

Bill No. 29 of 1935.

A BILL TO PROVIDE FOR THE CONSOLIDATION AND
PAYMENT OF INSTALMENTS OF CERTAIN
LOCAL TAXES.

NOTE.

Provision is made by this Bill for the consolidation of arrears of taxes collectable by a municipality.

It will, on enactment, be in force at all times in improvement districts and in such other municipalities as pass a by-law on or before the first of September in any year adopting the Act for that year. (Section 3)

The right to consolidate is available to the owner of any parcel against which there is a subsisting tax recovery notification except parcels containing not more than five acres in improvement districts or municipal districts and not in a hamlet, and is not extinguished until the parcel has been sold by the municipality. (Section 4)

A person desirous of consolidation must apply in writing to the municipality before the fifteenth of December and his application must be accompanied by a deposit equal to one-fifth of the consolidated taxes which is returnable to him if a consolidation is not effected. (Section 5)

The municipality may in its discretion grant or refuse the application (section 6), and the applicant may appeal from any refusal by a municipality other than an improvement district to the Minister who may either deal with the appeal or refer to persons designated by him for the purpose or to the Tax Consolidation Board. (Section 7)

In case of a refusal in an improvement district the appeal is to the Tax Consolidation Board or to such other persons as may be designated by the Minister for the purpose. (Section 8)

In case the application to consolidate is granted, provision is made for the making of a consolidation agreement and the suspension of tax recovery proceedings. (Section 9)

The procedure to be followed upon the completion of a consolidation agreement is set out in sections 10 to 13, both inclusive.

The Lieutenant Governor in Council is empowered to prescribe the rate of discount allowable in respect of any specified description or classification of any arrears of taxes which have been consolidated and to classify taxes or any description of taxes having regard to the number of years the same are in arrears; and the arrears of taxes consolidated are reduced by the prescribed discount.

Consolidated taxes are payable by five equal consecutive annual instalments payable together with the current taxes on or before the fifteenth of December in each year. (Section 14)

Provision is made for the extension of a consolidation agreement for one year in cases of crop failure and other circumstances. (Section 15)

The removal of buildings from land subject to a consolidation agreement is prohibited. (Section 16.)

Upon default of payment of instalments and current taxes, or the removal of buildings from the land, the agreement may be cancelled (section 17) and thereupon the tax recovery proceedings are revived and the arrears of taxes and penalties payable are those which would have been payable if no consolidation agreement had been made. (Section 20)

Provision is made for municipal borrowings against consolidated taxes. (Section 22)

The omission by a reporting authority to report taxes in arrears in respect of a parcel as to which a consolidation agreement is made involves the forfeiture of the unreported taxes.

Any city may by resolution declare the Act applicable thereto and may by by-law approved by the Minister make such modification to the provisions of the Act as are necessary to adapt it to its circumstances.

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 29 of 1935.

An Act to provide for the Consolidation and Payment of
Instalments of Certain Local Taxes.

(Assented to _____, 1935.)

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

1. This Act may be cited as "*The Local Tax Arrears
Consolidation Act, 1935.*"

2. In this Act, unless the context requires a contrary
meaning—

- (a) "Arrears of taxes" or "arrears" means taxes owing in respect of more than one year as at the first day of January in any year, and includes all penalties for the non-payment of any tax and also all costs and lawful expenses incurred by a municipality in respect of any parcel, up to the date of the completion of the consolidation agreement;
- (b) "Consolidated taxes" means arrears of taxes less the amount of any discount by which the same may be reduced;
- (c) "Land" includes the improvements thereon and minerals therein or thereunder;
- (d) "Minister" means the Minister of Municipal Affairs;
- (e) "Municipality" means every city, town, village, municipal district and improvement district;
- (f) "Owner" includes any person who has the right to become the owner of any parcel under the terms of any agreement for sale, and any mortgagee of a parcel;
- (g) "Parcel" means every parcel of land separately assessed on the assessment roll of a municipality;
- (h) "Registrar" means the Registrar of Land Titles of the Land Registration District in which a parcel is situate;
- (i) "Tax" means any tax collectable by a municipality and includes taxes levied and payable to a school district pursuant to *The School Assessment Act, 1931*;
- (j) "Tax Consolidation Board" means the board established by *The Tax Consolidation Act, 1927*;

- (k) "Tax recovery proceedings" means any and all proceedings under *The Tax Recovery Act, 1929*, and *The Tax Recovery Act, 1922*, in any city to which that Act applies;
- (l) "Treasurer" means the Clerk of any city, the secretary-treasurer of a town or village, and the treasurer or secretary-treasurer of a municipal district, and in relation to an improvement district means the Minister.

3.—(1) The provisions of this Act authorizing the consolidation of any arrears of taxes shall be in force in all improvement districts and in such municipalities other than improvement districts which have in any year prior to the first day of September of that year passed a by-law, in such form as may be from time to time prescribed by the Minister, declaring that during the year in which the by-law is passed arrears of taxes may be consolidated pursuant to the provisions of this Act.

(2) No by-law passed under this section shall have any force or effect unless and until the same has been submitted to and approved by the Minister in writing.

4.—(1) On or before the fifteenth day of December in any year any person who is the owner of any parcel in a municipal district or improvement district containing not less than five acres, or who is residing in a hamlet and is the owner of any parcel situate in the hamlet, or who is the owner of any parcel whatsoever in any city, town or village, in case there is a subsisting notification under *The Tax Recovery Act, 1929*, on the certificate of title to such parcel, may apply to consolidate the arrears of taxes in respect of every such parcel owned by him in the manner hereinafter provided in case he so applies before the land is sold by the municipality and before the final acquisition thereof by the municipality.

(2) Any person who was the owner of any parcel of land finally acquired by a municipality under the provisions of *The Tax Recovery Act, 1929*, and also the personal representatives, son, daughter, and widow or widower of any such person, may apply to consolidate the arrears of taxes in the manner hereinafter provided in any case where—

- (a) the parcel has not been disposed of by the municipality by sale; and
- (b) the applicant is at the time of the application and has been for a period of twelve months immediately preceding that time a *bona fide* resident thereon.

5. Every application to consolidate arrears of taxes shall be made in writing to the treasurer of the municipality in which the parcel, the subject matter of the application, is situated, and shall be accompanied with a deposit of one-fifth of the amount of arrears of taxes on the parcel as at the preceding first day of January together with any pen-

alties subsequently accrued thereon, and the deposit which shall be applied on the applicant's taxes if the application is granted and otherwise shall be repaid to him.

6.—(1) In the case of land in a municipality other than an improvement district, the secretary-treasurer shall bring every application so received by him before the council at the next meeting thereof after the receipt thereof, and the council shall at that meeting or an adjournment thereof, proceed to deal with the applications, and if after hearing whatever may be alleged with respect to any application and making such enquiry into the circumstances of the applicant as it deems proper, the council is satisfied that it is reasonable, convenient and proper so to do, it shall grant the application, otherwise the application shall be refused.

(2) A special meeting of the council may be held at the call of the Mayor or Reeve at any time for the purpose of dealing with any applications.

7.—(1) The secretary-treasurer shall notify the applicant in writing as to whether or not the application has been granted, and in case the application has not been granted, that the applicant is entitled to an appeal to the Minister.

(2) In case the applicant desires to appeal from the council to the Minister, he shall within seven days of the receipt of the notice from the secretary-treasurer as to the decision of the council, deliver to the secretary-treasurer a notice in writing to the effect that he desires to appeal and upon receipt of any such notice the secretary-treasurer shall transmit to the Minister by mail a copy of that notice together with a copy of the memorandum made by him with reference to the matter under section 6 of this Act, and upon receipt thereof the Minister shall appoint a place and time for the determination of the appeal and shall cause to be sent by registered mail to the applicant and the secretary-treasurer a notice of the place and time so appointed and shall proceed to hear and determine the appeal at the time and place so appointed and any adjournment thereof, and for that purpose may receive evidence in any manner he deems proper, either by writing or orally and either sworn or unsworn, and if it appears to the Minister that in the circumstances the application ought to be granted he shall allow the appeal, otherwise the appeal shall stand dismissed.

(3) The Minister may by writing under his hand from time to time designate one person or several persons as the person or persons who may hear and determine in his stead any specified appeal, or any specified class or classes of appeals, or appeals generally, and may by writing under his hand refer the hearing and determination of any specified appeal, or any specified class or classes of appeals, or appeals generally to the Tax Consolidation Board: and for the purposes of dealing with any appeal, the Tax Consolida-

tion Board and every person so designated shall have all the powers by this section conferred upon the Minister and shall be subject to all the provisions thereof.

(4) In case any appeal is heard and determined by the Tax Consolidation Board or by a person designated for that purpose by the Minister, the Board or other person shall report the decision on the appeal in writing to the Minister.

(5) Upon the determination of the appeal, the Minister shall cause a notice in writing to be sent to the applicant and to the secretary-treasurer setting out the decision.

8.—(1) In the case of land in an improvement district, the Minister shall cause such enquiries to be made into the circumstances of the application as he deems proper by such person or persons as he may from time to time designate for that purpose, and if he is thereby satisfied that it is reasonable, convenient and proper so to do, he may grant the application, otherwise the application shall be refused.

(2) The applicant may appeal from the decision of the Minister to the Tax Consolidation Board by sending by mail to the Minister a notice in writing of his intention so to do within fourteen days after he has been notified of the decision of the Minister refusing the application; and thereupon the Minister may reconsider his previous decision and may make such further enquiries into the matter as he deems fit for that purpose, and unless he grants the application within thirty days after the receipt of the notice the Minister shall cause a copy of the notice to be sent to the Tax Consolidation Board or to such person as may be designated by him as the person to hear appeals; and upon receipt of the notice the Board or the designated person, as the case may be, shall proceed in the same manner as is provided in the case of an appeal in respect of land in a municipal district for the hearing and determination of an appeal.

9.—(1) In case any application for a consolidation agreement is granted, either by the council or on appeal, the treasurer in the case of a municipality other than an improvement district, or such person or persons as may be designated by the Minister for the purpose in the case of an improvement district, shall proceed to prepare in duplicate a consolidation agreement in the form in the schedule to this Act, and shall sign the same for and on behalf of the municipality, and shall deliver or send by mail the same to the applicant for execution, and upon the applicant returning a copy of the said agreement duly executed to the treasurer the said arrears of taxes and penalties shall be consolidated and shall be payable together with all taxes for the time being payable at the times, in the amounts, and in the manner prescribed by this Act, and so long as the said agreement remains in force, all proceedings under *The Tax Recovery Act, 1929*, in respect of all the consolidated taxes shall be suspended, and none of the provisions of the

said Act shall apply thereto, and all powers and remedies for the collection of the consolidated taxes by distress or suit, or otherwise shall be suspended and unenforceable.

(2) In case the mortgagee of a parcel enters into a consolidation agreement as to the taxes payable with respect to that parcel, the mortgagee shall be under no greater or different liability for the payment of the consolidated taxes than he would have been under if he had not entered into the agreement.

(3) No consolidation agreement shall have any force after the fifteenth day of December of the year in which the consolidation agreement is made unless the current taxes are sooner paid.

10. Upon the completion of every consolidation agreement, the treasurer shall—

- (a) make a notation on the assessment roll in respect of the parcel that arrears of taxes have been consolidated; and
- (b) file the agreement in his office, and make a record thereof in the tax consolidation record which shall be in such form as the Minister may prescribe; and
- (c) in case the parcel is liable to taxation in a collecting school district, notify in writing the secretary-treasurer thereof of the fact that the arrears of taxes owing in respect of the parcel have been consolidated.

11. After being notified that a tax consolidation agreement has been entered into in respect of any parcel, the secretary-treasurer of a school district which collects its own taxes shall notify the treasurer in writing of the amount of all taxes levied from time to time by the school district in respect of the parcel as soon as possible after the same are levied so long as the consolidation agreement remains in force.

12. Upon the due payment of the first instalment of the consolidated taxes as well as the current taxes, the Treasurer shall notify the Registrar in writing under his hand that the taxes in respect of the parcel have been consolidated.

13. Upon the receipt by the Registrar of any notice from a treasurer that any taxes in respect of any parcel have been consolidated pursuant to this Act, he shall make an entry on the title to the parcel, and thereafter and until the said entry is cancelled or superseded pursuant to the provisions of this Act, he shall not register or give effect to any assurance of any kind affecting the title to the parcel which depends for its validity upon *The Tax Recovery Act, 1929*, or any proceedings previously instituted or commenced thereunder.

14.—(1) The amount of the arrears of taxes which are the subject matter of a consolidation agreement shall be reduced by such discount as may be prescribed by the Lieutenant Governor in Council as the discount which may be allowed in respect of such parts of the said arrears as consist of any particular kind or description of tax or any prescribed classification of any tax.

(2) The Lieutenant Governor in Council may from time to time—

(a) classify taxes or any particular kind or description of taxes having regard to the number of years for which the same are in arrears; and

(b) prescribe a rate of discount which rate shall not exceed fifteen per centum as the rate by which the arrears of any particular kind or description of tax or of the arrears of any classification thereof shall be reduced.

(3) All consolidated taxes shall be payable by five equal annual instalments, and the first instalment shall be paid as provided in section 5 of this Act and the current taxes on the parcel shall be paid on or before the fifteenth day of December of the year in which the consolidation agreement is made, and the second, third, fourth and fifth instalments shall be paid on or before the fifteenth day of December of each of the next succeeding four years together with the current taxes on the parcel for the year in which the instalment is paid.

(4) In the case of any parcel situate in a school district which collects its own taxes, the treasurer shall, unless the current taxes payable to that district have been paid, receive, together with the instalment and the current taxes collectable by him, the amount of the current taxes payable to the school district and upon so doing shall immediately thereafter remit the amount of the school taxes to the secretary-treasurer of the school district.

15.—(1) The council may upon the application in writing of any person liable to make the payments under a consolidation agreement, with the approval of the Minister, by resolution extend that agreement for one year and waive the payment of the instalment payable under the agreement for any one year of the years for which the agreement is made in case it is thought proper so to do by reason of crop failure or other circumstances.

(2) In case a consolidation agreement is so extended and the payment of an instalment is so waived—

(a) that instalment shall be payable on or before the fifteenth day of December of the fifth year after the year in which the consolidation agreement was made, together with interest at the rate of five per centum per annum from the fifteenth day of December of the year in which it was due and the current taxes for

the fifth year, and in default of payment being so made, the consolidation agreement shall be deemed to be in default;

(b) the agreement shall be read and construed as if it had originally provided that the waived instalment should not be payable and that the waived instalment should be payable on or before the fifteenth day of December of the fifth year after the year in which the consolidation agreement was made together with interest at five per centum per annum from the fifteenth day of December of the year in which it was due and the current taxes for the said year.

(3) The applicant for an extension and waiver may appeal from a refusal to grant the application in the same manner and subject to the same conditions as are provided in the case of a refusal to grant an application to consolidate arrears of taxes; and sections 6 and 7 thereof shall *mutatis mutandis* apply to all appeals under this section.

16.—(1) As long as any tax consolidation agreement 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) Upon the conviction of any person who is liable under a tax consolidation agreement of an offence under this section, the municipality may if it deems proper by resolution declare the agreement to be in default.

17.—(1) Upon the occurrence of any default in the payment of any annual instalment payable on account of consolidated taxes in respect of any parcel as well as the current taxes, or upon the passing by the council of a resolution declaring a tax consolidation to be in default pursuant to the last preceding section, the treasurer shall, not later than the thirty-first day of March in the year following the year in which the default occurred notify in writing the Registrar to whom the notification was given of the fact that the arrears of taxes have been consolidated; and thereupon the Registrar on receipt of such notice shall enter upon the title to the parcel affected thereby a memorandum to the effect that the tax consolidation agreement has been cancelled and thereupon any tax recovery proceedings theretofore commenced shall be resumed as if the day upon which the last

mentioned memorandum is made had been the same day as that upon which the first entry was made by the Registrar of the tax consolidation agreement.

(2) If the land in respect of which the default is made is situated in a school district which collects its own taxes, the treasurer of the municipality shall, upon default being made, notify in writing the secretary-treasurer of the school district thereof.

18. Upon the payment in full of the consolidated taxes payable in respect of the parcel, together with all current taxes, the treasurer shall in case the municipality has not obtained a certificate of title thereto direct the Registrar to whom the notification under *The Tax Recovery Act, 1929*, was given to remove the notification from the title, and in case a certificate of title has been issued to the municipality, shall notify the Registrar that in pursuance of a consolidation agreement the arrears of taxes under which the tax recovery proceedings were taken have been paid in full, and thereupon the Registrar shall cancel the original notification and the certificate of title to the municipality, and shall restore to the title any documents or entries which had been previously cancelled by him by reason of the tax recovery proceedings.

19. The Registrar shall, as soon as it conveniently may be done after making the last mentioned memorandum, mail to each person who appears upon the register as the owner or a first mortgagee of the parcel affected, a notice to the effect that the tax consolidation agreement affecting the parcel has been cancelled.

20. If any default is made in any year in the payment of the instalment payable in that year in respect of the consolidated taxes and the current taxes payable in that year, or either of them, all discounts theretofore given in respect of any instalment and any current taxes shall be cancelled and the current taxes together with the amount of the total unpaid balance of the consolidated taxes then remaining unpaid, together with all penalties which but for the consolidation have accrued thereon since the date of the receipt of the application to consolidate shall become forthwith due and payable, and all remedies for the enforcement of payment shall be revived and shall have the same force and effect as if the taxes had not been consolidated.

21. Every Registrar shall perform any act or thing which he is directed by this Act to perform without any fee.

22.—(1) In case the council of a municipality has borrowed on the security of any taxes consolidated pursuant to this Act, the council may pass a by-law providing for

the issuing of debentures to the amount of such borrowings and for the purpose of repaying the same, such debentures to be for a term of not more than five years.

(2) The power to issue debentures under this section shall be in addition to all other powers for that purpose of the council of a municipality and shall not affect those powers as to the amount it is authorized to borrow or otherwise.

(3) For the purpose of borrowing on the security of current taxes, no account shall be taken of any amount included therein as instalments of taxes consolidated pursuant to this Act.

(4) Notwithstanding the provisions of any other Act to the contrary, it shall not be necessary to submit any by-law made pursuant to this Act to a vote of ratepayers, nor to obtain the approval of the Board of Public Utility Commissioners to any such by-law or to the issue of any debentures pursuant thereto.

(5) Every debenture issued pursuant to this section shall create in favour of the holder thereof a first charge upon so much of the consolidated taxes as was security for the money originally borrowed and interest thereon; and upon payment the treasurer shall place to the credit of a special debenture trust fund all sums paid on account of the taxes so charged, and the said fund shall be used for the purpose of paying off the sums secured by the debenture, and for no other purpose whatsoever so long as the debenture is unredeemed.

23. The treasurer shall, upon receiving any instalment of consolidated taxes, proceed to make a *pro rata* distribution of the same amongst the various kinds of taxes comprised in the consolidated taxes: and the amounts so distributed shall be deemed to be the amounts then respectively paid to the treasurer on account of the various kinds of taxes comprised in the consolidation.

24. In case a reporting authority has omitted to make any report which it is required to make pursuant to *The Tax Recovery Act, 1929*, as to any arrears of taxes on any parcel as to which a consolidation agreement is made pursuant to this Act, the reporting authority shall forfeit any right to collect any arrears of taxes as to which there was no such report made as at the date of the granting of the application to consolidate.

25. Nothing in this Act shall affect any right of a municipality or reporting authority to recovery by distress or otherwise any taxes payable in respect of a parcel which is the subject matter of a consolidation agreement and which are not a part of the arrears of taxes consolidated thereby.

26. The Lieutenant Governor in Council may from time to time make such regulations not inconsistent with this Act as may be deemed necessary to carry out the provisions of this Act according to their true intent or to meet cases which may arise and for which no specific provision is made by this Act.

27. Any city which has by resolution declared that the provisions of this Act shall be applicable thereto may by by-law modify or vary the provisions of this Act for the purpose of adapting the same to its conditions and to the extent that it may be necessary to afford relief in respect of arrears of taxes payable to it, which relief shall not be greater than the relief provided by this Act; and every by-law so made shall be submitted to the Minister for his approval, and upon being approved by him but not sooner or otherwise, shall have the same force and effect as if it had been expressly enacted as a part of this Act.

28. This Act shall come into force on the day upon which it is assented to.

THE SCHEDULE

THE LOCAL TAX ARREARS CONSOLIDATION ACT, 1935

An Agreement made the _____ day of _____, 1935.
Between:

OF THE FIRST PART,

—and—

OF THE SECOND PART,

pursuant to the provisions of *The Local Tax Arrears Consolidation Act, 1935*.

Whereas the taxpayer has an interest (as registered owner, or under an agreement to purchase, or under an option to purchase or as a mortgagee) in a certain parcel of land, namely:

situate in the said municipality; and

Whereas the taxpayer is desirous of consolidating the arrears of taxes and paying the same in the manner prescribed by the said Act and has deposited \$ _____ upon applying for this agreement;

And whereas it is shown that the amount of the consolidated taxes is as follows:

Total arrears of taxes	\$.....
Less total appropriate discounts	\$.....
Consolidated taxes	<u>\$.....</u>

Now therefore, in pursuance of the said Act it is hereby agreed and declared as follows:

1. The taxpayer will pay the said sum of \$ _____ being the amount of the consolidated taxes, by five equal annual instalments on or before the days following, namely:

On application, the sum of \$ _____, deposited as aforesaid;

On or before the fifteenth day of December, 19 _____ ;

On or before the fifteenth day of December, 19 _____ ;

On or before the fifteenth day of December, 19 _____ ;

On or before the fifteenth day of December, 19 _____ ;

2. The taxpayer will pay on or before the fifteenth day of December in each of the years above mentioned all current taxes payable in respect of the land above described.

3. This agreement is made subject to all the provisions of the said Act as to the suspension of tax recovery proceedings in respect of the said parcel, and as to the consequences of any default in making any of the payments aforesaid upon the dates fixed for the payment thereof, and shall be read and construed as if those provisions had been embodied herein.

Dated at _____
this _____ day of _____, 193_____.

Treasurer.

Taxpayer.

FIFTH SESSION
SEVENTH LEGISLATURE
25 GEORGE V
1935

B I L L

A Bill to Provide for the Consolidation
and Payment of Instalments of Cer-
tain Local Taxes.

Received and read the

First time

Second time

Third time

HON. MR. ALLEN.

EDMONTON:
W. D. McLEAN, KING'S PRINTER
1935