

1991 BILL 20

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 20

RURAL ELECTRIFICATION REVOLVING
FUND AMENDMENT ACT, 1991

MR. THURBER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 20
Mr. Thurber

BILL 20

1991

RURAL ELECTRIFICATION REVOLVING FUND AMENDMENT ACT, 1991

(Assented to _____, 1991)

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

1 The Rural Electrification Revolving Fund Act is amended by this Act.

2 Section 1 is amended by adding the following after clause (f.1):

(f.2) "power company" means the electrical power company with which an association or a person has an agreement to supply the association or person with electrical power;

3 Section 5(3) is repealed and the following is substituted:

(3) A loan shall bear interest, payable annually,

(a) subject to clause (b)(ii), at the rate of 3½% per year if the loan was approved under section 12(1) before July 1, 1991, and

(b) at the rate per year prescribed in the regulations

(i) if the loan was approved under section 12(1) on or after July 1, 1991, or

(ii) if the land respecting which there is a lien note covering the loan is sold on or after July 1, 1991.

(3.1) Notwithstanding subsection (3)(b)(ii), if the land is sold by its owner to that owner's son or daughter and the loan was approved before July 1, 1991, the interest rate remains payable at the rate of 3½% per year.

Explanatory Notes

1 This Bill will amend chapter R-18 of the Revised Statutes of Alberta 1980.

2 Further definition.

3 Section 5(3) presently reads:

(3) A loan shall bear interest at the rate of 3 1/2% per year, payable annually.

4 Section 7 is amended

- (a) in subsection (1)(c) by striking out “rate of 3½% per year” and substituting “same rate as that payable by the association under section 5(3) and (3.1)”;**
- (b) in subsection (2) by striking out “may” and substituting “shall”;**
- (c) by repealing subsection (3) and substituting the following:**

 - (3) A lien note may be executed under subsection (2) only if, at the time the land is sold, the payments due under the existing note are not in arrears.**
- (d) by adding the following after subsection (6):**

 - (7) When all money payable under the lien note has been paid, the Director shall cancel the note.**

5 Section 7.1 is amended

- (a) in subsection (1)(c) by striking out “3½% per year” and substituting “the same rate as that payable by the person under section 5(3) and (3.1)”;**

4 Section 7 presently reads in part:

7(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 the prescribed form

- (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 3 1/2% 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 maker of the lien note has an interest, whether or not electricity is to be conveyed to that land,*

whichever the Director prescribes.

(2) When land against which the association has a lien pursuant to section 16 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.

(3) On a lien note being made by the purchaser under subsection (2), the Director may cancel the lien note made by the vendor or made by a former owner of the land.

5 Section 7.1(1) presently reads:

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) by adding the following after subsection (1):

(1.1) Where land against which the person has a lien pursuant to section 16 is sold,

- (a)** a new lien note may be executed by the purchaser of the land if, at the time the land is sold, the payments due under the existing lien note are not in arrears, and
- (b)** the Director may direct the power company to refuse to supply electrical power to the purchaser of the land until the purchaser executes the lien note.

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

(4) When all money payable under the lien note has been paid, the Director shall cancel the note.

6 *Section 13.1 is amended by adding the following after subsection (2):*

(2.1) In the event of a default referred to in subsection (2), the Director shall instruct the power company to discontinue the supply of electrical power to the person in default and shall take whatever action is necessary to enforce payment of the lien note.

(2.2) The power company shall comply with an instruction given under subsection (2.1).

7 *Section 15 is amended*

(a) in subsection (1) by striking out "30" and substituting "60";

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

(1.1) Where, as a result of a change in circumstances, it becomes necessary to have a new notice of lien on other land owned by the borrower or in which the borrower has a registered interest, the Director may file the new notice

- (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,*
 - (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.*

6 Discontinuation of service and enforcement of lien note.

7 Section 15 presently reads in part:

15(1) Within 30 days after a loan is approved by the Director, he shall file a notice of lien in the prescribed form against the land described in the lien note in the appropriate land titles office.

(2) The Registrar of Land Titles shall, without fee, endorse a memorandum in the prescribed form on the title to the land described in the notice of lien.

(3) On receiving notice in writing in the prescribed form from the Director that a lien note in respect of which a memorandum

of lien against that other land in the appropriate land titles office and may give notice in the prescribed form withdrawing the original notice of lien.

- (c) *in subsection (2) by adding “referred to in subsection (1) or (1.1)” after “lien”;*
- (d) *in subsection (3) by adding “or on receiving the notice referred to in subsection (1.1)” after “discharged”;*
- (e) *in subsection (4) by striking out “108(3)” and substituting “108.1(1)”;*
- (f) *in subsection (5) by striking out “under section 7(3)”.*

8 *Section 16(1.1) is repealed and the following is substituted:*

(1.1) Where there is a notice of lien registered in the appropriate land titles office, the Registrar of Land Titles shall maintain the registration of the notice of lien in respect of the land until the notice of lien has been cancelled, notwithstanding

- (a) any voluntary or involuntary change in ownership of the land that occurs after the commencement of this section,
- (b) that the notice of lien may have been registered after any mortgage or encumbrance giving rise to an involuntary change in ownership,
- (c) that the notice of lien and any such mortgage or encumbrance may have been registered before the commencement of this subsection, and
- (d) section 44 of the *Law of Property Act* and any other law.

(1.2) Subsection (1.1) does not apply to the extent that a lien is postponed under section 15(4) to a mortgage or encumbrance.

9 *Section 22(b) is amended by adding “or person” after “association”.*

has been endorsed against the title of any land has been discharged, the Registrar of Land Titles shall without fee cancel the memorandum on the title to the land.

(4) A lien may be postponed at the discretion of the Director in accordance with section 108(3) of the Land Titles Act.

(5) Notwithstanding that a lien note has been cancelled under section 7(3) 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.

8 Section 16(1.1) presently reads:

(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.

9 Section 22 presently reads in part:

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

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

10 Section 27 is amended by adding the following after clause (b):

(b.1) prescribe the interest rate referred to in section 5(3)(b);

11 This Act, except section 8, comes into force on July 1, 1991.

10 Regulations re interest rates.

11 Coming into force.