a loan to a person.

(2) If default is made by a person in the due payment of instalments of the principal or accrued interest on the unpaid principal in respect of a lien note made by him, all money payable by that person under the lien note becomes due and payable.

(3) Notwithstanding subsection (2), if a person who is in default of payment of instalments of principal or accrued interest on the unpaid principal in respect of a lien note later pays the arrears of accrued interest on the unpaid principal and of instalments of the principal, the Director in his discretion may reinstate the lien note and thereafter the person shall pay the instalments of the principal and the accrued interest on the unpaid principal in accordance with the terms of the lien note.

13.2 Notwithstanding section 13.1, if the Director advances money to a person under section 12 and that money is not used to provide that person with electricity in accordance with the agreement referred to in section 12 within 1 year of the date on which the money was advanced, or any longer period to which the Director consents, all money payable by that person under the lien note becomes due and payable.

(10) *Section 15(3) is amended by striking out “by a member”.*

(11) *Section 16(1) is repealed and the following is substituted:*

16(1) On a notice of lien being filed in the appropriate land titles office,

(a) if the agreement referred to in section 12 is with an association, the association has a lien on the land described in the notice of lien or on the interest of the maker of the lien note in the land described in the notice of lien for the total indebtedness, including interest, in respect of which the notice of lien is registered, or

(b) if the agreement referred to in section 12 is with a person, the Crown in right of Alberta has a lien on the land described in the notice of lien or on the interest of the maker of the lien note in the land described in the notice of lien for the total indebtedness, including interest, in respect of which the notice of lien is registered.

(1.1) On a notice of lien being filed in the appropriate land titles office, 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 and were registered in the appropriate land titles office at the time at which the notice of lien was filed in the land titles office.

(12) *Section 20(3) is repealed and the following is substituted:*

(3) If the Crown or an association fails to establish a valid lien, the Crown or the association, as the case may be, may neverthe-

(10) Section 15(3) presently reads:

(3) On receiving notice in writing in the prescribed form from the Director that a lien note in respect of which a memorandum has been endorsed against the title of any land has been discharged by a member, the Registrar of Land Titles shall without fee cancel the memorandum on the title to the land.

(11) Section 16 presently reads:

16(1) On a notice of lien being filed in the appropriate land titles office

(a) the association has a lien on the land described in the notice of lien or on 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.

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

(12) Section 20(3) presently reads:

(3) If the association fails to establish a valid lien it may nevertheless recover a personal judgment against a party to the proceedings for any

less recover a personal judgment against a party to the proceedings for any sum that is due to the Crown or the association and that the Crown or the association may recover in an action against that party.

(13) *Section 22 is amended*

(a) *in clause (b) by adding “, if any,” after “association”;*

(b) *by striking out “the association may” and substituting “, if the lien holder is an association, the association may or, if the lien holder is the Crown, the Director may”.*

(14) *The following is added after section 25:*

25.1 If the estimated cost of providing a person with electricity exceeds the actual cost,

(a) any refund payable by the power company shall be applied in repayment of any loan made to the person under this Part or Part 2,

(b) the power company shall pay the refund to the Director as a debt due to the Crown in right of Alberta to the extent that any amount should be applied under clause (a),

(c) the Director shall credit the payment received from the power company as payment on the total outstanding balance of the amount loaned to the person under this Part or Part 2, and

(d) the power company shall pay the balance of the refund, if any, to the person.

(15) *Section 26 is amended by adding the following after subsection (1):*

(1.1) A person may at any time with the approval of the Director and on an adjustment of interest that is equitable pay a lien note in full in advance of payment of all unpaid instalments of principal.

(16) *Section 30(1) is amended by adding “or persons” after “associations”.*

sum that is due to the association and that it might recover in an action against that party.

(13) Section 22 presently reads:

22 If sufficient money to satisfy the judgment and costs is not realized from the sale the Court shall certify

(a) the amount of the deficiency,

(b) the name of the association entitled to recover the deficiency, and

(c) the persons by the judgment adjudged to pay the deficiency

and the association may enforce payment by execution or otherwise as a judgment of the Court.

(14) Refund payable to the Director in reduction of a loan.

(15) Section 26 presently reads:

26(1) A member may at any time with the approval of the association or the Director and on an adjustment of interest that is equitable pay a lien note in full in advance of payment of all unpaid instalments of principal.

(2) The sums received by the association from any member who pays a lien note in full in advance of all instalments of principal shall be remitted forthwith to the Director irrespective of the dates for remittance specified in the agreement referred to in section 12.

(3) On receipt of any sums pursuant to subsection (2) the Director and the association shall vary the amounts payable under the agreement in order to compensate for the change in the interest payable annually by the association arising out of the depletion of the principal of the loan by a member's payment of a lien note in full.

(16) Section 30(1) presently reads:

30(1) Notwithstanding Part 1, loans not bearing interest may be made to associations from the fund in accordance with the requirements of this Part.

(17) *Section 31 is amended*

(a) *in subsection (1)*

(i) *by adding “or a person” after “an association”;*

(ii) *by adding “or to the person” after “by the association”;*

(iii) *by adding “or the person” after “to the association”;*

(b) *in subsection (2) by adding “or the person” after “association”.*

(18) *The following is added after section 32:*

32.1 If an additional loan is made to a person under this Part and the money advanced is not used to provide that person with electricity in accordance with the terms and conditions prescribed within 1 year of the date on which the money was advanced, or any longer period to which the Director consents, the money advanced becomes due and payable to the Crown in right of Alberta.

4 *This Act comes into force on Proclamation.*

(17) Section 31 presently reads:

31(1) When an application by an association for a loan under Part 1 or under the Rural Electrification Long Term Financing Act has been approved, and, in the opinion of the Director, an additional loan would materially assist the extension of the electrification service that is to be provided by the association, the Director may recommend that a loan under this Part be made to the association.

(2) If

(a) the Lieutenant Governor in Council, in the case of an additional loan in excess of \$15 000, or

(b) the Minister, in the case of an additional loan not in excess of \$15 000,

is satisfied that an additional loan is in the public interest and that the association desires the additional loan, the Lieutenant Governor in Council may direct or the Minister may request, as the case may be, the Provincial Treasurer to advance the sum of the loan from the fund on the terms and conditions prescribed.

(18) Provides for the repayment of a loan to a person.