

Bill No. 56 of 1939.

A BILL TO AMEND THE TAX RECOVERY ACT, 1938.

NOTE.

This Bill makes a number of amendments to *The Tax Recovery Act, 1938*.

Section 3 is amended so as to enable the treasurer to cancel any permission given by him to a reporting authority to collect arrears of taxes.

Section 4 is amended so as to make it unnecessary to include in the tax arrears list, taxes on parcels subject to an existing notification or caveat.

Section 5, subsection (2) is amended to prohibit the Registrar of Land Titles from cancelling any certificate of title to a parcel or any part of a parcel subject to tax recovery proceedings without the consent of the treasurer of the municipality instituting such proceedings, save and except only upon the devolution of the title thereto by the operation of law.

Section 6 is amended so as to give the municipality the right to the quiet and peaceable possession of any parcel as and from the date the parcel is offered for sale by public auction and empowers the municipality to obtain possession thereof.

Section 7 is amended by extending its provisions to holders of mechanics' liens and caveators.

Section 9 is amended to require the consent of the Minister for the sale by a city or town of any parcel of land upon which any person resides or which is in the actual occupation of any person.

Section 10 is amended to provide that a reporting authority loses any claim against a parcel for unreported taxes.

Section 18 is amended with respect to the sale either before or after final acquisition of a parcel which is not sold the first time it is offered for sale by public auction after the placing of a tax recovery notification on the title thereto. In the case of improvement districts the Minister may prescribe as to the price, time and conditions of sale; in the case of municipal districts and villages the council

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may provide for such rates by by-law which must be approved by the Minister; whilst in the case of cities and towns the council may provide by by-law for such rates, but no sale by a city or town of land upon which any person is residing or which is actually occupied may be made without the consent of the Minister.

Section 20 is amended by setting out specifically the encumbrances subject to which a parcel is finally acquired by the municipality.

Paragraph (b) of section 21 is amended to make the same applicable to the cases set out in paragraph (a).

Section 22 is amended to provide for the notification of persons shown by the records in the Land Titles Office to have any interest in a parcel sold by a municipality by private sale after the thirty-first day of March, 1939, and before the time for its redemption has expired; it is further amended as to the assessment and taxation of a parcel to which the municipality has taken title, during the time it remains the property of the municipality.

Section 25 is amended to make it clear that surplus moneys include any accruals.

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. 56 of 1939.

An Act to Amend The Tax Recovery Act, 1938.

(Assented to _____, 1939.)

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 Tax Recovery Act, 1938, Amendment Act, 1939.*"

2. *The Tax Recovery Act, 1938*, being chapter 82 of the Statutes of Alberta, 1938, is hereby amended as to section 3 by striking out the word and figures "section 10", where the same occur in subsection (3), and by substituting therefor the following: "section 10, or until such permission is cancelled in writing by the treasurer".

3. The said Act is further amended as to section 4 by striking out the words "more than a year", where the same occur in subsection (1), and by substituting therefor the words "more than a year, except parcels which are for the time being subject to any subsisting tax notification or caveat registered under any Act for the recovery of taxes".

4. The said Act is further amended as to section 5 by striking out subsection (2) and by substituting therefor the following:

"(2) Where a tax recovery notification or caveat has been placed upon the title to a parcel pursuant to the provisions of any Act for the recovery of taxes, until such notification or caveat is removed, the Registrar shall not cancel the certificate of title to the parcel or to any part thereof without the consent of the treasurer of the municipality at whose instance the notification or caveat was so placed, save and except only upon the devolution of the title thereto by the operation of law."

5. The said Act is further amended as to section 6 by striking out subsection (4) and by substituting therefor the following:

"(4) As and from the date upon which any parcel is offered for sale by public auction, the municipality shall be entitled to the quiet and peaceable possession of the parcel, and for the purposes of obtaining such possession, the treasurer and any persons authorized by him for the purpose, shall be entitled to enter upon the parcel and take possession

thereof for and in the name of the municipality, and if in so doing, resistance is encountered, the municipality shall with the consent in writing of the Minister, be entitled to apply for and obtain an order for the possession of the parcel in proceedings instituted for that purpose in a court of competent civil jurisdiction."

6. The said Act is further amended as to section 7 by striking out the words "registered owners" and by substituting therefor the words "registered owners, caveators, holders of mechanics' liens and mortgagees".

7. The said Act is further amended as to section 9 by striking out subsection (5) and by substituting therefor the following:

"(5) Every parcel offered for sale by any city or town upon which some person is residing or of which some person is in actual occupation and every parcel offered for sale by any municipality other than a city or town shall be so offered upon the express condition that no sale effected thereof shall have any force or effect unless and until the same has been approved in writing by the Minister."

8. The said Act is further amended as to section 10 by striking out subsection (3) and by substituting therefor the following:

"(3) Any reporting authority which omits 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 against the parcel for the recovery of such taxes."

9. The said Act is further amended as to section 18 by striking out the same and by substituting therefor the following:

"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 either before or after final acquisition by the municipality as hereinafter provided.

"(2) In the case of an improvement district, the Minister may prescribe as to the price, time, terms and conditions of the sale of the parcel.

"(3) In the case of municipal districts and villages the Council may by by-law prescribe as to the price, time, manner, terms and conditions of the sale of the parcel, but no by-law so enacted shall have any force or effect unless and until such by-law shall have been approved by the Minister.

"(4) In the case of cities and towns the Council may by by-law prescribe as to the price, time, manner, terms and conditions of the sale of any parcel and shall provide that no parcel shall be sold without the consent in writing of the Minister upon which any person is residing or which is in the actual occupation of any person.

"(5) No by-law enacted by any municipality pursuant to this section shall be read oftener than twice at any one meeting of the Council.

"(6) A municipality may with the consent of the Minister sell a portion of any parcel, if such portion is or is about to become 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."

10. The said Act is further amended as to section 20 by striking out the same and by substituting therefor the following:

"**20.**—(1) Subject to the provisions of section 18 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 or caveat shall be finally acquired by the municipality concerned, and such municipality may take title thereto and thereupon shall become the owner thereof subject to such encumbrances against the parcel as are set out in subsection (6) of section 22, and subject to any subsisting right under this Act to redeem the same.

"(2) Subject to the provisions of subsection (5) of section 9, upon the final acquisition of a parcel, the municipality may dispose of such parcel or any part thereof or any improvement thereon subject to the provisions of *The Public Works Act* and *The Town Planning Act, 1929*".

11. The said Act is further amended as to section 21 by striking out the words "in case such payment is made by any other person", where the same occur in paragraph (b) in subsection (2), and by substituting therefor the following: "in case the approval of the Minister under the last preceding paragraph is not given, or in case such payment is made by any person other than a person mentioned in such paragraph".

12. The said Act is further amended as to section 22,—

(a) by striking out subsection (2) and by substituting therefor the following:

"(2) In any case where a parcel is sold by private sale by a municipality at any time after the thirty-first day of March, 1939, and before the time within which the parcel may be redeemed has expired, the Registrar shall not register any transfer of the title to such parcel made in respect of such sale, unless,—

"(a) he shall have caused to be sent by registered mail in case the parcel has been finally acquired by the municipality to all persons who appear upon the records of The Land Titles office to have any interest in the parcel immediately before the final acquisition thereof, and in all other cases, to all persons who appear by such records to have any interest

in the parcel at the date of the delivery to the Registrar of the transfer thereof, a notice to the effect that the parcel has been sold pursuant to this Act, and that the right of any such person to redeem the parcel pursuant to any of the provisions of this Act will cease and determine unless such right is exercised within thirty days from the date of the mailing of such notice; and

“(b) until the expiration of the thirtieth day after the date of the mailing of such notice in case the parcel has not been redeemed within the said thirty days; and the Registrar shall send such notice upon being notified by the treasurer that such a sale has been made or if he has not been so notified upon the receipt of the transfer.”

(b) by striking out subsection (7) and by substituting therefor the following:

“(7) (a) Upon the issuance of a certificate of title to a parcel to a municipality under this section and thereafter until disposed of by a municipality or until the period of redemption has expired whichever event first happens, the parcel shall continue to be assessed by the municipality and any reporting authority, and the taxes payable to the municipality and any reporting authority in respect thereof shall continue to be charged against the parcel and carried over from year to year without collection in each year of the said period and thereafter no taxes shall be levied thereon unless and until it is disposed of by a municipality by sale or lease; and all taxes so charged and carried over shall be a part of the taxes due in respect of the parcel for the purpose of paragraph (c) of subsection (1) of section 24.

“(b) In any case where a municipality disposes of a parcel by sale or lease after the expiration of the period for the redemption thereof, the treasurer shall thereupon calculate the amount of the taxes and penalties which would have been payable in respect of the parcel to the municipality and to any reporting authority in each and every year during which it was not assessed as if it had been assessed in each such year and for the purposes of any such calculation the assessed value of the parcel shall be the assessed value thereof as shown by the assessment roll for the last year in

which it was assessed and the rate of taxation shall be the rate at which the taxes of the municipality or reporting authority were levied in each year in respect of which the calculation is made; and the amount so calculated shall be added to and form part of the arrears of taxes theretofore charged against the parcel, and shall be deemed to be a part of the taxes due in respect of the parcel for the purpose of paragraph (c) of subsection (1) of section 24."

13. The said Act is further amended as to section 25 by striking out the words "any surplus moneys which may remain", where the same occur in subsection (1), and by substituting therefor the following: "any surplus moneys which may remain together with any money accruing thereto".

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

No. 56.

EIGHTH SESSION
EIGHTH LEGISLATURE
3 GEORGE VI
1939

BILL

An Act to Amend The Tax Recovery
Act, 1938.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1939