

PART VI

TAX COLLECTION

Payment of taxes

- 111 (1)** The council may determine
- (a) the due date for taxes;
 - (b) that taxes are payable in one sum or by installments.
- (2)** Where a council has not set a due date for payment of taxes, taxes are due and payable as soon as the tax rate is set.
- (3)** Where payment of taxes by installments is authorized, the council may provide that in default of payment of an installment when due, the balance of taxes outstanding are immediately due and payable.

Payment of taxes by installments

- 112 (1)** The council may, by policy, provide for the payment of taxes by installments before the tax rate is set.
- (2)** The policy shall set out the date or dates on which the installments are due and the manner in which the amount of each installment is calculated.
- (3)** Each installment shall be payable by the person assessed for the property for the current fiscal year.
- (4)** The amount of each installment shall bear interest, beginning on the date on which it falls due, at the same rate of interest determined for overdue taxes.
- (5)** Installments paid shall be applied in part payment of the taxes on that property for the current fiscal year.

Incentives and interest

- 113 (1)** The council may provide incentives for the early payment of taxes.

(2) The council may impose interest, at a rate determined from time to time by policy, for non-payment of taxes when due.

(3) Interest shall be added to the unpaid taxes and shall be collected as if the interest originally formed part of the unpaid taxes.

(4) Interest shall be calculated according to the length of default in payment.

(5) The council may provide that interest be compounded, not more frequently than monthly.

(6) The council may provide that interest shall be calculated from the date the tax rate is set if taxes are not paid within thirty days of the due date.

(7) The council may adopt a formula by which, and the time when, the rate of interest on overdue taxes is automatically adjusted.

(8) Unless the council otherwise provides, incentives shall be allowed and interest charged on area rates and rates collected for any other body at the same rates and under the same terms and conditions as the council has provided for its own taxes.

Tax collection where assessment appeal

114 (1) Taxes on a property may be collected or recovered even if the assessment of the property is under appeal.

(2) After an assessment appeal is determined and any appeal from that decision is decided, any taxes that were overpaid shall be refunded to the appellant, together with interest at a rate set by the council by policy.

(3) Where a council has not adopted a policy on the rate of interest, the rate is the rate of interest on overdue taxes.

Taxes are first liens

115 Change in use tax, forest property tax and recreational property tax are first liens upon the property in respect of which they are levied.

Taxes in respect of other properties

116 Where property is

(a) vested in Her Majesty or any person for Imperial, Dominion or Provincial purpose; and

(b) occupied by a person other than in an official capacity,

the occupant shall be taxed in respect of the property, but the property may not be sold for taxes.

Tax bills

117 (1) Every person liable to pay taxes shall be served with a tax bill showing the amount of taxes for the current year, the due date and all arrears of taxes by that person or in respect of the property.

(2) The tax bill shall be served personally or mailed to the address shown on the assessment roll or any more current address known to the treasurer.

(3) Where taxes are due on property of persons unknown or the address of the owner is unknown, the tax bill shall be posted in a conspicuous place on the property.

(4) The tax bill shall contain a concise statement of the terms of incentives for early payment of taxes, interest on overdue taxes and installment payment options allowed by the council.

(5) Where there is an error in the name of a person in a tax bill, the taxes may be collected from the person intended to be taxed if the person is taxable and can be identified.

Certificate as prima facie evidence

118 A certificate purporting to be signed by the treasurer that a person is liable to the municipality for the sum claimed for taxes and that a specified balance has not been paid is, without proof of the signature or the official character of the treasurer, *prima facie* evidence in any court of the facts stated.

Power to sue for and recover taxes

119 (1) The treasurer may, at any time, sue for and recover all taxes and other sums due to the municipality in an action in the name of the municipality as if the amount were a debt.

(2) Any proceedings for the collection of taxes pursuant to this Act may be pursued even if a judgment for taxes has been entered.

(3) A municipality may set off a sum due from a person to the municipality against a claim that person has against the municipality.

Warrant

120 (1) A judge of the provincial court, mayor, warden or councillor may, upon application by the treasurer, issue a warrant in Form A in Schedule A, with any variations that circumstances may require, to distrain the goods of a person indebted to the municipality for taxes who is about to leave the municipality, even if the taxes are not yet due.

(2) An application made pursuant to subsection (1) shall be in the form of an affidavit setting out the

(a) amount in which the person is indebted to the municipality; and

(b) belief, with or without statement of the grounds of the belief, of the treasurer that unless the person's goods are distrained the taxes will be lost to the municipality.

Issue of warrant

121 At any time after the due date for taxes, the treasurer may proceed to issue warrants, in Form A in Schedule A or to like effect, for the collection of all taxes then due and unpaid.

121A *Articles that are exempt from seizure under Section 45 of the Judicature Act are exempt from seizure under a warrant issued under Section 121.*

Limitation on issuance of warrant

122 A warrant may be issued at any time within six years from the time when the taxes become due and remains valid until executed.

Warrant enforcement

123 (1) A warrant issued pursuant to the authority of this Act may be directed to any police officer, civil constable, by-law enforcement officer or other employee of the municipality and it may be executed by any of them whether or not it is directed to that person.

(2) The person to whom a warrant is directed shall execute it and pay the proceeds over to the municipality with a return in Form B in Schedule A or to like effect.

(3) A warrant may be executed at any place within the Province by an officer having jurisdiction in that place or by an officer having jurisdiction in the municipality that issued it.

(4) The person to whom a warrant is directed shall levy the taxes for which the warrant was issued, with collection costs and expenses, by distress and sale of the goods and chattels of the person or of the goods and chattels in that person's possession, wherever situate.

(5) The property levied upon may be removed to any place for safekeeping and the cost of removal and storage are part of the collection expenses.

(6) The person executing a warrant is entitled to the fees set by council, by policy, and the fees and expenses shall be added to the amount to be collected pursuant to the warrant.

(7) Where a warrant is executed without payment of the full amount due, it may be executed again or a new warrant may be issued and executed for the amount remaining unpaid.

(8) Where the person executing a warrant is unable to collect the amount due under the warrant, the warrant and a statement of the proceedings taken pursuant to it shall be returned to the treasurer.

Sale of distrained goods

124 (1) When goods are distrained pursuant to this Act, the person distraining them shall advertise the goods for sale in a newspaper circulating in the area where the sale is to take place at least seven days before the sale takes place.

(2) A sale pursuant to subsection (1) may be adjourned from time to time.

(3) If the taxes for which the distress has been made and the costs, charges and expenses incurred in connection with the distress are not paid at or before the time appointed for the sale or an adjournment of it, the goods shall be sold at public auction to pay the taxes, costs, charges and expenses, including the expenses of the sale.

Procedure for remaining balance

125 (1) If a balance remains after payment of the taxes, costs, charges and expenses, it shall be paid to the person in whose possession the property was when the distress was made if no claim to the balance is made by any other person within thirty days after the sale.

(2) A claim to the balance may be made within thirty days after the sale by a person who claims ownership of the property sold or entitlement by lien or other right to the surplus.

(3) Where a claim is made by a person and is admitted by the person who had possession of the property when it was distrained, the balance shall be paid over to the claimant.

(4) Where the claim is contested, the balance shall be paid to the treasurer, who may retain it until the right to it is determined by action at law or otherwise.

(5) Nothing in this Section renders the municipality, its treasurer or other officer liable for costs.

Taxes on property of deceased person

126 (1) The property of a deceased person is liable for taxes levied with respect to the property before or after death, and the property is liable to be sold for non-payment of taxes.

(2) The tax bills may be served on the executor or administrator, sent to the last address of the deceased person or posted upon the property.

(3) Where there is no executor or administrator, property of a deceased person may be levied on and sold for non-payment of taxes.

(4) The executors or administrators shall pay the taxes out of the property of the deceased person that comes into their hands and are personally liable for the taxes to the extent of the property or income of the deceased person that comes under their control.

Property assessed to person in representative capacity

127 (1) Where property under the control of a person as executor, administrator, trustee, guardian or agent is assessed to that person in a representative capacity, any proceedings shall be kept separate and distinct from any based on property assessed personally to that person.

(2) Where a person assessed for property in a representative capacity fails to pay the taxes on the property, the person is personally liable for the taxes to the extent that the property or the income from it is sufficient to pay the taxes.

(3) A person assessed for property in a representative capacity may raise the amount of the taxes by sale, mortgage or lease of the property.

(4) Where more than one person is assessed for a property in a representative capacity, notice to any one of them is notice to all of them.

Security interest in personal property

~~128 (1) In this Section, "security holder" means the holder of a bill of sale, chattel mortgage, debenture, installment payment contract, hire purchase agreement, security interest as defined in the *Personal Property Security Act* or other security interest in personal property.~~

~~(2) No security holder shall take possession of personal property and no person or body shall seize, levy on, distrain for rent on or sell under a court order personal property unless all taxes levied against the owner or person in possession are first paid.~~

~~(3) A person or body levying upon, or selling, personal property shall, before selling it, pay the taxes and add them to the amount claimed.~~

~~(4) A security holder or a person or body who takes possession of personal property, on behalf of a security holder or pursuant to a court order, is personally liable to the municipality for the taxes.~~

~~(5) The property may be levied upon, seized, taken and sold under warrant by the municipality to pay the taxes, costs, charges and expenses.~~

128 (1) In this Section and Section 129, "security interest" has the same meaning as in the *Personal Property Security Act*.

(2) Where personal property, other than a mobile home, is taken or repossessed pursuant to a security interest and sold, or is sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied by the municipality in which the personal property was situate when taken with respect to the business occupancy assessment of the owner or person who was in possession of the personal property.

(3) A municipality shall issue a tax certificate binding on the municipality, on request, stating the taxes referred to in subsection (2).

(4) The holder of a security interest, sheriff or other person selling the personal property may pay the business occupancy taxes before or after the sale and add them to the amount claimed.

(5) *The holder of a security interest, sheriff or other person selling the personal property shall pay the taxes out of the proceeds of the sale and is personally liable to the municipality for the business occupancy taxes to the extent of the total proceeds of the sale less the costs of conducting the sale.*

(6) *Where personal property, other than a mobile home, is taken or repossessed pursuant to a security interest and is not sold within six months of the taking or repossession, the holder of the security interest is personally liable to the municipality in which the property was situate when taken for the taxes levied with respect to the business occupancy assessment of the owner or the person who was in possession of the personal property.*

Security interest in personal property

~~129 (1) Where property is taken or sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the property.~~

~~(2) The person who conducts the sale shall pay the taxes out of the proceeds of the sale and is personally liable to the municipality for the taxes to the extent of the total proceeds of the sale.~~

129 (1) *Where a mobile home is taken or repossessed pursuant to a security interest and sold, or is sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the mobile home by the municipality in which the mobile home was situate when taken.*

(2) *The holder of a security interest, sheriff or other person selling the mobile home may pay the taxes before or after the sale and add them to the amount claimed.*

(3) *The holder of a security interest, sheriff or other person selling the mobile home shall pay the taxes out of the proceeds of the sale and is personally liable to the municipality for the taxes to the extent of the total proceeds of the sale less the costs of conducting the sale.*

(4) Where a mobile home is taken or repossessed pursuant to a security interest and is not sold within six months of the taking or repossession, the holder of the security interest is personally liable to the municipality for the taxes levied with respect to the mobile home by the municipality in which the mobile home was situate when taken.

(5) Any lien for taxes against a mobile home taken or repossessed pursuant to a security interest and sold within six months of the taking or repossession, or sold under execution, other legal process or court order is discharged by the sale if this Section has been followed.

129A (1) Where real property is taken or sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the property.

(2) The holder of the security interest, sheriff or other person selling the property shall pay the taxes out of the proceeds of the sale and is personally liable to the municipality for the real property taxes to the extent of the total proceeds of the sale less the costs of conducting the sale.

Power to sue tenant for rent arrears

130 A landlord who pays any taxes or expenses due from a tenant may sue for and recover them from the tenant or may distrain upon the tenant's property for the amount paid, in the same manner as distraint upon the tenant's property for arrears of rent.

Partial payment of taxes

131 (1) Where a person, including a person paying on behalf of another person, pays only a portion of the taxes due, the treasurer shall apply and credit the amount

(a) firstly, to the payment of the taxes rated upon the person in respect of business occupancy assessment;

(b) secondly, to the payment of any other taxes that are not a lien on any property; and

(c) thirdly, to the payment of accumulated interest and then the taxes longest in arrears with respect to any real property designated by the person.

(2) Where no real property is designated, the treasurer shall, subject to the priorities listed in subsection (1), apply the amount received to the payment of the taxes longest in arrears.

(3) The acceptance of part payment does not prevent the collection of any interest imposed in respect of non-payment of taxes or an installment of taxes.

(4) Where taxes are paid on behalf of a purchaser of real property, the taxes shall be applied to taxes due with respect to the property designated by the person paying the taxes, including any business occupancy tax owed by the **owner vendor** with respect to the **owner's vendor's** occupancy of that property.

Tax certificate

132 (1) A municipality shall issue a tax certificate, on request, stating

(a) the current taxes on the property;

(b) the total taxes due by the owner to the municipality with respect to the property;

(c) any sums due from an owner of property for work done on the property by the municipality, the engineer, the administrator or any other authorized person, the cost of which forms a lien on the property;

(d) whether a change-in-use tax will be incurred if the use of the land is changed; and

(e) any sums due from the person assessed for business occupancy taxes that are required to be paid prior to payment of the real property taxes with respect to the property.

(2) The fee for a tax certificate shall be set by the council, by resolution.

(3) A tax certificate binds the municipality.

Certain taxes are liens

133 (1) Taxes levied in respect of real property are a first lien upon the real property.

(2) Taxes levied in respect of a mobile home are a first lien upon the mobile home.

(3) The lien has priority over the claims, liens or encumbrances of any person and need not be registered.

(4) Where property is sold for taxes and the sale is set aside, the lien is not discharged.

(5) The lien has effect from the first day of the fiscal year for which the tax rate is set.

(6) Taxes are a first lien upon property conveyed between the time the assessment roll is filed and the tax rate is set and may be collected from a subsequent owner.

(7) Taxes cease to be a lien on the property when six years have elapsed after the end of the fiscal year in which they were levied, but may be collected after they have ceased to be a lien.

(8) Taxes in respect of business occupancy assessments are not a lien upon property.

Tax sale

134 (1) Property may be sold for taxes if the taxes with respect to the property are not paid in full for the taxation year immediately preceding the year in which the tax sale proceedings are commenced, but the proceedings shall not commence before June 30th in the year immediately following that taxation year.

(2) Property shall be put up for tax sale if taxes are in arrears for the preceding three fiscal years.

(3) The council may defer tax sale proceedings for a property for up to two years.

(4) A municipality is not required to put a property up for tax sale

(a) if the solicitor for the municipality advises that a sale of the property would expose the municipality to an unacceptable risk of litigation;

(b) if the amount of taxes due is below the collection limit established by the council, by policy;

(c) if the property has been put up for sale three times in the preceding three years and no satisfactory offer has been made with respect to it;

(d) if the taxes have been deferred pursuant to a by-law; or

(e) if the municipality and the taxpayer have entered into a tax arrears payment arrangement and the taxpayer is in compliance with the agreement.

(5) Where the municipality and a taxpayer have entered into a tax arrears payment arrangement, the period for which the tax lien is effective is extended by the period of the tax arrears payment arrangement.

Owner unknown tax sale

135 (1) Where land assessed to "owner unknown" is liable to be sold for taxes, the municipality shall notify the Minister of Natural Resources that the land is liable to be sold for taxes.

(2) No land assessed to "owner unknown" shall be sold for taxes unless the Minister of Natural Resources has been notified at least one hundred and twenty days before the sale and has not acted to vest the land in Her Majesty in right of the Province.

(3) The Minister of Natural Resources may require a municipality to furnish a statement concerning a specified property assessed to "owner unknown".

(4) A notice or statement required pursuant to this Section shall include a general description of the land, the amount of taxes and interest owing in respect of the land and any information the municipality has concerning possible owners of the land.

(5) Upon payment of the taxes and interest owing in respect of land assessed to "owner unknown", plus ten per cent as an allowance for expenses, the land vests absolutely in Her Majesty in the right of the Province, subject to this Section.

(6) When land vests in Her Majesty in the right of the Province pursuant to this Section, the Minister of Natural Resources shall cause a certificate to be registered in the registry

(a) stating that the land described in the certificate is vested in Her Majesty;

(b) setting out the date the land vested;

(c) describing the land with the best available description;

(d) setting out the property identification number, assessment account number and municipal tax account

number for the land; and

(e) stating that the land will cease to vest in Her Majesty if

(i) on application made within eighteen months of the vesting, a person proves to the satisfaction of the Minister of Natural Resources or a judge of the Supreme Court of Nova Scotia on appeal from the Minister of Natural Resources that the person owns the land, and

(ii) the person pays the taxes, interest and allowance for expenses paid by the Minister of Natural Resources.

(7) Within six months of the vesting of the land, a copy of the certificate shall be published in a newspaper circulating in the municipality in which the land is situate once a week, for three successive weeks.

(8) A person may apply to the Minister of Natural Resources within eighteen months after land vests in Her Majesty in right of the Province pursuant to this Section to determine that the land ceases to vest in Her Majesty, and if the applicant proves to the satisfaction of that Minister that the person owns the land, that Minister shall determine that upon payment by the applicant of the taxes, interest and allowance for expenses paid by the Minister of Natural Resources for the land, the land ceases to vest in Her Majesty.

(9) Where land ceases to vest in Her Majesty in right of the Province pursuant to this Section, the Minister of Natural Resources shall cause a certificate to that effect to be registered in the registry and shall include in the certificate the recording particulars of the certificate that set out the vesting of the land.

(10) A decision of the Minister of Natural Resources may be appealed within thirty days to the Supreme Court of Nova Scotia.

(11) Where land ceases to vest in Her Majesty in right of

the Province pursuant to this Section, the land is deemed never to have vested in Her Majesty pursuant to this Section.

(12) Where a dominant tenement vests in Her Majesty in right of the Province pursuant to this Section, an easement or a right-of-way appurtenant to it passes to Her Majesty, and where a servient tenement vests in Her Majesty pursuant to this Section, the vesting does not terminate or affect an easement or a right-of-way to which it is subject.

Personal claims on Crown land

136 (1) A person who claims to own land that vests in Her Majesty in right of the Province pursuant to this Act may apply to the Supreme Court of Nova Scotia for an order declaring what rights that person would have had to the land if the land had not vested in Her Majesty, and the Court may direct that any necessary inquiries be made and may finally adjudicate the matter.

(2) An application pursuant to subsection (1) may be made within ten years after the land vests in Her Majesty in right of the Province or, where the person who claims to own the land is under the age of nineteen years or of unsound mind when the land vests in Her Majesty, within ten years after that person attains the age of nineteen years or becomes of sound mind, but no application may be made more than twenty years after the land vests in Her Majesty.

(3) Where the Supreme Court of Nova Scotia determines that a person owns land that has vested in Her Majesty in right of the Province pursuant to this Act, the Minister of Natural Resources, in the Minister's absolute discretion, shall

(a) pay to that person the value of the land at the date the land vested in Her Majesty, less

(i) the amount of taxes, interest and allowance for expenses paid by the Minister, and

(ii) any grants in lieu of taxes that may have been paid with respect to the land; or

(b) upon payment of the amount of taxes, interest

and allowance for expenses paid by the Minister and any grants in lieu of taxes that may have been paid with respect to the land, convey the land to that person.

Tax sale property list

137 (1) Where land is to be sold for taxes, a list of the properties to be put up for sale shall be prepared setting out, with respect to each lot

- (a) the name and address of the person assessed;
- (b) a brief description of the lot sufficient to identify and locate it;
- (c) the amount of arrears, including interest; and
- (d) the years in which the arrears were levied.

(2) The tax sale list, or a copy certified by the treasurer, is conclusive evidence of the facts stated therein.

Tax sale preliminary notice

138 After the tax sale list is compiled, the municipality shall mail to each owner named in the list a preliminary notice setting out the information contained in the list with respect to the person and advising that the property is liable to be sold for the arrears, with interest and expenses, and that tax sale procedures will be commenced and costs expended unless the arrears are paid within fourteen days of the date of the preliminary notice, or such longer period as the council may, by policy, prescribe.

Title search and survey

139 (1) After the time set out in the tax sale preliminary notice has expired, a title search shall be conducted for each property on the list for which the taxes have not been paid.

(2) The cost of the title search, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered.

(3) Where the treasurer determines that a survey of the

property is necessary for the proper identification and description of the land to be sold, a survey may be undertaken before or after the sale.

(4) The cost of a survey, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered and where the survey is not undertaken prior to the sale, the expenses of the sale shall include an estimate of the cost of the survey.

(5) Where the title search or survey is done by an employee of the municipality, the cost included in the expenses of the sale is the amount determined by the treasurer to be the reasonable cost of having the same work performed by a solicitor or surveyor in private practice.

Court Orders

139A (1) The treasurer may apply to a court of competent jurisdiction for

(a) an order that there are arrears of taxes respecting a property proposed to be sold for taxes that would allow the sale;

(b) an order prescribing that upon the sale the tax deed will convey all outstanding interests in the property, or subject to such interests in the property, or subject to such interests as the court may specify; and

(c) directions respecting the manner in which notice may be provided, the persons to be notified and such other matters respecting the carrying out of the sale as the court deems appropriate.

(2) The court may require that persons appearing to have an interest in the property other than the assessed owners be notified of the tax sale.

(3) The court may require that any person appearing to have an interest in the property, whether that person is assessed for that interest or not, be given an opportunity to appear on the application.

(4) A tax sale conducted pursuant to an order obtained under this Section is not open to challenge on any grounds and a tax deed

of the property so sold conveys a fee simple interest in the property sold, free and discharged of all encumbrances, charges and liens, except any right to redeem pursuant to Section 152, and subject to the exceptions in subsection 156(3) and any exceptions, exclusions or partial interests set out in the order of the court.

Notice of intent to sell

140 (1) Upon completion of the title search and any survey, the owner of each lot and a person with a mortgage, lien or other charge on the land shall be served with notice of intent to sell the land for taxes.

(2) The spouse of each owner of a lot referred to in subsection (1) shall be notified in accordance with the *Matrimonial Property Act*.

(3) The notice shall contain

(a) a general description of each lot of land;

(b) the amount of arrears of taxes and expenses incurred to date, the year or years in which they were levied and the person in whose name the land was then assessed;

(c) a statement that the land is liable to be sold for the arrears with interest and expenses of, and incidental to, the sale unless they are paid within sixty days from the date of the notice;

(d) an estimate of the total expenses that would be incurred if the property is sold for taxes;

(e) the proposed date of the sale;

(f) a statement to the effect that if the owner challenges the right of the municipality to set the land up for sale the owner should obtain legal advice and contact the municipality.

Public auction

141 (1) Unless the arrears of taxes, interest and expenses are

paid, the treasurer shall proceed to sell land liable to be sold for taxes at public auction.

(2) The treasurer may, with the consent of the council, call tenders for property rather than put the property up for sale at public auction.

(3) The council may direct the treasurer as to what constitutes an acceptable minimum tender or bid, if the treasurer is of the opinion that the property might not realize sufficient to cover the outstanding taxes, interest and expenses.

(4) Where lands to be sold for taxes are partly in one municipality and partly in another, the treasurer may sell the entire lot if

(a) notice of the sale is given to the other municipality; and

(b) the taxes, interest and expenses due to the other municipality are included in the amount for which the land is to be sold,

and the taxes, interest and expenses shall be paid to the other municipality forthwith after the sale.

Tax sale advertisement

142 (1) After the notice of intent to sell land for taxes has been served

(a) the land liable to be sold for taxes shall be advertised for sale at public auction; or

(b) tenders shall be called for the land.

(2) Notice of the sale at public auction or the call for tenders shall be published

(a) at least twice prior to the sale or when tenders close in a newspaper circulating in the municipality;

(b) with the first advertisement appearing at least thirty days prior to the sale or when tenders close; and

(c) setting out each lot of land to be sold and the date, time and place of the sale or when tenders close.

(3) It is sufficient to state in the advertisements the street and number of a property advertised or to include any other such short reference by which the property may be identified, together with a statement that a full description can be seen at the office of the treasurer.

Municipal purchase of tax sale property

143 (1) A municipality, by an official or agent, may bid for and purchase land at a tax sale for any municipal purpose.

(2) Where no bid is received for land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land, the treasurer may bid the amount of the taxes, interest and expenses and purchase the land for the municipality.

(3) Where a municipality purchases land at a tax sale the subsequent proceedings shall be the same as for a purchase by another person.

(4) Where no bid is received for any land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land and the municipality does not purchase the land, the municipality may, without further notice to the owner and encumbrancers, again advertise the property and

(a) sell it at auction for the best price that may be obtained; or

(b) call tenders for the property and sell it for the highest tender,

and the council may direct the treasurer as to what constitutes an acceptable minimum bid or tender price.

(5) *Subsections 142(2) and (3) apply to the advertising referred to in subsection (4).*

Conflict of interest

144 (1) ~~In this Section, "interest" means a direct or indirect pecuniary interest within the meaning of the *Municipal Conflict of Interest Act*. (Repealed Nov. 22, 2001)~~

(2) No

(a) council member or employee of a municipality that sells land for arrears of taxes; ~~or~~

(b) member of a village commission or employee of a village that sells land for arrears of taxes;;

(c) *spouse of a person referred to in clause (a) or (b); or*

(d) *company in which a person referred to in clause (a), (b) or (c) owns or beneficially owns the majority of the issued and outstanding shares,*

shall purchase the land at the sale ~~or have an interest in the purchase~~ *either directly or through an agent.*

(3) A person who contravenes this Section ~~forfeits the person's office or employment, as the case may be, and is liable, on summary conviction, to a penalty of five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months.~~

(4) *Where there is a conviction pursuant to subsection (3), the relevant person referred to in clause (2)(a) or (b) forfeits their office or employment, as the case may be.*

Arrears

145 Where a municipality collects taxes for a village, service commission or any other body, the arrears of the taxes are deemed to be those of the municipality in all proceedings for the sale of land for taxes.

Investment of purchase money

146 (1) The purchase money received at a tax sale shall be applied, so far as it extends

(a) firstly, to payment of the taxes, interest and expenses owing with respect to the land;

(b) secondly, to payment of any taxes due by the owner of the land to a village;

(c) thirdly, to payment of any other taxes, charges for water or electricity and other sums due by the owner to the municipality that are not a lien,

and the balance shall be deposited to the credit of the tax sale surplus account.

(2) Where the land sold for taxes is redeemed, the balance shall be applied to reduce the amount that the person redeeming is required to pay.

(3) Where the owner of land sold for taxes owes the municipality any taxes or charges not secured by a lien on the land sold, the taxes or charges may be paid from the balance.

(4) Except as provided in this Section, no part of the balance may be withdrawn from the tax sale surplus account during the period in which the land may be redeemed.

Application for order directing payment

147 (1) A person with an interest in land sold for taxes may apply to the Supreme Court of Nova Scotia for an order directing the payment of all, or part, of the balance to that person.

(2) An application pursuant to subsection (1) may be made at any time after the period of redemption has expired and before the expiry of twenty years from the date of the sale.

(3) Where the Supreme Court of Nova Scotia orders payment, the Court shall order the payment of that part of the balance proportional to the applicant's interest in the property before it was sold.

(4) Interest is not payable with respect to the payment of the balance and costs may not be awarded against the municipality on an application pursuant to subsection (1).

(5) Where a balance remains in the tax sale surplus account twenty years after the sale, the municipality shall transfer it to its capital reserve fund.

Payment of purchase money

148 (1) Payment at a tax sale shall be by cash, certified cheque, money order, bank draft, *irrevocable letter of credit* or lawyer's trust cheque and not otherwise.

(2) The purchaser at a tax sale shall immediately pay the purchase price or deposit a smaller amount equal to the taxes, interest and expenses for which the land was sold, failing which the treasurer shall forthwith put the land up for sale again.

(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held.

Tenders

149 (1) Where a municipality calls tenders for land to be sold for taxes, the municipality may reject all tenders if

(a) the price tendered is less than the taxes, interest and expenses; and

(b) the council considers that the best price offered is inadequate,

and may again put the land up for sale, by tender or by public auction.

(2) Where a municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.

(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held.

Sale certificate

150 (1) After land is sold for taxes, upon payment of the purchase money the treasurer shall give the purchaser a certificate of sale, in Form C in Schedule A or to like effect, describing the land sold and stating the sum for which it was sold.

(2) The certificate shall state that a deed conveying the land to the purchaser, or as directed by the purchaser, shall be provided upon payment of the prescribed fee at any time after six months from the date of the sale, if the property is not redeemed.

(3) The treasurer shall register a copy of the certificate of sale in the registry.

(4) A copy of the certificate of sale shall be served on each owner of the land sold and, if the land may be redeemed, a notice that the land may be redeemed shall be included with the copy of the certificate of sale.

Purchaser rights

151 On receipt of the certificate of sale, the purchaser

(a) has all the rights of action and powers of an owner needed to protect the land and may collect rents due, or to grow due, and use the land without diminishing its value, but shall not cut down any trees on the land, injure the premises or knowingly allow any other person to do so;

(b) is not liable for damage done to the land without the purchaser's knowledge; and

(c) shall insure any buildings on the land, if the buildings are insurable, and is deemed to have an insurable interest in the land.

Redemption of tax sale property

152 (1) Land sold for non-payment of taxes may be redeemed by the owner, a person with a mortgage, lien or other charge on the land or a person having an interest in the land within six months after the date of the sale, but where, at the time of sale, taxes on the land are in arrears for more than six years, no right of redemption exists.

- (2)** To redeem the land the person redeeming shall pay
- (a) the sum paid by the purchaser;
 - (b) interest at the rate of ten per cent per annum on the total sum paid by the purchaser from the date of the sale to the date of redemption;
 - (c) taxes levied on the land after the sale and any interest;
 - (d) the fee to record the certificate of discharge;
 - (e) all sums paid by the purchaser for fire insurance premiums to insure buildings on the land; and
 - (f) all amounts paid by the purchaser for necessary repairs made, with the written approval of the treasurer, to buildings on the land,

less any balance remaining in the tax sale surplus account with respect to the property and any rent or other income earned by the purchaser from the land.

(3) Where the municipality buys the land, the taxes payable by a person redeeming are the amount that would be payable if the municipality did not own the land.

(4) Where redemption takes place before the tax rate is set, the taxes payable by a person redeeming are those payable for the preceding year and after the tax rate is set, any surplus shall be refunded to the person redeeming and the land is liable for any deficiency.

(5) Where property has been redeemed, a certificate of discharge in Form D in Schedule A, or to like effect, shall be prepared and registered in the registry.

(6) The registrar of deeds shall make a marginal note referring to the registry of the certificate of discharge on the recorded copy of the certificate of sale.

Repayment to purchaser

153 (1) Where redemption of land is to take place, the purchaser shall, within fourteen days of being requested to do so, provide a statement of amounts spent for fire insurance premiums and repairs made, with the written approval of the treasurer, to buildings on the land.

(2) After delivery of the statement of amounts spent, the purchaser shall receive the

- (a) sum paid upon the purchase of the land;
- (b) interest on the purchase price; and
- (c) sums paid with respect to fire insurance premiums and repairs,

less any rent or other income earned by the purchaser from the property.

(3) A dispute concerning the amount to be paid for redemption or to be repaid to the purchaser upon redemption may be referred to the Supreme Court of Nova Scotia.

Purchaser rights cease

154 From the time of the payment to the treasurer of the full amount for redemption, the purchaser of the land ceases to have a right to it.

Deed to purchaser

155 (1) At the request of the purchaser at a tax sale and upon payment of the fee determined by the council, by resolution, the municipality shall deliver a deed to the land in Form E in Schedule A, or to like effect, to the purchaser, or as directed by the purchaser, at any time after the

- (a) sale if, at the time of the sale, taxes on the land were unpaid for more than six years before the sale; or

(b) expiration of six months from the sale, if the land has not been redeemed.

(2) The deed shall

(a) fully describe the land conveyed;

(b) be signed by the mayor or warden and the clerk; and

(c) be under the seal of the municipality.

Tax sale deed

156 (1) A deed to land sold for taxes is conclusive evidence that the provisions of this Act with reference to the sale of the land described in the deed have been fully complied with and each act and thing necessary for the legal perfection of the sale has been duly performed.

(2) The deed has the effect of vesting the land in the grantee in fee simple, free and discharged from all encumbrances.

(3) Notwithstanding subsection (1), where a dominant tenement is sold for taxes, an easement or right-of-way appurtenant to it passes to the purchaser and where a servient tenement is sold for taxes, the sale does not terminate or affect an easement or right-of-way to which it is subject.

Persons with lien, charge or encumbrance

157 A mortgagee, judgment creditor or other person having a lien, charge or encumbrance on land liable to be sold for taxes, or in respect of which taxes are due

(a) may pay the taxes, interest and expenses;

(b) may add the amount paid for taxes, interest, expenses and any amount paid to redeem the property after a tax sale to the mortgage, judgment or other security;

(c) has, in respect of the amount paid, the same rights, remedies and privileges as under the security; and

(d) may sue for, and recover, the amount paid, with interest, from the person primarily liable to pay it.

Cooperative housing

158 Where real property is held by a company incorporated for cooperative housing purposes and is subject to a mortgage held by the Minister of ~~Housing and Municipal Affairs~~ **Community Services**, a copy of the tax bill and, where the real property is to be sold for taxes, a copy of the notice of sale shall be sent to the regional manager of the Department of ~~Housing and Municipal Affairs~~ **Community Services** for the area where the property is located.

Veterans' Land Act agreement

159 (1) Where real property is held under an agreement of sale with the Director within the meaning of the *Veterans' Land Act* (Canada), the taxes upon the property are a lien upon the property and the property may be sold for taxes in the same manner as if the Director were a corporation sole and not an agent of Her Majesty in right of Canada.

(2) A copy of the notice of assessment, the tax bill and the notice of sale for taxes shall be sent to the Director within the meaning of the *Veterans' Land Act* (Canada), or to the district office thereof, before the property is sold.

Tax exemption notice

160 (1) An owner of property that becomes exempt from taxation during a fiscal year is entitled to a rebate of the taxes on the property for the portion of the fiscal year in which it is exempt.

(2) The owner shall notify the Director of Assessment that the property is exempt within thirty days after the property becomes exempt and if the owner fails to do so, the rebate shall be calculated from the date notice is given.

(3) The Director of Assessment shall forthwith provide the treasurer with a copy of the notice.

(4) Upon receipt of the notice, the treasurer shall forthwith notify the person assessed of the amount of tax to be rebated.

(5) The notice from the treasurer may be appealed pursuant to the *Assessment Act* as if it were a notice of assessment.

(6) Upon expiration of the period of appeal or upon the appeal having been disposed of, where the person entitled to the rebate pays the taxes, the treasurer shall pay the rebate to the person and where the person is indebted to the municipality, the treasurer shall apply the rebate to reduce the indebtedness.

Rebate for business occupancy assessment

161 (1) Where property ceased to be occupied or used in the preceding fiscal year, the person who was assessed for business occupancy assessment in respect of it is entitled to a rebate of the taxes on the assessment.

(2) Where property ceases to be occupied or used in a fiscal year, the person who was assessed for business occupancy assessment in respect of it is entitled to a rebate of the taxes on the assessment for the portion of the fiscal year in which it is not used or occupied.

(3) The owner shall notify the Director of Assessment that the property has ceased to be used or occupied within thirty days after the cessation and if the owner fails to do so, the rebate shall be calculated from the earlier of the date

(a) of the notice; or

(b) another person is taxed with respect to occupancy of the same property.

(4) The Director of Assessment shall forthwith provide the treasurer with a copy of the notice.

(5) Upon receipt of the notice, the treasurer shall forthwith notify the person assessed of the amount of tax to be rebated.

(6) The notice from the treasurer may be appealed pursuant to the *Assessment Act* as if it were a notice of assessment.

(7) Upon expiration of the period of appeal or upon the appeal having been disposed of, where the person entitled to the rebate pays

the taxes, the treasurer shall pay the rebate to the person and where the person is indebted to the municipality, the treasurer shall apply the rebate to reduce the indebtedness.

Business occupancy tax payable

162 (1) Where a person commences a business, opens a business at a new or additional location or engages again in a business during a fiscal year and is assessed for business occupancy assessment as a result, the Director of Assessment shall forthwith notify the treasurer.

(2) Upon receipt of the notice, the treasurer shall forthwith notify the person assessed of the amount of the tax due.

(3) The tax payable pursuant to this Section is that proportion of the taxes for the full fiscal year, that the number of days from the day on which the person commenced the business, opened it at the new or additional location or engaged again in the business, as the case may be, until the last day of the fiscal year, bears to the total number of days in the fiscal year.

Proceeding not brought by municipality

163 (1) A proceeding with respect to taxes based on an assessment, except an action or other proceeding brought by a municipality for the collection of taxes, may only be brought

(a) within six months of the date upon which the assessment roll is forwarded to the clerk;

(b) where an appeal has been taken to the regional assessment appeal court, within six months from the time limited for appealing to the Board; and

(c) where an appeal has been taken to the Board, within thirty days after the date of the Board's decision.

(2) Nothing that could have been raised

(a) by way of appeal to a regional assessment appeal court;

(b) by way of appeal to the Board;

(c) on originating notice pursuant to the *Assessment Act*,

may be raised by way of defence in an action or other proceeding brought by, or on behalf of, a municipality.

(3) No taxes or tax levy shall be quashed for a matter of form only and no tax levy shall be quashed for an illegality except as to an individual person's taxes.

Validity of taxes

164 (1) No

(a) error, informality or irregularity on the part of the council, the assessor, the regional assessment appeal court, the recorder, the clerk, the treasurer or any other officer; and

(b) no error or omission in giving a notice required pursuant to this Act,

affects or prejudices the validity of taxes or the tax levy.

(2) The invalidity, irregularity or illegality of an individual's taxes does not extend to, or affect, the validity of other taxes.

Affidavit

165 (1) Where a notice is required pursuant to this Act, the person who served or gave the notice may make an affidavit setting out that the notice was served or given in compliance with this Act and setting out how the notice was given.

(2) The affidavit is *prima facie* evidence that the notices were served or given in the manner required pursuant to this Act.

Service

166 Service of a notice required pursuant to this Part is sufficient

(a) if it is mailed by ordinary mail to the last known

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address of the person on whom the notice is to be served; or

(b) where the address of the person is unknown, if it is mailed to a tenant or occupant of the land or a copy of the notice is posted in a conspicuous place on the premises.

Formula for rate of interest

167 Where the council is authorized or required, pursuant to this Act, to set a rate of interest, the council may instead adopt a formula by which the rate of interest may be determined and automatically adjusted.

