

Re: Real Property Tax Deferment Act

Following is a copy of the Real Property Tax Deferment Act which is expected to receive Third Reading and Royal Assent in the immediate future.

Briefly, the proposed legislation will enable certain elderly, widowed and handicapped persons to defer all their real property taxes. The Act will also provide for a partial tax deferral which is intended to limit the deferral privilege to owners of eligible property who experienced substantial increases in their net property taxes payable in 1974 over the net amount paid in 1973.

The underlined portions of the Bill are amendments which were made during deliberations by the Committee of the Whole.

This is for the information of Council.

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FOR REPORT

Certified correct as amended in Committee of the Whole on the
28th day of May, 1974. E. GEORGE MacMINN, Law Clerk.

HON. MINISTER OF FINANCE.

BILL

No. 16]

[1974

Real Property Tax Deferment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpre-
tation.

1. In this Act, unless the context otherwise requires,
- "assessor" means an assessor as defined in the *Assessment Equalization Act*;
- "collector" means a collector of taxes appointed under the *Municipal Act*, *Vancouver Charter*, or the *Taxation Act*;
- "eligible property" means an area of land that has improvements thereon that, in accordance with the regulations, the minister considers to be in actual and bona fide use for
- (i) residential purposes; or
 - (ii) farming purposes; or
 - (iii) commercial purposes; or
 - (iv) industrial purposes;
- and, for the purpose of this Act, also includes a vacant parcel of land not exceeding five acres, or not exceeding the minimum-sized parcel into which a municipality or a regional district permits land in that municipality or regional district to be subdivided, whichever is the greater, and on which the owner certifies that he intends to construct a single-family dwelling to be used for residential purposes;
- "improvements" means improvements as defined in the *Assessment Equalization Act*;
- "land" means land as defined in the *Assessment Equalization Act*;
- "minister" means that member of the Executive Council charged by order of the Lieutenant-Governor in Council with the administration of this Act, and includes a person designated in writing by the minister;
- "municipality" means a municipality as defined in the *Municipal Act*, and includes the City of Vancouver;
- "owner" means
- (i) an owner as defined in the *Municipal Act*; or
 - (ii) the occupier of a dwelling-unit
 - (A) in a building, the owner of which is a corporation;
 - (B) where the occupier of the dwelling-unit owns capital stock in the corporation equivalent in value to the capital value of the dwelling-unit; and
 - (C) that is the principal place of residence of the occupier;
- "parcel" means a lot, block, or other area in which land is held, or into which land is subdivided;
- "real property taxes" means taxes levied by a municipality or the Crown on real property, but does not include tax arrears, penalties, delinquent taxes, or interest thereon;

"Tax Act" means

- (i) where eligible property is in a municipality, the *Municipal Act*; or
- (ii) where eligible property is in the City of Vancouver, the *Vancouver Charter*; or
- (iii) where eligible property is in unorganized territory, the *Taxation Act*.

Agreement
to defer
taxes.

2. (1) The minister may, subject to this Act and the regulations, make an agreement with an owner who qualifies under this Act and the regulations whereby the owner may, in accordance with the agreement, defer payment of all or part of the real property taxes payable by that owner on eligible property during the term of the agreement.

(2) Where the minister makes an agreement under subsection (1), every Act or regulation and every by-law of a municipality

- (a) respecting the taxation of the real property referred to in the agreement; or
- (b) respecting the enforcement and collection of taxes on that real property

is subject to the terms of the agreement until the agreement is terminated under this Act or under the agreement; and, where there is a conflict or inconsistency between the provisions of an Act, regulation, or by-law of a municipality and the terms of the agreement, the terms of the agreement prevail and the provisions of the Act, regulation, or by-law are suspended and of no effect to the extent of such conflict or inconsistency.

Limitation.

3. (1) Notwithstanding section 2, each eligible property shall be subject to a separate agreement.

(2) Without limiting the number of agreements an owner may enter into under section 2 respecting other eligible properties, the owner shall not be entitled to enter into an agreement respecting more than one eligible property that is a vacant parcel of land.

(3) No owner shall assign his interest in the agreement or any right or benefit thereunder, and any purported assignment is void and of no effect.

Termination
of agreement.

4. (1) An agreement made under section 2 shall terminate

- (a) on the date upon which the eligible property described in the agreement is sold, transferred, transmitted, or otherwise disposed of; or
- (b) ten years after the date of the agreement, in respect of a vacant parcel of land described in the agreement that remains vacant at the end of the ten years; or

- (c) where real property taxes on land and improvements on eligible property described in the agreement owing to the Crown in right of the Province or to a municipality become taxes in arrear or delinquent taxes under the appropriate Tax Act for a period of six months or for such longer time as the minister may determine; or
- (d) on a date requested in writing by the owner; or
- (e) on a date fixed by the minister in a notice of termination given under section 5,

whichever is the earliest date.

(2) Notwithstanding subsection (1), the agreement is not terminated under subsection (1) by reason only of a transfer of title to the eligible property to the surviving spouse upon the death of the owner.

(3) Notwithstanding subsection (2), any subsequent deferral of real property taxes is contingent upon the spouse qualifying under section 5.

(4) The minister may, in accordance with the regulations, extend the termination date of agreements under this Act.

Application
for agree-
ment.

5. (1) An owner of eligible property that includes a building thereon used for residential purposes as his principal place of residence who

- (a) has been ordinarily resident in the Province for not less than one year immediately preceding the date he applies under this Act;
- (b) is a Canadian citizen or has been lawfully admitted to Canada under the *Immigration Act* (Canada) for permanent residence; and
- (c) is, at any time during the year in which the application is made,
 - (i) of the full age of sixty-five years or older; or
 - (ii) a widow or a widower; or
 - (iii) a handicapped person as defined in the *Handicapped Persons Income Assistance Act*

may, by filing an application in the form and manner prescribed by section 12 and the regulations, request the minister to enter into an agreement with him for the purpose referred to under section 2 in respect of the 1974 or subsequent taxation years.

(2) An owner of eligible property

- (a) whose 1974 net real property taxes on the eligible property increased by more than twenty per cent over the 1973 net real property taxes; and
- (b) whose total land and improvements in the Province had a market value on the thirty-first day of December, 1973, not exceeding five hundred thousand dollars; and
- (c) who was the owner of the eligible property on the thirty-first day of December, 1973, and continues as owner; and
- (d) who has paid the real property taxes in full up to and including the taxation year prior to the year in respect of which the application is made; and

- (e) who
 - (i) has been ordinarily resident in the Province for not less than one year immediately preceding the date of his application under this Act; and
 - (ii) is a Canadian citizen or has been lawfully admitted to Canada under the *Immigration Act* (Canada) for permanent residence; or
- (f) that is a corporation incorporated solely in Canada and registered in the Province under the *Companies Act* for not less than one year immediately preceding the date of its application under this Act and qualifies under clauses (a) to (d)

may, by filing an application in the form and manner prescribed by section 12 and the regulations, request the minister to enter into an agreement with him or the corporation, as the case may be, for the purpose referred to in section 2.

(3) Where the minister makes an agreement under subsection (2), the amount of real property taxes that may be deferred under the agreement in each year

- (a) shall not exceed,
 - (i) in 1974, eighty-five per cent;
 - (ii) in 1975, seventy per cent;
 - (iii) in 1976, fifty-five per cent;
 - (iv) in 1977, forty per cent;
 - (v) in 1978, twenty-five per cent; and
 - (vi) in 1979, ten per cent

of the amount by which the 1974 net real property taxes payable on the eligible property exceeds one hundred and twenty per cent of the 1973 net real property taxes paid on that property; and

- (b) shall not include an increase in real property taxes over the amount of real property taxes in the 1973 taxation year caused by a change in the physical characteristics of the eligible property, or by new construction or development in, on, or to the eligible property.
- (4) Notwithstanding subsections (1) to (3), where
- (a) the actual value of the eligible property determined by the assessor is less than the total outstanding tax liability and charges against the eligible property, no deferral agreement shall be made; or
 - (b) the minister, in his discretion, considers that the real property taxes that are payable, or the amount deferred under an agreement, are inadequately secured, the minister may, notwithstanding the terms of the agreement, by notice in writing to the owner, suspend any further deferral of real property taxes under subsection (2), or terminate the agreement.

- (5) Where eligible property is held in joint tenancy or tenancy in common,
- (a) in respect of an application under subsection (2), all owners must qualify under that subsection; and
 - (b) in respect of an application under subsection (1), the principal supporter of the family must qualify under that subsection.

Approval of application and agreement.

6. (1) Where the minister is satisfied that the owner qualifies under this Act, and determines the amount of real property taxes that may be deferred, and the terms and conditions in respect of the deferral, he may approve the application, and, upon approval of the application, he shall make an agreement with the owner in the form and manner prescribed by the regulations.

(2) The minister's decision respecting the grant of a deferral under this Act is final.

Duties of registrar.

7. Upon receipt of an agreement from the minister made pursuant to section 6, the registrar of the land registry office shall register the agreement as an encumbrance, as defined in the *Land Registry Act*, in favour of the Crown having preference or priority over every other claim, lien, charge, or encumbrance subsequently registered or filed, and shall note on every certificate of title pertaining to the land described in the agreement an endorsement that the certificate of title is subject to an agreement under this Act.

Payment on termination.

8. (1) Upon termination of the agreement under section 4 or section 5, the total amount of the real property taxes levied in respect of the eligible property described in the agreement, the payment of which was deferred under the agreement, shall, together with interest thereon compounded annually at eight per cent per annum, but less any amount paid thereon, without further notice or demand, immediately become due and payable.

(2) Notwithstanding this section, a widow or a widower who has made an agreement under section 5 (1) and subsequently remarries shall not, by reason only of remarriage, be required to repay the amounts referred to in subsection (1) until the agreement is terminated under section 4 or 5.

(3) Notwithstanding subsection (1), where an owner of a vacant parcel of land who has entered into an agreement under section 5 (2) constructs a single-family dwelling on that vacant parcel during the term of agreement, the outstanding amount of the real property taxes and interest thereon deferred up to and including the thirty-first day of December, 1975, required to be repaid under the agreement shall be reduced, if the single-family dwelling is constructed and occupied not later than

- (a) the thirty-first day of December, 1975, by a percentage of one hundred per cent; or

- (b) the thirty-first day of December, 1976, by a percentage of eighty per cent; or
- (c) the thirty-first day of December, 1977, by a percentage of sixty per cent; or
- (d) the thirty-first day of December, 1978, by a percentage of forty per cent; or
- (e) the thirty-first day of December, 1979, by a percentage of twenty per cent.

Repayment of deferred taxes.

9. (1) The owner may, at any time prior to the termination of the agreement and without notice or prepayment penalty, pay to the minister the whole or any part of the amount of deferred real property taxes by tendering payment of such amount together with interest thereon compounded annually at eight per cent per annum.

(2) Notwithstanding any other provision of this Act, in the case of a corporation referred to in section 5 (2) (f), unless the agreement made with the corporation has been earlier terminated, repayment of the amount of the deferred real property taxes shall commence on the thirty-first day of July, 1981, and, subject to section 9 (1), shall be paid in full in annual instalments over a period of ten years after that date in the manner prescribed by the regulations.

Satisfaction of agreement.**10. Where**

- (a) all the deferred real property taxes and interest thereon have been fully paid; and
- (b) the terms and conditions of the agreement have been fully observed and performed,

the minister shall, in the form and manner prescribed by the regulations, notify the owner of satisfaction of the agreement and the registrar of the land registry office shall, upon receiving a copy of the notice, cancel the charge in his records.

Effect of registration.**11. (1) Where an agreement is registered in the land registry office under this Act,**

- (a) the agreement and any amount of deferred real property taxes and interest thereon is an encumbrance, as defined in the *Land Registry Act*, and has priority and preference over any other claim, charge, or encumbrance subsequently registered or filed in respect of the eligible property; and every such claim, charge, or encumbrance is subject to the agreement and to the amount deferred thereunder; and
- (b) unless permitted by the regulations, no registrar shall register a transfer or other conveyance of any part of the eligible property described in the agreement without the written consent of the minister.

Procedure on application.

12. An application under section 5 must be filed with the collector of taxes for the municipality or the Crown, as the case may be, after the date of receipt by the owner of the tax notice for the current tax year but not later than the thirty-first day of December in that year.

Duties of collector.

13. Upon receipt of the properly completed application, the collector of taxes shall

- (a) obtain such information, particulars, and documents respecting the owner and the land and improvements as may be required;
- (b) within thirty days after receipt of the application, send to the minister
 - (i) the application;
 - (ii) the information, particulars, and documents referred to in clause (a); and
 - (iii) a report respecting the qualifications of the owner under this Act; and
- (c) make a certified statement in a form prescribed by the minister of the real property taxes due and owing in respect of the eligible property.

Effect of deferral.

14. (1) Where the minister makes an agreement under this Act, notwithstanding the provisions of any Tax Act, no penalty or interest is payable in respect of the amount of real property taxes deferred under the agreement from the date the application for the agreement is filed with the collector, other than the interest thereon required to be paid under this Act, the regulations, or the agreement.

(2) Notwithstanding subsection (1), where the minister does not accept an application under this Act, the amount of the real property taxes in respect of which the application is made is subject to penalties and interest under the appropriate Tax Act as if the application had not been made.

Payment to municipality.

15. (1) The Minister of Finance shall pay to each collector of taxes the amount required to reimburse the municipality in respect of the real property taxes deferred under this Act.

(2) Notwithstanding the appropriate Tax Act, the amount paid to the collector under this section shall be applied in respect of each eligible property, in accordance with the agreement, toward payment of the current year's real property taxes levied against the owner of that eligible property.

Records.

16. The minister shall furnish to the owner, who is a party to an agreement under this Act, a statement of outstanding deferred taxes plus accrued interest, by the thirty-first day of March of each year.

**Offences
and
penalties.**

17. Any person who completes and delivers, or who completes and causes to be delivered, to a collector of taxes an application to enter into an agreement under this Act containing information that he knows is false or misleading for the purpose of deferring his real property taxes, and the minister enters into an agreement as a result of such application, is guilty of an offence and is liable, on summary conviction, for a first offence, to a fine not exceeding five hundred dollars, and, for a subsequent offence, to a fine of not less than one hundred dollars and not more than one thousand dollars.

Regulations.

18. For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant-Governor in Council may make such regulations and orders as are ancillary thereto and not inconsistent therewith; and every regulation shall be deemed to be part of this Act and has the force of law; and, without restricting the generality of the foregoing, the Lieutenant-Governor in Council may make regulations and orders

- (a) defining any expression used in this Act or the regulations and not defined in this Act;
- (b) extending the termination date of an agreement made under this Act, or the time within which any of the provisions of this Act must be completed;
- (c) prescribing the form and the manner of completing an application by an owner of an eligible property and of making an agreement;
- (d) prescribing the form and the manner of completing a return or certified statement required by the minister;
- (e) respecting the payment by the minister of moneys to a tax collector;
- (f) prescribing the application form, content and conditions consistent with this Act to permit a person who qualifies as an owner under paragraph (ii) of the definition of "owner" by way of ownership of capital stock in a corporation to defer real property taxes;
- (g) prescribing the manner of repayment by a corporation under section 9;
- (h) prescribing the form of notice of satisfaction of an agreement; and
- (i) respecting any other matter necessary or advisable to carry out the intent and purpose of this Act.

Appropriation.

19. The Minister of Finance shall pay out of the Consolidated Revenue Fund, or out of the Revenue Surplus Appropriation Account of the Consolidated Revenue Fund, or partly out of the Consolidated Revenue Fund and partly out of the Revenue Surplus Appropriation Account of the Consolidated Revenue Fund such sums as may be required to administer this

Act or to be paid pursuant to section 15 up to the thirty-first day of March, 1975, and thereafter out of moneys authorized by the Legislature for those purposes.

Commence-
ment.

20. This Act comes into force on the date it receives Royal Assent, but, on the coming into force of this Act, it is retroactive to the first day of January, 1974, to the extent necessary to give full force and effect to its provisions on and after that date.

Printed by K. M. MACDONALD, Printer to the Queen's Most Excellent Majesty
in right of the Province of British Columbia.
1974

EXPLANATORY NOTE

The purpose of this Bill is to enact a *Real Property Tax Deferment Act* to enable certain elderly, widowed, and handicapped persons to defer all their real property taxes on their home and other qualified property owners to defer part of the increase in their real property taxes in accordance with section 5 and the terms of an agreement with the Minister of Finance.

(This statement is submitted by the Legislative Council
and is not part of the legislation.)