

Bill No. 78 of 1938.

A BILL TO AMEND AND CONSOLIDATE THE AGRICULTURAL RELIEF ADVANCES ACT.

NOTE.

This Bill makes provision for the furnishing to necessitous farmers of seed grain, fodder, feed, grain, fuel oil and lubricating oil, during the year 1938 and any subsequent year.

In order to provide for the payment of any expenditures or liabilities in respect of any such advances, the Lieutenant Governor in Council is empowered to authorize the Provincial Treasurer to borrow on behalf of the Province from any chartered bank and to guarantee on behalf of the Province the repayment with interest of any sums advanced or to be advanced by any chartered bank on account of any such advances; and to guarantee on behalf of the Province the repayment with interest of any advances made by a chartered bank to any municipal district or improvement district.

Every municipal district and improvement district is required to make provisions to the satisfaction of the Minister for furnishing to necessitous farmers who are resident thereof, such commodities as may be authorized to be furnished by Order in Council.

The Provincial Treasurer is authorized to lend out of the General Revenue Fund, to a municipal district or improvement district, sums required to furnish necessitous farmers with such commodities.

Municipal districts and improvement districts are empowered to borrow from the Provincial Treasurer, or with the approval of the Minister from any chartered bank, sums required for the purpose of furnishing necessitous farmers with such commodities.

The borrowing powers granted to municipal districts and improvement districts are in addition to the powers granted to them by any other statute.

The amount of seed grain which may be advanced to any person in one year is not to exceed an amount which together

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with any seed which such person possesses, is sufficient to seed his arable land as follows:

condition for seeding amounting to:	Seed may be provided for:
50 acres	50 acres
100 "	75 "
200 "	120 "
300 "	165 "
400 "	210 "
500 "	255 "
600 "	300 "

All advances made under the Act are to be approved by the Minister or his representative and are to be made by the municipality or its authorized agents.

The municipality is to charge the recipient of any advance such an amount as it shall deem reasonably sufficient to cover the costs thereof and the expenses entailed in respect thereof.

The municipality is required to take a note from the recipient for the price of the advance bearing interest at the same rate of interest as is payable by the municipality in respect of its borrowings under the Act, together with a written agreement for a lien in the prescribed form, and the names of persons receiving advances under the Act are to be published within ninety days from the making of the first advance in *The Alberta Gazette* and a caveat is to be filed in the proper Land Titles Office.

Upon the publication of the notice in *The Alberta Gazette* within the said period of ninety days, a lien is created in favour of the Minister and any person by whom the advance to which the lien relates was made, and any person who is liable as a guarantor in respect thereof upon all crops grown from any seed advanced within twelve months after the making of the advance, and upon all crops grown by the recipient in the year in which the advance is made and in each of the next ensuing three years, upon land in respect of which the advance is made.

No person who has received an advance may during the year in which the advance was made and in the next ensuing three years so long as the advance remains outstanding, dispose of any grain which is subject to a lien without the consent in writing of the municipal district or the improvement district as the case may be, and any person contravening this provision is liable on summary conviction to a fine not exceeding one hundred dollars and costs and the amount owing in respect of the advance and in default of payment to imprisonment for a term of not more than one year.

The lien created by the Act is not affected by any execution in the hands of a sheriff at the creation of the lien or by any

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encumbrance except only mortgages or encumbrances under *The Bills of Sale Act* by way of security for the purchase price of necessaries.

In addition to the lien on the crop, provided that the caveat before referred to is filed within ninety days, a charge is created for the amount of the advance upon the land of the recipient taking priority over all encumbrances which were not registered at the time of the filing of the lien.

Provision is made for the keeping of proper records by the proper officers of all advances made and all payments made in respect thereof.

Provision is made for the taking of security in the matter of a mortgage on live stock to secure the repayment of advances in the case of persons who are lessees or home-steaders or purchasers under agreements for sale.

Any person who obtains any commodity and uses the same for any purpose other than the purposes for which the same were furnished, without the consent of the municipality, is made guilty of an offence and liable to a fine of not more than one hundred dollars and costs and in default of payment to imprisonment for a term not exceeding ninety days.

All advances are to be made in kind and not otherwise.

The member of the Council of a municipality or any officer of a municipality who votes for or knowingly permits the improper borrowing or misapplication of moneys received under the authority of the Act, is made liable to a fine not exceeding one hundred dollars nor less than twenty dollars and in default of payment to imprisonment for a term not exceeding two months.

Provision is made for the discharge of liens and charges in respect of an advance which has been repaid and for the writing off of uncollectible accounts for advances to the extent of fifty per cent.

The Lieutenant Governor in Council is empowered to enter into an agreement with the Government of Canada for the guarantee by that Government of guarantees given by the Lieutenant Governor in Council for the repayment of sums borrowed by municipalities.

This Bill replaces *The Agricultural Relief Advances Act* which is repealed.

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. 78 of 1938.

An Act to Amend and Consolidate The Agricultural Relief
Advances Act.

(Assented to _____, 1938.)

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 Agricultural Relief
Advances Act, 1938.*"

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

- (a) "Crops" means crops of grain whether growing or
severed, and includes all grain obtained therefrom;
- (b) "Minister" means the member of the Executive
Council for the time being charged with the adminis-
tration of this Act;
- (c) "Municipality" means a municipal district or im-
provement district;
- (d) "Necessitous farmer" means a farmer who, by
reason of circumstances beyond his control, is un-
able out of his own resources, to provide himself
with any of the commodities which may be furnished
to him pursuant to this Act;
- (e) "Seed grain" means any seeds of wheat, oats, rye,
barley and flax which are of a quality, when cleaned
or otherwise processed, which will be in the opinion
of the Field Crops Commissioner equivalent to seed
grade as established by *The Seeds Act*, being chapter
185 of the Revised Statutes of Canada, 1927.

3. The Lieutenant Governor in Council may authorize
the Provincial Treasurer, in order to provide for the pay-
ment of any expenditures or liabilities in respect of any
advances made or to be made pursuant to this Act during
the year 1938 and during every year thereafter for the
purpose of furnishing to necessitous farmers all or any of
the following commodities, namely, seed grain, fodder, feed
grain, fuel oil and lubricating oil,—

- (a) To borrow on behalf of the Province, from any
chartered bank such sums as may be required for the
said purpose and to expend any sums so borrowed
for the purpose of making any such advances in such
manner as may be prescribed by Order in Council;

- (b) To guarantee on behalf of the Province the repayment with interest thereon at such rate and on such terms as may be agreed upon of any sums advanced or to be advanced by any chartered bank on account of any such advances; and
- (c) To guarantee on behalf of the Province the repayment with interest thereon at such rate and on such terms as may be agreed upon of any advance made or to be made by a chartered bank to any municipality for the purpose of making any of the aforesaid advances.

4. Every municipality shall make provisions to the satisfaction of the Minister for furnishing to necessitous farmers who are resident in the municipality such commodities as are for the time being authorized to be furnished to necessitous farmers by any Order in Council made pursuant to section 3.

5. The Provincial Treasurer is hereby authorized to lend out of the General Revenue Fund, without any further or other appropriation than that made by this Act to any municipality such sums as may be required to furnish necessitous farmers in the municipality with any commodity which may be furnished to necessitous farmers pursuant to this Act.

6. A municipality may borrow from time to time from the Provincial Treasurer, or with the approval of the Minister from any chartered bank, such sums as it may from time to time require for the purpose of furnishing to necessitous farmers in the municipality any commodity which may be furnished to necessitous farmers upon such terms as to repayment and interest as shall, subject to the other provisions of this Act, be agreed upon.

7. With the approval of the Minister, the Council of a municipality may from time to time by by-law which shall be in Form A in the Schedule to this Act, authorize the borrowing of any money required for the purchase of any commodity which the municipality is, by section 4, required to provide for necessitous farmers pending the receipt of any loan under this Act from the Provincial Treasurer and may authorize the hypothecation to any bank of any money to be so received by way of security and any money borrowed pursuant to this section shall be repayable within twelve months of the date of the borrowing.

8. Borrowing powers granted to municipalities under the provisions of this Act shall be in addition to the borrowing powers granted to such municipalities under any other statute or statutes relating thereto.

9. In respect of improvement districts the Minister of Municipal Affairs shall have the same powers of borrowing

from the Provincial Treasurer and from any other person as are conferred upon the Council of a municipal district, and may exercise those powers in any manner he may think fit.

10. All moneys borrowed pursuant to this Act by any municipality shall be kept as a separate fund distinct from any other funds of the municipality and a full, separate and distinct account shall be kept of all such moneys.

11.—(1) Any money borrowed by a municipality under any of the provisions of this Act for seed grain advances shall be expended in the purchase and distribution of seed grain to be supplied to necessitous farmers for seeding the lands of such farmers and for no other purpose whatsoever.

(2) The amount of seed grain so purchased and distributed shall not in the case of any applicant exceed in any year an amount which, together with any seed which the applicant is shown by his application to possess is sufficient to seed the arable land of the applicant for the time being in condition to be seeded as follows:

If the applicant has arable land in condition for seeding amounting to:	Seed may be provided for:
50 acres	50 acres
100 acres	75 acres
200 acres	120 acres
300 acres	165 acres
400 acres	210 acres
500 acres	255 acres
600 acres	300 acres;

Provided the acreage of arable land in condition for seeding is an amount other than an amount mentioned above, the acreage for which seed may be advanced shall be calculated upon the basis of the foregoing table; and

Provided further that no seed shall be supplied to any applicant in excess of the amount necessary for seeding 300 acres of land.

12.—(1) All advances of any commodity shall be approved by the Minister or by some person appointed by him for that purpose and shall be made by the municipality or by an agent or agents of the municipality duly appointed for that purpose, by resolution of the Council in the case of a municipal district and by the Minister of Municipal Affairs in the case of an improvement district.

(2) The municipality shall charge the recipient of any commodity advanced pursuant to this Act such an amount as it shall deem reasonably sufficient to cover the cost of the commodity and the expenses entailed by the purchase and distribution thereof and no more.

(3) Upon the making of every advance of any commodity, the municipality shall take from the recipient thereof his note or notes for the price thereof and such notes

shall bear interest at the same rate as the rate of interest payable by the municipality in respect of borrowings made by the municipality for the purposes of this Act and shall be payable on demand at the office of the secretary-treasurer in the case of a municipal district or the office of the Minister of Municipal Affairs in the case of an improvement district, as the case may be, and shall also take from the recipient a written agreement for a lien which may be in Form B in the Schedule to this Act upon all crops grown or to be grown in the year in which the advance is made and in the next ensuing three years upon the land in respect of which the advance is made and upon any other land farmed by the recipient and a charge upon the interest of the recipient in the lands in respect of which the advance is made and shall immediately thereafter send the note and the agreement to the Minister.

(4) Within ninety days of the making of any advance for the first time to any person pursuant to this Act, the Minister shall cause to be published in *The Alberta Gazette* a notice to the effect that such person has received such an advance and shall file in the office of the proper Land Titles Registration District a caveat in Form C in the Schedule to this Act.

(5) In case the requirements of subsection (4) have been complied with in respect of any person, it shall not be necessary to give any further notice or file any further caveat in the case of any further advances to that person.

(6) No lender shall be under any obligation to see that any approval by the Minister, requisite for the making of any advance under this Act, has been given.

13.—(1) If within ninety days after the making of any advance pursuant to this Act the Minister causes to be published in *The Alberta Gazette* a notice to the effect that an advance has been so made, setting out the name and post office address of the recipient, there shall be created, as and from the date of such publication,—

- (a) a lien upon all crops grown from any seed advanced pursuant to this Act at any time within twelve months after the advance referred to in the notice, having priority over all claims and demands of whatsoever kind, nature or description, save and except only as is otherwise provided by this Act to the contrary;
- (b) a lien upon all crops grown by the recipient in the year in which the advance referred to in the notice is made and in each of the next ensuing three years upon the land in respect of which the advance was made, having priority over all claims and demands of whatsoever kind, nature and description save and except only as is otherwise provided by this Act to the contrary, and in any case such lien shall cease to exist in the event of foreclosure or sale by the

owner of a mortgage which is or becomes a first registered encumbrance within the meaning of subsection (2) of section 17 of this Act from and after the date of such foreclosure or sale.

(2) The lien created by this section shall be enforceable by the Minister and by any person by whom the advance to which the lien relates was made or any person who is liable as a guarantor in respect of such advance.

14. None of the provisions of *The Bills of Sale Act* shall apply to any agreement for a lien taken pursuant to this Act.

15.—(1) No person who has received any advance of any commodity under this Act shall, during the year in which the advance is made and in the next ensuing three years, so long as any money is owing in respect thereof, either by himself, his servant or agent, directly or indirectly, sell, ship or otherwise dispose of any grain which is subject to a lien for such advance without the consent in writing of the municipality or some person duly authorized by the municipality for that purpose, and any person contravening the provisions of this section shall be guilty of an offence and shall be liable upon summary conviction therefor to a fine not exceeding one hundred dollars and costs, to which sum shall be added the amount owing in respect of the advance, and in default of payment forthwith, the person convicted shall be liable to imprisonment for a term of not more than one year.

(2) No complaint shall be made and no information shall be laid with respect to any offence under this section except within twelve months from the time when the matter of complaint or information arose.

16.—(1) The lien upon any crops created pursuant to this Act shall not be affected by any execution in the sheriff's hands as at the time of the creation of the lien or by any encumbrance whenever created except only mortgages or encumbrances given under *The Bills of Sale Act* as security for the purchase price of necessaries within the meaning of section 32 of that Act whenever created.

(2) Every lien upon crops created pursuant to this Act shall be enforceable by seizure and by sale thereof, in the same manner as is provided for the recovery by distress of taxes owing to the municipality in which the crop is grown, at any time before severance and at any time after severance wherever the same may be found except only in cases where a buyer has acquired a good title thereto pursuant to the provisions of section 24a of *The Sale of Goods Act*.

(3) The persons empowered to enforce any such lien and to seize and sell any crops subject thereto shall be such persons as may be appointed in writing by the Minister for the purpose and the secretary-treasurer of the municipal district

in which the crops are grown and any person appointed in writing by the secretary-treasurer for that purpose.

(4) The costs chargeable in respect of seizure and sale under this section shall be those payable to bailiffs under *The Distress Act*.

17.—(1) If the Minister causes to be filed with the Registrar of Land Titles for the appropriate Land Registration District in respect of any advance made pursuant to this Act a caveat in Form C in the Schedule hereto, any sum which may be owing in respect of such advance made under the provisions of this Act at any time within a period of ninety days before the filing of the caveat or at any time thereafter shall be a charge upon the land of the recipient within the Land Registration District of such Registrar.

(2) Such charge shall have precedence over all other encumbrances against the land except taxes and sums which may by law be charged against the land in the same manner as taxes and any mortgage which is a first registered encumbrance against the land at the time the said lien is filed by the municipality or which, being registered at that time, subsequently becomes a first registered encumbrance by the discharge of previous encumbrances, and except sums remaining unpaid in respect of advances previously made under any statute providing for seed grain advances.

(3) The lien created by this section shall be enforceable by the municipality and by any person by whom the advance was made or by any person who is liable as a guarantor in respect of such advance.

18. The Minister shall furnish to any person entitled to enforce any charge or lien with attested copies of any documents in his possession relating to such charge or lien and produce the original of such documents when required so to do for the purpose of enforcing the charge or lien.

19.—(1) The secretary-treasurer shall enter up, in a list to be kept by him for the purpose, all advances as they are from time to time made, together with the names of the applicants and the land upon which, according to the application, the advance is to be made, the promissory notes and liens taken therefor, and all payments made thereon.

(2) Where application is made in respect of land the title to which is in the Crown in the right of the Province, the municipality may, with the consent of the Minister of Lands and Mines, make an advance to an occupant of such land, and the amount advanced shall be a first charge against the interest of the applicant in such land.

20.—(1) In any case where the applicant for an advance pursuant to this Act is a person whose interest in the land which he farms is that of lessee or a homesteader or a purchaser under an agreement of sale, the municipality may

require that the applicant shall give to the municipality a mortgage upon his live stock and its increase to secure the repayment of the amount of the advance with interest.

(2) All the provisions of *The Bills of Sale Act* shall apply to every such mortgage, except,—

- (a) that the time for registration shall be sixty days instead of thirty days as prescribed by that Act relating to registration;
- (b) that the provisions of section 11 of *The Bills of Sale Act* shall not apply to such a mortgage; and
- (c) that no fee shall be payable upon the registration of any such mortgage.

(3) In any case where a mortgage is taken under this section to secure an advance of feed or fodder for the feeding of any live stock which is subject to any prior mortgage, charge or encumbrance, the mortgage so taken shall have priority over every other prior mortgage, charge or encumbrance upon such live stock.

21.—(1) Any person who obtains any commodity from a municipality under the provisions of this Act and uses such commodity for any purpose other than such purposes as are specified in the application therefor, without the consent of the municipality or its duly authorized agent shall be guilty of an offence and liable upon summary conviction to a penalty of not more than one hundred dollars and costs and in default of payment to imprisonment for a term not exceeding ninety days.

(2) No prosecution under this section shall be instituted or carried on save upon the information of some person duly authorized to institute or carry on such prosecution either by a resolution of the Council in the case of a municipal district or by the Minister of Municipal Affairs in the case of an improvement district.

(3) No complaint shall be made and no information shall be laid with respect to any offence under this section except within twelve months from the time that the matter of complaint or information arose.

22. Every advance made pursuant to this Act shall be made in kind and not otherwise, and under no circumstances shall any money be advanced in lieu of or in addition to the commodity advanced.

23. Any member of the Council of a municipality or any officer of a municipality who votes for or knowingly permits the improper borrowing or misapplication of moneys received under the authority of this Act, or the misapplication of any commodity purchased thereunder, shall be liable upon summary conviction to a penalty not exceeding one hundred dollars nor less than twenty dollars, and in default of payment forthwith after conviction to imprisonment for a term not exceeding two months.

24. Each municipality advancing any commodity under the authority of this Act shall on or before the first day of January in each year cause to be prepared and forwarded to the Minister a return showing the names of all persons to whom the advances have been made during the previous year and the nature thereof and the amounts thereof.

25. In the case of a municipal district, the secretary-treasurer, and, in the case of an improvement district, the Minister of Municipal Affairs may upon the payment in full of all sums owing by any person in respect of any advance made pursuant to this Act file with the Registrar of Land Titles with whom the caveat has been filed a discharge which may be in Form D in the Schedule to this Act, and publish a notice in *The Alberta Gazette* to the effect that all sums so owing have been paid.

26. Every Registrar of Land Titles shall receive and file any caveat delivered to him for filing pursuant to this Act and shall make all necessary entries and memoranda with reference thereto, and shall register every caveat and every discharge thereof without fee or charge.

27. The Provincial Treasurer may from time to time refer for investigation and a report to the Seed Grain and Relief Adjustment Board the question as to whether or not any amounts owing in respect of advances made pursuant to this Act are collectable or otherwise, and every such board shall inquire and report thereon, and if any such amount is reported to be uncollectable the Minister may declare the same to be uncollectable and upon such declaration being made and notification thereof being given to the municipality the Council shall repay to the Provincial Treasurer fifty per centum of the amount of the deficiency together with accrued interest thereon, and if the same is not duly paid it may be deducted from any grant of any kind at any time payable by the Government of the Province to the municipality.

28. For the purpose of carrying out the provisions of this Act according to their true intent and of supplying any deficiency therein, the Minister may,—

- (a) make regulations not inconsistent with the spirit of this Act which shall have the same force and effect as if incorporated herein;
- (b) authorize or require the use of forms and from time to time alter, amend or cancel the same and substitute new forms in place of those cancelled.

29. Any by-law enacted by any municipal district which has for its object the provision of seed grain advances and which has been approved by the Minister shall have the same force and effect as if the same were a by-law enacted pursuant to section 6 of this Act.

30. The Lieutenant Governor in Council is hereby empowered to enter into an agreement with the Government of Canada for the guarantee by that Government, on such terms and conditions as may be agreed upon, of guarantees given by the Lieutenant Governor in Council under the authority of section 3 of this Act for repayment of sums borrowed by municipalities under this Act.

31. *The Agricultural Relief Advances Act*, being chapter 33 of the Statutes of Alberta, 1936, being chapter 25 of the Statutes of Alberta, 1937, are hereby repealed.

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

SCHEDULE.

FORM A.
(Section 7.)

BY-LAW NO..... OF THE MUNICIPAL DISTRICT OF

A By-law pursuant to *The Agricultural Relief Advances Act*.

Under the authority of *The Agricultural Relief Advances Act* the Council of the Municipal District of enacts as follows:

1. This municipal district may for the year 19....., advance feed grain and/or fodder and/or seed grain and/or fuel oil and lubricating oil (as the case may be) on credit to farmers residing on patented lands within the municipal district who, owing to bad crops or other adverse conditions, are unable to procure the same, and the Council may, to enable it to make such advances, borrow upon the promissory note or notes of the municipal district \$..... for the purchase of a supply thereof for distribution.

2. The purchase price of all commodities advanced hereunder shall be secured by promissory notes payable on demand and by registered liens in favour of the municipal district upon all crops grown upon the lands named in the application for the season after the date thereof and by a charge upon the said lands.

Done and passed at this day of, A.D. 193.....

(SEAL)
Reeve.

Approved,
Minister of Municipal Affairs. Secretary.

FORM B.
(Section 12.)

LIEN.

I,, of the Municipal District of (or Improvement District No.....), in the Province of Alberta, farmer, having obtained an advance of from the said municipal district or improvement district (hereinafter called "the municipality") to the value of dollars, for which I have this day given the municipality my promissory note, payable on demand, with interest at the rate of six per centum per annum, which said advance is made in respect of Section, Township....., Range....., West of the..... Meridian, in the said Province, hereby agree that the said amount and interest thereon together with \$....., the amount of my unpaid indebtedness to the municipality for advances made for for the year 193..... and interest together with any sums in which I may, within the next ensuing twelve months, become indebted to the municipality for any further advances made to me by the municipality pursuant to the said Act shall be and remain a charge and lien upon all crops grown upon the said lands during the year 193....., and shall also be a charge upon all my interest in the before mentioned lands.

Signed at, in the Province of Alberta, the day of, A.D. 193.....

(Witness sign here.) (Borrower sign here.)

FORM C.
(Section 12.)

The Agricultural Relief Advances Act.

CAVEAT.

To the Registrar of the Alberta Land Registration District:

Take notice that the Municipal District of, No..... (or Improvement District No.....) has a lien or charge pursuant to *The Agricultural Relief Advances Act* upon the following land, namely:

Dated the day of, 193.....

(To be signed by the Secretary-Treasurer in the case of a Municipal District, or by the Minister of Municipal Affairs or his Deputy in the case of an Improvement District.)

FORM D.
(Section 17.)

DISCHARGE OF LIEN.

I do hereby certify that, of the
Municipal District of (or
Improvement District No.....), in the Province of
Alberta, farmer, has paid all money due on or to become due
in respect of the lien or charge of the under mentioned
municipality for advances pursuant to *The Agricultural
Relief Advances Act* upon the Section,
Township....., Range....., West of the.....
Meridian, in the Province of Alberta, in respect of which
lien a caveat was filed in the
Alberta Land Registration District, on the day
of, 193....., as No.....,
and that the lien or charge of the undersigned is therefore
discharged.

Dated this day of, A.D. 193.....

(SEAL)

*(To be signed by the Secretary-Treasurer in the case of a
Municipal District, or by the Minister of Municipal
Affairs or his Deputy in the case of an Improvement
District.)*

SIXTH SESSION
EIGHTH LEGISLATURE

1 GEORGE VI

1938

BILL

An Act to Amend and Consolidate
The Agricultural Relief
Advances Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. LOW.

EDMONTON:
A Shnitka, King's Printer
1938