

Bill No. 71 of 1939.

A BILL TO IMPLEMENT THE PROVISIONS OF THE
MUTUAL IMPROVEMENTS ACT, 1938,
OF CANADA.

NOTE.

This Bill is supplementary to the provisions of *The Municipal Improvements Assistance Act, 1938*, of the Dominion.

It empowers any municipality as defined in section 2 to borrow from the Dominion money which may be lent under *The Dominion Act*, and to comply with the provisions of that Act in making any such borrowing.

By-laws authorizing such borrowings are declared to be money by-laws, and subject to the approval of the Board of Public Utility Commissioners and the persons entitled to vote on money by-laws.

The Provincial Government is empowered to guarantee the due repayment of moneys so borrowed, and upon such guarantee being given the municipality is required to enter into the covenant with the Provincial Government set out in Form A, and the charge created thereby may be assigned to the Dominion Government; and the Provincial Government may require from the municipality a mortgage in Form B of the property in respect of which the borrowing is made.

Other provisions of the Act deal with matters of a subsidiary or incidental character.

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. 71 of 1939.

An Act to Implement the Provisions of The Municipal Improvements Assistance Act, 1938, of Canada.

(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 Municipal Improvements Assistance (Alberta) Act.*"

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

(a) "Municipality" includes a city, town, incorporated village, county, township, rural municipality, local improvement district or a province where such province is administering directly territory not organized into county or municipal units, and also includes any board, commission or agency duly authorized to act on behalf of one or more municipalities in the construction and operation of a self-liquidating project;

(b) "Principal Act" means *The Municipal Improvements Assistance Act, 1938*, of Canada.

3. Notwithstanding the provisions of any other Act, but subject to the provisions of this Act, a municipality may by by-law borrow from the Minister of Finance of Canada moneys which he is authorized to lend under the principal Act, and may also by by-law authorize the mayor, overseer or reeve and the clerk or secretary-treasurer, as the case may be,—

(a) to enter into an agreement with the said Minister in conformity with the principal Act and the regulations thereunder;

(b) to execute and deliver any covenant, promissory note, debenture, mortgage, hypothec, charge or other instrument, and to perform or do any other act or thing necessary for the purpose of implementing this Act, the principal Act and the regulations thereunder.

4. Every by-law passed pursuant to section 3 shall be a money by-law and all the provisions of any Act which are

applicable to the municipality which passes the by-law requiring the approval of a money by-law by the Board of Public Utility Commissioners and the submission to and approval thereof by the burgesses, ratepayers or electors of the municipality shall apply to any by-law so passed.

5. All intended applications by municipalities to the Minister of Finance for loans shall be forwarded to the Clerk of the Executive Council for submission to the Lieutenant Governor in Council, and the Lieutenant Governor in Council may approve or refuse approval of any application.

6. Where an application is for the purpose of establishing or extending, improving or renewing a system of water works or of constructing, altering, extending, improving or renewing a common sewer or system of sewerage, the application shall not be approved until the certificate of the Minister of Public Health approving the proposed undertaking has been obtained under the provisions of *The Public Health Act*.

7. Moneys borrowed by a municipality under the authority of this Act shall be used only for the purpose for which they are borrowed.

8.—(1) Revenues from the waterworks system, gas plant, electric light system or other works constructed or extended, improved or renewed, in whole or in part, from the proceeds of the loan shall, to the extent mentioned in subsection (2), be held by the council and the treasurer of the municipality concerned as a separate trust fund distinct from all other funds of the municipality.

(2) The council shall cause the treasurer to place and the treasurer shall place in the fund so much of such revenues as is required to liquidate instalments payable by the municipality to the Minister of Finance as they fall due, and all such instalments shall be paid out of the fund.

9. If the revenue from the waterworks system, gas plant, electric light system or other works constructed, or extended, improved or renewed, are not sufficient to meet an instalment, the amount of the deficit shall be paid into the said fund from the general revenues of the municipality.

10. The Lieutenant Governor in Council may, subject to such terms and conditions as are deemed expedient, guarantee the repayment of moneys borrowed or to be borrowed by a municipality pursuant to this Act and the principal Act, together with the interest accruing thereon, and may deliver to the municipality an undertaking, in such form as the Minister of Finance may require, that the Province will guarantee to the Government of Canada the payments for interest on and amortization of the loan.

11.—(1) In consideration of a guarantee given or to be given under section 10 the municipality shall covenant with the Government of the Province, represented by the Provincial Treasurer, as set forth in Form A in the Schedule to this Act.

(2) The Lieutenant Governor in Council may authorize the Provincial Treasurer to assign to the Minister of Finance the charge granted to the Provincial Treasurer by such covenant.

12.—(1) As security for repayment by a municipality of moneys paid by the Province under any guarantee so given, the Lieutenant Governor in Council may require the municipality concerned to give and upon such request the municipality shall give, in favour of the Provincial Treasurer, representing His Majesty in the right of the Province, a first mortgage, in Form B in the Schedule to this Act, on the works to be constructed or the works to be extended, improved or renewed, in whole or in part, from the proceeds of moneys borrowed by the municipality;

Provided that, if such security is taken by the Minister of Finance under the authority of the principal Act, that security shall have priority over any security taken by the Provincial Treasurer.

(2) The Lieutenant Governor in Council may authorize the Provincial Treasurer to assign to the Minister of Finance any mortgage given in favour of the Provincial Treasurer under this section.

13. Constructions, extensions, improvements or renewals by a municipality from the proceeds of a loan may be either within or outside the municipality or partly within and partly outside the municipality.

14. Debentures issued by a municipality as security for a loan, as required by the principal Act, shall not limit the borrowing power of a municipality under any statute in force relating thereto.

15. Any member of the council of a municipality or any officer thereof who fails to comply with the provisions of section 8 shall be guilty of an offence and liable upon summary conviction to a fine of not less than one hundred dollars nor more than five hundred dollars and in default of payment to imprisonment for a term not exceeding two months.

16.—(1) If a municipality applies moneys borrowed under this Act otherwise than as hereby required, the members of council who vote for such application shall be jointly and severally liable for the amount diverted and the same may be recovered by the municipality by action in any court of competent jurisdiction.

(2) If the municipality, upon the request in writing of a ratepayer or of the holder of any of the debentures of the municipality, refuses or neglects for one month to bring an action therefor, the action may be brought either by any ratepayer on behalf of himself and other ratepayers or by any debenture holder.

(3) The members of council who vote for such application as is mentioned in subsection (1) shall be disqualified from holding any municipal office for two years.

17. The provisions of the Act of incorporation or charter of any city, in respect of that city and of *The Town and Village Act* in respect of any town or village and of *The Municipal District Act* in respect of any municipal district, where not inconsistent with the provisions of this Act, the principal Act or the regulations thereunder, shall apply in so far as may be necessary for the purpose of carrying out the last mentioned provisions according to their true intent.

18. The Lieutenant Governor in Council may from time to time alter, amend or cancel the forms contained in the Schedule and substitute new forms in place of those cancelled.

19. This Act shall be deemed to have been in force on and from the first day of August, 1938, and all acts and things heretofore done in conformity or substantial conformity therewith are ratified and confirmed and declared to have been validly done, and shall have effect accordingly.

THE SCHEDULE.

FORM A.
(Section 11.)

CHARGE.

Under *The Municipal Improvements Assistance (Alberta) Act*.

Application having been made by (Insert here name of the municipality), hereinafter referred to as the municipality, to the Minister of Finance for a loan of Dollars (\$.....), principal amount to enable the municipality to pay the cost of a self-liquidating project as defined in *The Municipal Improvements Assistance Act, 1938 (Canada)* described as follows:

(Insert here complete description of self-liquidating Project.)
in accordance with the plans and specifications submitted to the Minister of Finance.

And application also having been made by the municipality to the Government of the Province of Alberta requesting the Province to give it an undertaking to guarantee to the Government of Canada the payments for interest on and amortization of the said loan to the municipality.

In consideration of the said loan and the undertaking by the Province of Alberta to guarantee payment of the same, the municipality hereby grants to the Provincial Treasurer of the Province of Alberta, his successors or assigns, a first charge upon all revenues derived from the waterworks system (or as the case may be) of the municipality, which system is to be extended, improved or renewed (or as the case may be) out of the proceeds of the loan.

And the municipality hereby undertakes to place so much of such revenues from such waterworks system (or as the case may be) in a separate trust fund distinct from all other funds of the municipality as is required to liquidate instalments payable by the municipality to the Minister of Finance as they fall due and to pay all such instalments out of the fund.

In the event of the revenues from the waterworks system (or as the case may be) not being sufficient to meet an instalment when due, the municipality hereby undertakes to pay the amount of the deficit into said fund from the general revenues of the municipality.

And the municipality hereby agrees that if default is made in payment of any sum so due such sum shall be deemed to be and shall be a special debt due to the Provincial Treasurer of the Province of Alberta, his successors or assigns, from the municipality of such nature that a *mandamus* will be granted to enforce the payment thereof, and an action may be brought accordingly, in which a *mandamus* may be claimed.

And the municipality further agrees that where it makes default for a period of twenty-one (21) days in payment of any sum due on or in respect of any security issued under *The Municipal Improvements Assistance Act, 1938 (Canada)* or under *The Municipal Improvements Assistance (Alberta) Act*, the Provincial Treasurer of the Province of Alberta, his successors or assigns, or the persons entitled to such amount, may, instead of or in addition to bringing an action or actions, apply to the court of competent jurisdiction for the appointment of a receiver, and any receiver so appointed (subject to any direction which may be given by the court) shall from time to time raise, as hereinafter mentioned, by or out of the revenues of the waterworks system (or as the case may be) or the tax rate, as herein provided, sufficient money to pay the amount, the payment of which is in default, and all sums due while he is receiver on or in respect of any such security together with all costs, charges and expenses incurred in or about the appointment of such receiver and the execution of his duties hereunder, including a proper remuneration for his

trouble, and shall render to the municipality the balance, if any, remaining in his hands after making the said payments.

The receiver shall, for the purposes aforesaid, have the same power as the defaulting municipality of collecting the revenues from the waterworks system (or as the case may be) or levying the tax rate, and the receiver shall have such access to or use of the books of accounts, records, vouchers, documents and other papers as he may require.

The municipality hereby authorizes the Provincial Treasurer of the Province of Alberta to assign, transfer and set over to whomsoever he may desire all the benefits and advantages to be derived from this charge.

In witness whereof the municipality has hereunto affixed its corporate seal under the hands of its proper officers.

[SEAL]

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FORM B.
(Section 12.)
MORTGAGE.

Under *The Municipal Improvements Assistance (Alberta) Act.*

Whereas the (insert here the name of municipality), hereinafter referred to as the "municipality" under the provisions of *The Municipal Improvements Assistance Act, 1938 (Canada)* entered into an agreement dated the day of, 19....., with the Minister of Finance of Canada to make a loan to the municipality to pay the whole or any part of the cost of a self-liquidating project as defined in *The Municipal Improvements Assistance Act, 1938 (Canada)*, described as follows:

(Insert here complete description of self-liquidating project.)

in accordance with the plans and specifications submitted to the Minister of Finance.

And whereas the municipality has obtained an undertaking from the Government of the Province of Alberta to guarantee to the Government of Canada the payment for interest on and amortization of the loan.

Now therefore the (insert here name of municipality) being registered as owner of an estate in fee simple in possession of all that piece of land described as follows: All and singular that certain piece or parcel of land situate in the Province of Alberta in the Dominion of Canada, being composed of (insert here full description of lands.) in consideration of the said loan and of the said undertak-

ing to give the said guarantee agreement hereby covenants with the Provincial Treasurer of Alberta, his successors or assigns as follows:

1. That the said municipality will within twenty-one days after a request in writing by the said Provincial Treasurer, his successors or assigns shall have been given personally to the secretary-treasurer, clerk or other official of the municipality or left for or posted in a prepaid letter addressed to the said secretary-treasurer, clerk or other official, at the office of the said municipality, pay to the Provincial Treasurer all or every sums or sum of money in respect of which the Provincial Treasurer shall for the time being be under any liability in respect of the said guarantee, and also will on such request as aforesaid pay to the Provincial Treasurer, his successors or assigns, all and every sums or sum of money, costs, charges and expenses which the Provincial Treasurer shall have paid, sustains or been put to under or by reason of the said guarantee, with interest thereon respectively at the rate of two per cent per annum from the time of each payment.

2. During the currency of this mortgage which shall continue in full force and effect until the full amount of the loan of \$..... and interest thereon has been fully paid and satisfied shall insure and keep the premises hereinbefore described insured against loss or damage by fire, storm or tempest to its full insurable value in one or more insurance companies, mutual or otherwise, doing business in Canada, and shall duly pay all premiums and other sums payable for that purpose, and shall produce to the Provincial Treasurer, his successors and assigns, for inspection when and if required every such policy of insurance and the receipt for the last premium payable thereunder.

3. The municipality further covenants and agrees that in default of payment of any sum or sums on demand as hereinbefore set forth and in case such default continues for the space of one calendar month, proceedings for foreclosure may be taken in addition to all other remedies.

4. It is hereby declared and agreed that any fixture or improvements hereafter put upon the said premises shall be part of the realty and form a part of this security, and shall not be removed therefrom during the continuance of the mortgage.

5. The municipality further covenants with the Provincial Treasurer as follows:

- (a) That the municipality has a good title to the said land.
- (b) That the municipality has the right to mortgage the land.
- (c) That on default the Provincial Treasurer shall have quiet possession of the land.
- (d) That he shall have such possession free from all encumbrances.

(e) That the municipality will execute such further assurance of the land as may be requisite.

(f) That the municipality has done no act to encumber the land.

And for the better securing to the Provincial Treasurer, his successors or assigns, the payment in manner aforesaid, the municipality hereby mortgages to the Provincial Treasurer, his successors or assigns, all its estate and interest in the said land.

The Provincial Treasurer, his successors or assigns, may at any time without leave, grant, assign and transfer all his right, title and interest in this mortgage and in the land described therein.

In witness whereof the municipality has hereunto affixed its corporate seal under the hands of its proper officers the day of, 19.....

[SEAL]

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EIGHTH SESSION
EIGHTH LEGISLATURE

3 GEORGE VI

1939

BILL

An Act to Implement the Provisions
of The Municipal Improvements
Act, 1938, of Canada.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. LOW.

EDMONTON:
A. Shnitka, King's Printer
1939