

BILL

No. 30 of 1938.

An Act to provide for the Recovery of Taxes.

(Assented to _____, 1929.)

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

SHORT TITLE.

L. This Act may be cited as "*The Tax Recovery Act, 1990*."

INTERPRETATION.

2. In this Act, unless the context otherwise requires—

- (a) "Area" shall mean a city, town, village, municipal district or improvement district;
- (b) "Arrears" or "arrears of taxes" shall include all penalties for the non-payment of a tax, and also all costs and lawful expenses incurred, or necessarily to be incurred by a municipality in respect of any parcel;
- (c) "Chief officer" shall include the mayor of a city, town or village, or the reeve of a municipal district, and in the case of an improvement district the Minister;
- (d) "Improvements" shall include all buildings, fencing and fixtures, and all erections or works in or upon land;
- (e) "Land" shall include improvements, and minerals;
- (f) "Minister" shall mean the Minister of Municipal Affairs;
- (g) "Municipality" shall include every body corporate governing any area, and in the case of an improvement district, the Minister, or where authority in the matter is lawfully delegated to him, the Deputy Minister of Municipal Affairs, and, when the context so requires, every area;
- (h) "Owner" shall (in respect of land or a mineral or minerals) mean a person registered as such in a Land Titles Office;
- (i) "Parcel" shall mean every parcel of land, improvements or minerals separately assessed on the assessment roll of a municipality when the title to the parcel is not-vested in the Crown;
- (j) "Prescribed" shall mean prescribed by the Minister;

- (k) "Reporting authority" shall mean the board of trustees of a school district, or a municipality collecting taxes in respect of parcels situate in another municipality;
- (l) "Sale" shall include agreement to sell;
- (m) "Tax" shall include every rate or tax imposed upon any parcel and any part of any such rate or tax;
- (n) "Treasurer" shall include the treasurer or secretary-treasurer of a municipality, any officer appointed by a municipality to conduct proceedings under this Act, and in the case of an improvement district, the Deputy Minister of Municipal Affairs.

DUTIES OF REPORTING AUTHORITIES.

3.—(1) Not later than the twentieth day of January in each year, every reporting authority collecting a tax imposed upon a parcel shall forward to the treasurer of each municipality within whose area such parcel is situated, a report showing all arrears of any such tax remaining unpaid in respect of any such parcel, together with the names and addresses, if known, of the persons by whom such arrears are payable.

(2) No reporting authority shall collect any taxes due in respect of any parcel included in its report until it has been notified of the collection of all arrears of taxes payable in respect thereof.

(3) No reporting authority shall collect any arrears of taxes included in the said report until it has received a certificate from the treasurer that such parcel was not included in the list sent to the Registrar under the provisions of this Act, but shall in sending out tax notices prior to receiving any such certificate, notify all persons owing arrears of taxes that such arrears should be paid to the treasurer of the municipality concerned.

(4) Any arrears paid to a treasurer under the provisions of this section shall be forwarded forthwith to the reporting authority concerned, after deduction by way of commission of five per cent of the amount thereof.

(5) If any reporting authority in its report sets out the portions of land with respect to which there are arrears otherwise than as parcels within the meaning of this Act, the treasurer shall divide or otherwise redistribute such portions so as to make the report have reference to parcels as herein defined, and in so doing shall make such distribution of arrears amongst such parcels as may be equitable.

(6) The report so altered shall be deemed to be the report sent in by the reporting authority, and the arrears attributed to any parcel shall, for the purposes of this Act, be deemed to be due in respect of that parcel in the same manner as the arrears set out in the original report would have remained due in respect of the said portions, but for this section.

TAX ARREARS LIST.

4.—(1) During the month of March in each year, the treasurer shall prepare in triplicate and in the prescribed form, a list (hereinafter called "the tax arrears list") of all parcels, the taxes with respect to which have been in arrears for more than a year; placing opposite the description of each parcel the amount of the arrears in respect thereof, and shall sign the same, giving his address; and shall send the triplicate lists to the chief officer of the municipality concerned.

(2) The chief officer of the municipality, upon receiving the triplicate lists, shall forthwith sign the same and shall return them to the treasurer. The treasurer shall, before the first day of April, forward two of such lists to the proper Land Titles Office, and before doing so shall remove from the list any parcel, the arrears of taxes in respect of which have been paid, and initial all such removals.

(3) Taxes shall be deemed to be in arrears within the meaning of this section, when they remain unpaid after the thirty-first day of December of the year in which they were imposed, or where a later date has been lawfully fixed for their payment, after such later date.

(4) The treasurer shall post in his office a copy of the tax arrears list, which shall be accessible to the public during office hours, up to and including the date of the sale.

TAX RECOVERY NOTIFICATION OR CAVEAT.

5.—(1) Immediately upon the receipt of the tax arrears list, the Registrar shall place upon the certificate of title of each parcel a notification that the parcel is subject to the provisions of *The Tax Recovery Act, 1929* (hereinafter sometimes called "the tax recovery notification").

(2) The tax recovery notification shall have the effect of a duly registered caveat, and no dealing with the parcel affected shall in any way lessen or affect its liability to be dealt with under the provisions of this Act.

(3) Immediately upon making such notifications, the Registrar shall place a certificate upon one of the tax arrears lists to the effect that on a day therein named he duly placed notifications in respect of the parcels comprised in the list on the proper certificates of title, and shall forthwith return such list to the treasurer by registered mail.

(4) The Registrar shall send with the tax arrears list, a statement of the fees chargeable in respect of each parcel comprised therein, and the municipality shall pay to the Registrar such fees, and they shall be added to the costs chargeable by the municipality against such parcel.

(5) After such notification has been made, it shall not be removed until—

- (a) the treasurer directs its removal; or
- (b) a certificate of title has been issued to a municipality or other person, under the provisions of this Act.

6.—(1) As long as any tax recovery notification subsists with respect to any parcel, no buildings, fences, fixtures or other improvements in or upon such parcel shall be removed from such parcel without the consent of the municipality concerned.

(2) Any person contravening the provisions of this section shall be liable upon summary conviction, to a fine of not less than ten dollars nor more than two hundred dollars, or to imprisonment for not more than six months, or to both fine and imprisonment.

(3) No person shall acquire any property in any such building, fence, fixture, or other improvement removed in contravention of this section.

(4) As and from the date fixed for the sale by public auction of any parcel, the municipality shall have the right to enter upon the same with or without force, and to have quiet and peaceful possession thereof.

WARNING NOTICE.

7.—(1) Not later than the first day of August following the receipt of the tax arrears list, the Registrar of the Land Titles Office shall cause to be sent by registered mail a notice in the following persons, whose names then appear on the register of titles to land kept in accordance with *The Land Titles Act*, namely: registered owners, caveators, holders of mechanics' liens, and the mortgagees and other incumbrances referred to in section 92 of the said Act.

(2) The notice shall be in Form A of the schedule hereto.

(3) The notice shall be sent to the address for service of the person concerned, registered pursuant to *The Land Titles Act*, and if there is no such registered address, to the address of such person given in any instrument registered in the Land Titles Office with reference to such parcel.

WITHDRAWAL OF TAX RECOVERY NOTIFICATION BEFORE THE DATE OF THE SALE.

8. Upon payment by the owner of any parcel or on his behalf, prior to the date of the sale—

- (a) of all taxes which are shown on the records of the treasurer as being due with respect to such parcel other than the taxes of the current year; and
- (b) of the prescribed costs—

the treasurer shall notify the Registrar of the proper Land Titles Office to remove the tax arrears notification from the certificate of title of such parcel and the Registrar shall forthwith do so.

PUBLIC SALE BY MUNICIPALITY.

9.—(1) Every parcel with respect to which there is a subsisting tax recovery notification, shall be offered for sale by public auction, after the expiry of one year from the date of such notification, and such public auction shall be held upon a date to be fixed by the municipality or the Minister, as the case may be.

(2) In this Act the expression "the date of the sale" shall invariably mean the date without reference to any adjournment.

10.—(1) At least two months prior to the date of the sale, the treasurer of the municipality shall send a list of the parcels to be offered at the sale to every reporting authority collecting taxes in respect of any such parcel, and the reporting authority shall forthwith forward to the treasurer a report showing all taxes due to it and remaining unpaid in respect of any such parcel, together with the names and addresses, if known, of the persons by whom such taxes are payable.

(2) The report shall be in the prescribed form.

(3) Any reporting authority omitting to forward the said report of taxes unpaid, with respect to any parcel, shall, subject to the other provisions of this Act, forfeit all claim to such taxes.

(4) No reporting authority after it has received any such list shall collect any taxes which were or should have been included in the said report.

(5) If any reporting authority in its report sets out the portions of land with respect to which there are taxes otherwise than as parcels within the meaning of this Act, the treasurer shall divide or otherwise redistribute such portions so as to make the report have reference to parcels as herein defined, and in so doing shall make such redistribution of taxes amongst such parcels as may be equitable.

(6) The report so altered shall be deemed to be the report sent in by the reporting authority, and the taxes attributed to any parcel shall, for the purpose of this Act, be deemed to be due in respect of that parcel in the same manner as the taxes set out in the report would have remained due in respect of the said portions but for this section.

11.—(1) Every public auction shall be advertised in one issue of *The Alberta Gazette*, published not less than forty days and not more than ninety days before the date of the sale, and in two issues of a newspaper having general circulation in the municipality, between which issues there shall be an interval of at least one week, and the first of which shall not be published earlier than thirty days prior to the date of the sale.

(2) If an error appears in the notice in *The Alberta Gazette*, or in a newspaper, and a notice of the correction of that error appears in a subsequent issue of the *Gazette* or the newspaper, as the case may be, at least one week prior to the date of the sale, then such error shall not affect the validity of the sale.

(3) Not less than four weeks before the date of the sale, the treasurer shall send by registered mail a copy of the advertisement appearing in *The Alberta Gazette*, to every person whose name actually appears on the assessment roll as having any interest in any parcel set out in such advertisement.

12.—(1) Every such advertisement shall specify the place, day and hour at which the auction shall commence, and the conditions of sale, and each parcel of land shall be described therein by a reasonable description or by stating the number of the registered instrument or instruments from which a description can be deduced or obtained.

(2) The using of abbreviations in any such description shall be sufficient if the parcel so described can be thereby distinguished.

(3) A copy of the advertisement shall be hung up in the treasurer's office and shall be accessible to the public at all times during business hours for a period of ten days before the date of the sale.

13.—(1) The Minister may by general order or by order made with respect to any one or more municipalities prescribe the method of fixing the reserve bids and the conditions of sale upon which sales are to be made.

(2) If no such order is made, the purchase price shall be payable in cash within thirty days of the sale unless the council by resolution authorizes the making of sales upon the instalment payment plan or upon the plan of taking a mortgage for any balance of the purchase price which is not paid at the time of the auction.

(3) Every municipality shall fix a minimum price for each parcel by way of a reserve bid, and if any order has been made, under the provisions of this section, shall observe the terms of the same.

14. The treasurer may adjourn the auction from time to time, but no such adjournment shall be for a period exceeding fifteen days, nor to a date later than the expiry of two months from the date of the sale.

15. No treasurer or other person offering parcels for sale under the provisions of this Act shall be required to obtain an auctioneer's license for the purpose of the sale.

16. Notwithstanding any other provisions of this Act, the Minister may give other directions as to public auctions in improvement districts.

17.—(1) No auctioneer, councillor or official of any municipality shall at a sale conducted by such municipality, whether public or private, purchase any parcel or act as the agent of any person in the purchase thereof, and any sale made to him personally or to him as an agent, shall be null and void.

(2) Every person who acts in contravention of subsection (1), and every person who procures or attempts to procure any person to so act, shall be guilty of an offence and liable on summary conviction to a penalty of not less than fifty dollars and not more than one hundred dollars, for each offence.

(3) Notwithstanding the previous provisions of this section, any municipality may by resolution direct any official to bid at any public sale for, or may buy at any private sale, any parcel which such municipality is desirous of acquiring for any purpose for which it is authorized to acquire land, but no purchase by a municipality under the provisions of this section shall be effective until it has been confirmed by the Minister.

PRIVATE SALE.

18.—(1) Any parcel which is not sold at the first public auction held by a municipality after a tax recovery notification has been placed upon the certificate of title thereto, may be sold after the Minister has given his consent to such sale and approval of the conditions of sale.

(2) A municipality may, with the consent of the Minister, sell a portion of any parcel, if such portion would, in his opinion, be liable to expropriation proceedings under any provision of any Act, and shall apply the purchase money as if it were the proceeds of a sale.

FINAL ACQUISITION.

19. Upon the expiry of one year from the date of the sale, every parcel with respect to which there is a subsisting tax recovery notification shall be finally acquired by the municipality concerned as absolute owner thereof, subject only to the provisions of this Act, relating to the distribution of the proceeds of sale.

WITHDRAWAL OF THE TAX RECOVERY NOTIFICATION AFTER THE DATE OF THE SALE.

20. If at any time while a parcel remains unsold and has not been finally acquired by the municipality—

- (a) all taxes which are shown on the records of the treasurer as being due with respect to such parcel other than the taxes of the current year; and

(b) the prescribed costs—
are duly paid or discharged, the treasurer shall notify the Registrar of the proper Land Titles Office to remove the tax arrears notification from the certificate of title of such parcel and the Registrar shall forthwith do so.

ISSUE OF CERTIFICATES, ETC.

21.—(1) When any parcel has been sold to a purchaser for cash at either a public or private sale, the municipality concerned shall transfer such parcel to the purchaser by means of a transfer in the appropriate form as set out in Form B in the schedule hereto, and shall forward such transfer to the proper Land Titles Office, and the Registrar shall forthwith upon its receipt cancel the existing certificate of title, and issue a new duplicate certificate of title in the name of the transferee.

(2) When any parcel has been sold to a purchaser upon the mortgage plan, a like procedure shall be followed, save that the new certificate of title shall be sent to the municipality concerned.

(3) When any parcel has been sold to a purchaser upon the instalment payment plan, or has been finally acquired by a municipality, a like procedure shall be followed, save that the new certificate of title shall be made out in the name of, and sent to, the municipality concerned.

(4) Every duplicate certificate of title issued under the provisions of this section shall be conclusive evidence of the compliance with all conditions precedent to the issue of such certificate and its validity shall not be questioned in any court of law or equity, save upon the following grounds, or any of them, and no other:

- (a) That the sale was not conducted in a fair, open and proper manner; or
- (b) That there were no taxes whatever in arrears for which the parcel could be sold; or
- (c) That the parcel was not liable to be assessed for taxes—

and shall give to the person or municipality to whom it is issued an estate in fee simple in the parcel named therein, free from all incumbrances save those arising from claims of the Crown in the right of the Dominion of Canada, and save irrigation or drainage debentures, and registered easements, and in the case of a certificate of title issued to a municipality subject to the provisions of this Act, relating to the distribution of the proceeds of sale and to the rights of any purchaser upon the instalment plan.

(5) When a certificate of title to any parcel is issued to a municipality under the provisions of this section, such parcel shall continue to be assessed, and the taxes resulting from such assessment shall during the period that the parcel continues vested in the municipality, be carried over from

year to year, without collection, and shall be treated as arrears of taxes, or taxes within the meaning of the provisions of this Act relating to the distribution of the proceeds of a sale.

APPLICATION TO A DISTRICT COURT JUDGE.

22.—(1) At any time prior to the sale of any parcel, or its final acquisition by the municipality, whichever event first happens, any person interested in any parcel may apply in chambers to the Judge of the District Court of the Judicial District in which the parcel is situated, who, if of the opinion that the provisions of this Act have not been complied with, may summarily make an order directed to the Registrar, staying the issue of any certificate of title with respect to such parcel or the sale of such parcel, as the case may be, until the respective rights of the applicant and of the municipality have been determined by a declaratory order of the Judge of the District Court, or until after the expiration of a period of thirty days or less, as fixed by his order.

(2) If the rights of the applicant and of the municipality are not so determined prior to the expiry of thirty days from the date of the staying order, or upon the expiry of the period fixed by such order, as the case may be, such order shall cease to be of any effect and no further order shall be made.

PROCEEDS OF SALE.

23.—(1) The proceeds of the sale of any parcel, whether sold at a public or private sale, directed by this Act, or after final acquisition, shall, notwithstanding the provisions of any other Act, be distributed in the following order:

- (a) in the discharge of the prescribed costs and all other expenses lawfully incurred by the municipality in respect of the parcel;
- (b) in the discharge of all money due to the Crown in the right of Province and charged upon the parcel;
- (c) in the discharge of all irrigation and drainage rates due in respect of the parcel;
- (d) in the discharge or where necessary the *pro rata* discharge, of all taxes due in respect of the parcel other than taxes for the current year and arrears which ought to have been reported and have not then been reported;
- (e) in the discharge or where necessary the *pro rata* discharge, of all other taxes due in respect of the parcel;
- (f) in the discharge of all money due to the municipality in which the parcel is situated and charged upon such parcel, as appearing by the tax roll or the records of the proper Land Titles Office.

(2) Any taxes for which any parcel has been sold, which have not been discharged under the provisions of the previous subsection, shall be cancelled upon the books of the municipality, and reporting authority.

(3) Any taxes due in respect of any such parcel which ought to have been reported and have not at the date of the sale been so reported, shall be cancelled and irrecoverable.

24.—(1) Any surplus moneys which may remain after the distribution of the proceeds of sale as hereinbefore directed, shall be paid into a separate tax sale trust account and shall be paid out to such person or persons as may apply to a District Court Judge and be by him declared to be entitled thereto within three years from the date of the sale, and such declaration may be made upon notice to such persons as the judge may direct, and shall be disposed of summarily, and any order so made shall have the same force and effect as an order of the District Court.

Upon the expiry of three years from the date of the sale, all surplus moneys in respect of which no application has been made shall form part of the general revenue of the municipality, or in the case of an improvement district, of the improvement district fund.

LEASE BY MUNICIPALITY.

25.—(1) Any parcel which is not sold at the first public auction held by a municipality after a tax recovery notification has been placed on the certificate of title thereto may be leased for a period of not more than one year.

(2) All proceeds arising and profits accruing from the leased parcel shall be distributed as if they were proceeds of a sale thereof.

(3) Any lease entered into under the provisions of this section shall be a good and valid lease for the term mentioned therein.

LIMITATION OF ACTIONS.

26. No action, suit or other proceedings for the return by a municipality of any moneys paid to the municipality whether under protest or otherwise, on account of a claim, whether valid or invalid, made by the municipality for taxes shall be commenced after the expiration of six months after the payment of such moneys, and after the expiration of such period of six months without any such action, suit or other proceedings having been commenced, the payment made to the municipality shall be deemed to have been a voluntary payment.

ANCILLARY METHODS OF RECOVERING ARREARS.

27. A municipality may at any time prior to selling or agreeing to sell any parcel, or acquiring final ownership thereof, as the case may be, exercise any powers to recover all the arrears of taxes due in respect thereof as are given to it or any reporting authority by any other Act.

PENALTIES.

28. Any official of a municipality or of a reporting authority neglecting to comply with the provisions of this Act, as to the making and sending of lists or reports, the publication of notices, the withdrawal of tax arrears notifications, and the issue and forwarding of transfers, shall, on summary conviction before two justices of the peace, be liable for each offence to a fine or penalty of not more than two hundred dollars and not less than one hundred dollars.

29.—(1) Any reporting authority collecting taxes without observing the provisions of this Act shall be liable on summary conviction to a penalty not exceeding twenty-five dollars, which penalty shall be paid to the municipality concerned.

(2) When any reporting authority pays a penalty under the provisions of the preceding subsection, it may deduct the same from any sum of money payable by it to its officer primarily responsible for the collection of taxes due to it.

(3) When any loss or damage occurs to any person from any action of a treasurer purporting to act under the provisions of this Act, and such loss or damage results from wrong information given by or failure to give information on the part of a reporting authority, such authority shall be liable therefor to both the person to whom the loss or damage occurs and the municipality concerned.

30. Every municipality shall be liable to the Registrar for all losses and damages sustained to the assurance fund on account of any incorrectness in the lists sent or directions given to him by the treasurer, and when any such loss or damage is occasioned by wrong information given by or failure to give information on the part of a reporting authority, such authority shall be liable therefor, as is provided by this Act.

REGULATIONS, FORMS AND FEES.

31. The Minister may from time to time make such regulations and proscribe such forms in lieu of or in addition to the forms in the schedule to this Act, as may be deemed necessary for the proper carrying into effect of the provisions of this Act.

32. The Lieutenant Governor in Council may fix the fees to be paid to the Registrar in connection with all matters or proceedings in the Land Titles Office under this Act.

33. Whenever any parcel in a municipality with respect to which proceedings have been begun under the provisions of this Act (hereinafter called "the old municipality"), becomes a part of another municipality, whether newly created or not (hereinafter called "the new municipality"), then

the said proceedings shall be continued by the new municipality as if the parcel had always been included therein, and the new municipality shall pay to the old municipality all expenses and charges lawfully incurred by it under the provisions of this Act, in connection with such parcel, in so far as the moneys coming to its hands will extend.

34. Any municipality may apply to the Board of Public Utility Commissioners to exercise the powers given to such Board, by Part VIII of *The Public Utilities Act, 1923*.

MISCELLANEOUS.

35. The provisions of this Act shall supersede all provisions inconsistent therewith in any Act or Ordinance contained, whether such Act or Ordinance is one of general application or relates to one municipality only.

36. All proceedings taken under *The Tax Recovery Act, 1922*, or which may require to be instituted under the terms thereof, shall be continued or instituted, as the case may be, under the provisions by this Act substituted for the provisions of the said *Tax Recovery Act, 1922*, so far as possible, and the Minister shall have power to make regulations calculated to overcome the procedural difficulties occasioned by the differences between such Acts, and all such regulations shall have effect as if set out herein.

37.—(1) *The Tax Recovery Act*, being chapter 20 of the Statutes of Alberta, 1910, shall continue to have effect with respect to proceedings begun thereunder.

(2) The said Act shall have effect also with respect to all such proceedings as if it contained section 33 of this Act regarding the transfer of land from one municipality to another.

(3) The Lieutenant Governor in Council may by proclamation at any time repeal the said *Tax Recovery Act*, and this section.

38. *The Tax Recovery Act, 1922*, being chapter 122 of the Revised Statutes of Alberta, 1922, is hereby repealed.

SCHEDULE.

FORM A.

(Section 7.)

TAX RECOVERY ACT, 1929.

Notice is hereby given that a tax recovery notification has been placed on the certificate of title to a certain parcel of land (or as the case may be) situate in the municipal district (or as the case may be) of namely (here insert description of parcel) in which you appear according to the records of this office, to be interested;

And further take notice that unless before the day of 19... (here insert the day after the expiry of one year from the date of the tax recovery notification) you pay to (here insert name and address of treasurer as given in the tax arrears list), all taxes which are shown on his records as being due with respect to the said parcel, other than the taxes for this year, the said parcel may be offered for sale by public auction and a certificate of title thereto may issue to the purchaser upon cancellation of the existing certificate.

By applying to the treasurer at the address given above you can learn the amount of such taxes and costs, as at the time of your application.

Dated at this day of
A.D. 19...

.....
Registrar.

FORM B.

(Section 21.)

TAX RECOVERY ACT, 1929.

The of (or the Deputy Minister of Municipal Affairs, as the case may be), in pursuance of the powers vested in it (or him, as the case may be) by The Tax Recovery Act, 1929, hereby transfers to of free from all incumbrances save those arising from claims of the Crown in the right of the Dominion of Canada, and save irrigation or drainage debentures, and registered encumbrances, all that parcel (here insert a sufficient description of the parcel), which was duly sold in at a tax recovery sale held upon the day of 19....

Where the parcel was sold upon the mortgage plan, add to the above form:

"upon the condition amongst others that he would execute a mortgage thereof to the said municipality";

Where the parcel was sold upon the instalment plan, add to the above form:

"subject, however, to the rights of the said..... as a purchaser of the said parcel, upon the instalment plan";

Where the parcel has been finally acquired, insert in lieu of last clause of form:

"which was finally acquired by the said..... upon the.....day of.....19..,"

Attested by.....

Chief Officer.

Treasurer.

SEAL OF MUNICIPALITY.

Or

Signed by.....

Deputy Minister of
Municipal Affairs.

(Where the parcel has been finally acquired, neither the seal of the municipality nor the signature of the chief officer shall be necessary.)