

LOCAL GOVERNMENT ACT
[RSBC 1996] CHAPTER 323
Part 23 — Improvement Districts

Division 1 — General

Definitions

729 In this Part:

"assessor" means, except in section 756, the improvement district officer assigned responsibility for assessing land and improvements for the improvement district;

"board of trustees" means the trustees of an improvement district under section 736;

"collector" means, except in section 756, the improvement district officer assigned responsibility for collecting taxes for the improvement district;

"manufactured home" means a single family dwelling manufactured as a unit, or in units, intended to be occupied in a place other than that of its manufacture, and designed so that it may be drawn or moved from place to place;

"manufactured home park" means land used or occupied by a person to provide spaces for the accommodation of 2 or more manufactured homes and for imposing a charge or rental for the use of the space;

"owner" means an owner as defined in the *Water Act*.

Repealed

730 [Repealed 2000-7-67.]

Incorporation by letters patent

731 (1) The Lieutenant Governor in Council may, by letters patent, incorporate an area of land comprising 2 or more parcels, whether contiguous or not, and its owners into an improvement district, under a name and with objects that appear advisable and with powers considered necessary to carry out those objects.

(2) The letters patent for an improvement district

(a) may provide that some provisions of this Act or the *Water Act* do not apply to the improvement district and that other special provisions apply, and

(b) may divide the improvement district into zones, specify the number of trustees to be elected from each zone, provide for the election and method of election of trustees in any zone and provide for general meetings of landowners in each zone.

(3) If it appears to the Lieutenant Governor in Council that an improvement district will undertake the functions of an existing development district or a water users' community, the Lieutenant Governor in Council may dissolve the development district or water users' community.

(4) The power of dissolution conferred by subsection (3) may be exercised despite any other statute, special or otherwise.

(4.1) The Lieutenant Governor in Council may do one or more of the following, effective on the dissolution of a development district or water users' community under subsection (3):

(a) transfer to and vest in an improvement district any of the rights,

property and assets of the development district or water users' community;

(b) transfer to and declare as assumed by an improvement district any of the obligations of the development district or water users' community;

(c) continue in force any bylaws or resolutions of the development district or water users' community as bylaws or resolutions of an improvement district applicable to the area of the improvement district to which they applied as bylaws or resolutions of the development district or water users' community until those bylaws or resolutions are amended or repealed by the board of trustees of the improvement district;

(d) require the board of trustees of the improvement district to amend or repeal by a specified date a bylaw or resolution continued under paragraph (c);

(e) deem a reference to the development district or water users' community in any commercial paper, lease, licence, permit or other contract, instrument or document to be a reference to the improvement district.

(5) In an order under subsection (3), the Lieutenant Governor in Council may specify deletions of and alterations in endorsements or entries made against any indefeasible or absolute title or other document deposited in a land title office or created under the *Land Title Act* or any

statute repealed by that Act.

(6) Despite the *Land Title Act* or any other statute, a registrar of land titles must make the deletions and alterations specified as referred to in subsection (5).

(7) Subsection (2) (a) does not apply in relation to

section 739 [*meeting procedure*],
section 741 [*annual general meeting*],
section 741.1 [*annual financial statements*],
or section 741.2 [*appointment of auditor*]

of this Act and, to the extent that there is an inconsistency between any requirement under those sections and a provision of the letters patent for an improvement district, the requirement under the applicable section prevails and the provision of letters patent is of no force and effect.

Incorporation of mountain resort improvement districts

732 (1) The minister may recommend to the Lieutenant Governor in Council incorporation of a new mountain resort improvement district if

(a) the establishment of the proposed improvement district has been approved by the board of the regional district in which the area of the proposed improvement district is located, and

(b) the minister is satisfied that
(i) alpine ski lift operations, year-round recreational facilities and commercial overnight accommodation are offered within the area of the proposed

improvement district, or
(ii) a person has entered into an agreement with the government with respect to developing alpine ski lift operations, year-round recreational facilities and commercial overnight accommodation within the area of the proposed improvement district.

(1.1) On the recommendation of the minister under subsection (1), the Lieutenant Governor in Council may, by letters patent, incorporate an area of land outside a municipality and comprising 2 or more parcels, whether contiguous or not, and its owners into a mountain resort improvement district, under a name and with objects that appear advisable and with powers considered necessary to carry out those objects.

(2) The letters patent for a mountain improvement district

(a) may provide that some provisions of this Act or the *Water Act* do not apply to the mountain resort improvement district and that other specified provisions apply, and

(b) may divide a mountain resort improvement district into zones, specify the number of trustees to be elected from each zone, and provide for the election and method of election of trustees in any zone.

(3) Section 746 (1) (b), (c) and (d) does not apply to a mountain resort improvement district unless the letters patent provide otherwise.

(4) If it appears to the Lieutenant Governor in

Council that a mountain resort improvement district will undertake the functions of an existing water users' community, the Lieutenant Governor in Council may dissolve the water users' community.

(5) The power of dissolution conferred by subsection (4) may be exercised despite any other statute, special or otherwise.

(5.1) The Lieutenant Governor in Council may do one or more of the following, effective on the dissolution of a water users' community under subsection (4):

(a) transfer to and vest in a mountain resort improvement district any of the rights, property and assets of the water users' community;

(b) transfer to and declare as assumed by a mountain resort improvement district any of the obligations of the water users' community;

(c) continue in force any bylaws or resolutions of the water users' community as bylaws or resolutions of a mountain resort improvement district applicable to the area of the mountain resort improvement district to which they applied as bylaws or resolutions of the water users' community until those bylaws or resolutions are amended or repealed by the board of trustees of the mountain resort improvement district;

(d) require the board of trustees of the mountain resort improvement district to amend or repeal by a specified date a bylaw or resolution continued under paragraph (c);

(e) deem a reference to the water users' community in any commercial paper, lease, licence, permit or other contract, instrument or document to be a reference to the mountain resort improvement district.

(6) In an order under subsection (4), the Lieutenant Governor in Council may specify deletions of and alterations to endorsements or entries made against any indefeasible or absolute title or other document deposited in a land title office or created under the *Land Title Act* or any statute repealed by that Act.

(7) Despite the *Land Title Act* or any other statute, a registrar of land titles must make the deletions and alterations specified as referred to in subsection (6).

Notation on title of land in a mountain improvement district

733 (1) On the establishment of a mountain resort improvement district under section 732, parcels in the mountain resort improvement district are subject to section 11 (2), without special endorsement on the indefeasible title.

(2) The registrar of land titles may, and on application of the improvement district must, make the following notation on every indefeasible title of resort land issued on or after the establishment of the improvement district:

"This land is located in a mountain resort improvement district and is subject to the letters patent for that improvement district."

(3) An application under subsection (2) must contain a description of the resort land that is sufficient for the registrar to identify it in the records of the land title office and must be in the

form approved under the *Land Title Act*.

(4) In the event of any delay, omission, mistake or misfeasance by the registrar of land titles or his or her employees in relation to making a notation under subsection (2),

(a) the registrar of land titles is not liable and neither the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,

(a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the *Land Title Act*, and

(b) the assurance fund or the minister charged with the administration of the *Land Title Act* as a nominal defendant is not liable under Part 20 of the *Land Title Act*.

Amendment of letters patent

734 (1) The Lieutenant Governor in Council may, by regulation, authorize the minister to make orders amending letters patent of an improvement district, subject to any restrictions and conditions established by the regulation.

(2) Sections 31 [*rights and liabilities not affected by revocation and reissue of letters patent*] and 32 [*existing licences preserved*] apply in respect of improvement districts.

Dissolution of improvement districts

735 (1) The Lieutenant Governor in Council may, by order, revoke the letters patent that incorporated or continued an improvement district.

(2) If an improvement district is located in a

municipality incorporated under section 7 (1), the Lieutenant Governor in Council must exercise the power under subsection (1) of this section to revoke the letters patent of the improvement district no later than January 1 of the year that is 4 years after the year in which the municipality was incorporated.

(3) If an improvement district is located in a mountain resort municipality incorporated under section 11 (3), the Lieutenant Governor in Council must exercise the power under subsection (1) of this section to revoke the letters patent of the improvement district effective at the time the mountain resort municipality is incorporated.

(4) On the revocation of the letters patent that incorporated or continued an improvement district, the improvement district is dissolved.

Transition on dissolution of improvement district or if area or object of improvement district changed

735 . 1 (1) If an improvement district is dissolved or the letters patent of an improvement district are amended to reduce the area of the improvement district or to modify or repeal an object of the improvement district, the Lieutenant Governor in Council may, by order, do one or more of the following:

- (a) transfer to and vest in a municipality, a regional district or another improvement district any of the improvement district's rights, property and assets;
- (b) transfer to and declare as assumed by a municipality, a regional district or another improvement district any of the improvement district's obligations;

- (c) if all or part of the improvement district is located in a municipality,
 - (i) continue a service of the improvement district as a local area service of the municipality and exercise any power under section 14.2 (1) and (2) that may be exercised by letters patent, or
 - (ii) continue a service of the improvement district as a service of the municipality;
- (d) continue in force any bylaws or resolutions of the improvement district as bylaws or resolutions of a municipality, a regional district or another improvement district applicable to the area of the municipality, regional district or other improvement district to which they applied as bylaws or resolutions of the improvement district until those bylaws or resolutions are amended or repealed by the council of the municipality, the board of the regional district or the board of trustees of the other improvement district;
- (e) require the council of the municipality, the board of the regional district or the board of trustees of the improvement district to amend or repeal by a specified date a bylaw or resolution continued under paragraph (d);
- (f) for the purposes of subsection (4), specify a date, which may not be more than 3 years after the date the bylaw is continued under paragraph

- (d) of this subsection;
 - (g) deem a reference to the improvement district in any commercial paper, lease, licence, permit or other contract, instrument or document to be a reference to a municipality, a regional district or another improvement district.
- (2) If an order under subsection (1) (c) (i) provides for the establishment of a local area service, section 14.2 (3) to (7) applies for the purposes of this section.
- (3) The requirement in section 13 (1) (a) and (b) of the *Community Charter* to first obtain the consent of a local government does not apply in relation to a service if
- (a) the service is continued under subsection (1) (c) on dissolution of an improvement district, and
 - (b) the service is to be provided by the municipality in an area outside the municipality to which the service was provided by the improvement district at the time the improvement district was dissolved.
- (4) If a municipality or regional district does not have the power to adopt a provision of a bylaw that is continued under subsection (1) (d) as a provision of a bylaw of the municipality or regional district, the municipality or regional district is deemed to have the power to adopt that provision of the bylaw until the earlier of
- (a) the repeal of that provision of the bylaw, and
 - (b) the date specified under subsection (1) (f) in respect of that bylaw.

Additional powers

735 . 2 (1) Despite this or any other Act, the Lieutenant Governor in Council may, by letters patent or by order, do one or more of the following in relation to the incorporation of an improvement district, the extension or reduction of the area of an improvement district or the addition, modification or repeal of an object of an improvement district:

- (a) impose requirements on the improvement district;
- (b) restrict the powers of the improvement district;
- (c) make provisions the Lieutenant Governor in Council considers appropriate for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties;
- (d) in respect of a provision included in the letters patent or order under paragraphs (a) to (c), provide an exception to or a modification of a requirement or condition established by an enactment.

(2) Despite this or any other Act, letters patent of an improvement district or an order of the Lieutenant Governor in Council under this Part may establish any terms and conditions the Lieutenant Governor in Council considers appropriate in respect of any matter related to the letters patent or order.

(3) As a restriction, in exercising a power under this section, the Lieutenant Governor in Council may not override an absolute prohibition contained in an enactment.

Improvement district trustees

736 (1) The powers of an improvement district are

to be exercised and its property is to be managed

(a) by trustees elected by the persons entitled to vote as provided in the letters patent, or

(b) if no provision is made for the election of trustees in the letters patent, by trustees elected by the owners of land in the improvement district.

(2) Despite subsection (1), the Lieutenant Governor in Council may appoint the first trustees of an improvement district, or may appoint a person to conduct the first election of trustees.

(3) Except as otherwise provided in the letters patent and except as to trustees elected to fill vacancies resulting from death, resignation or disqualification, the term of office of a trustee is 3 years.

(4) A majority of the trustees constitutes a quorum.

(5) Whenever the trustees in office do not constitute a quorum, the inspector may make provision at the expense of the improvement district for an election to fill the vacancy among the trustees.

(6) If a vacancy referred to in subsection (5) is not filled by the election under that subsection, the Lieutenant Governor in Council may appoint a person the Lieutenant Governor in Council thinks proper to fill the vacancy, and it is not necessary for the person to be an owner of land in the district.

Election of improvement district trustees

737 (1) In order to vote at an election for improvement district trustees, a person must be

- (a) a Canadian citizen,
- (b) age 18 years or older, and
- (c) entitled to be registered as a voter under the *Election Act*.

(2) Improvement district elections may be held at the annual general meetings of the improvement districts or otherwise, and the voting may be done by secret ballot or otherwise.

(3) The Lieutenant Governor in Council may, by regulation, prescribe the procedure to be followed in conducting any election for improvement district trustees.

(4) A person who is qualified to vote at an improvement district election and who voted or applied to vote in the election may appeal to the Supreme Court against the order of the presiding officer accepting or rejecting a vote or ballot or the result of the election.

(5) An appeal under subsection (4) must be made in writing within 2 weeks after the election.

(6) On an appeal under subsection (4), after the hearing or investigation the court believes proper, it may confirm or amend the order appealed against or may declare the election of no effect and order a new election, establishing the date, time, place and conditions.

(7) An election must not be set aside because of an innocent irregularity, unless the court is satisfied that the irregularity affected the result of the election.

Chair

738 (1) Subject to the letters patent, the trustees must elect one of their number as chair at the first meeting in each year and at the first meeting after a vacancy occurs in the office.

(2) The chair must preside at meetings of the trustees.

(3) The chair has a vote, and a question on which there is an equality of votes is deemed to be negatived.

(4) If the chair is absent from a meeting, the members present must appoint one of their number to act as chair.

(5) [Repealed 2000-7-69.]

Officer positions

738 . 1 (1) The board of trustees

(a) must, by bylaw, establish officer positions in relation to the duties under sections 738.2 [*corporate administration*] and 738.3 [*financial administration*], with titles the board considers appropriate,

(b) may, by bylaw, establish other officer positions for the improvement district, with titles the board considers appropriate, and

(c) may, by bylaw or resolution, assign powers, duties and functions to those officer positions.

(2) For certainty,

(a) the board of trustees may assign to an officer position powers, duties and functions in addition to those required or permitted to be assigned by this Act or another enactment, and

(b) the same person may be appointed to 2 or more officer positions.

(3) Words in an enactment referring to an improvement district officer, by name of office or otherwise, also apply to

(a) the officer's deputy, and

(b) any person designated by the board of trustees to act in the officer's

place.

Corporate administration

738 . 2 One of the officer positions established under section 738.1 must be assigned the responsibility of corporate administration, which includes the following powers, duties and functions:

- (a) ensuring that accurate minutes of the meetings of the board of trustees and its committees are prepared and that the minutes, bylaws and other records of the business of the board and its committees are maintained and kept safe;
- (b) ensuring that access is provided to records of the board of trustees and its committees, as required by law or authorized by the board;
- (c) signing and certifying copies of bylaws and other documents, as required or requested;
- (d) accepting, on behalf of the improvement district or the board of trustees, notices and documents that are required or permitted to be given, served on, filed with or otherwise provided to the improvement district or board of trustees;
- (e) keeping the improvement district's seal and having it affixed to documents as required.

Financial administration

738 . 3 One of the officer positions established under section 738.1 must be assigned the responsibility of financial administration, which includes the following powers, duties and

functions:

- (a) receiving all money paid to the improvement district;
- (b) ensuring the keeping of all funds and securities of the improvement district;
- (c) expending and disbursing money in the manner authorized by the board of trustees;
- (d) investing funds, until required, in investments under section 745 (4) [*authority equivalent to municipal investment authority*];
- (e) ensuring that accurate records and full accounts of the financial affairs of the improvement district are prepared, maintained and kept safe;
- (f) compiling and supplying information on the financial affairs of the improvement district required by the inspector.

Officers and employees

738 . 4 (1) The board of trustees may

- (a) provide for the appointment of officers and other employees for the improvement district, and
 - (b) subject to the *Labour Relations Code* and the *Employment Standards Act*, establish the terms and conditions of their employment, including terms and conditions respecting their remuneration, benefits, expenses, hours of work and manner of appointment, promotion, discipline and dismissal.
- (2) In the event of a conflict between terms and

conditions of employment established by bylaw, resolution or policy and those established by contract of employment or collective agreement, the contract or agreement prevails.

(3) Subject to a contract of employment and subject to providing the officer with an opportunity to be heard, the appointment of an improvement district officer may be terminated by the board of trustees as follows:

(a) in the case of termination for cause, by immediate termination without any period of notice;

(b) in any other case, by termination on reasonable notice.

(4) A termination under subsection (3) (b) may be made only by the affirmative vote of at least 2/3 of all trustees.

Giving notice to improvement districts

738 . 5 If an enactment requires or permits

(a) notice to be given to an improvement district or a board of trustees,

(b) a document to be served on an improvement district or a board of trustees,

(c) a document to be filed with an improvement district or a board of trustees, or

(d) a document to be delivered, sent, submitted or otherwise provided to an improvement district or a board of trustees,

the notice, service, filing or provision is effected if the notice or document is, as applicable, given, served on, filed with or provided to the improvement district officer assigned responsibility under section 738.2 [*corporate*

administration].

Meeting procedure

739 (1) The board of trustees must, by bylaw, do the following:

(a) establish the procedures that are to be followed for the calling of meetings of the board and for the conduct of its business, including the manner by which resolutions may be passed and bylaws adopted;

(b) establish the procedures that are to be followed in calling and conducting

(i) meetings of select and standing committees of the board,

(ii) meetings referred to in section 741 [*annual general meeting*], and

(iii) meetings of any other committee composed solely of trustees of the improvement district acting in that capacity;

(c) establish the procedures for giving advance public notice respecting the date, time and place of meetings referred to in section 741 [*annual general meeting*] and any other meetings required to be open to the public by a regulation under section 739.1 (a) [*regulations for public access to board meetings*].

(2) The inspector or the chair of the trustees may call a meeting of the trustees for any purpose and the chair must do so when requested in writing by the inspector or by a majority of the trustees.

(3) The chair or the officer assigned responsibility under section 738.2 [*corporate administration*] must give notice to each trustee of each meeting of the board of trustees in accordance with the procedures established by bylaw under subsection (1) of this section.
(4) [Repealed 2000-7-71.]

Regulations in relation to meetings

739 . 1 The Lieutenant Governor in Council may make regulations as follows:

- (a) making the provisions of sections 236 [*minutes of board meetings*] and 237 [*minutes of board committee meetings*] of this Act and Division 3 [*Open Meetings*] of Part 4 and sections 133 [*expulsion from meetings*] and 282 (2) (c) [*regulations relating to meeting rules*] of the *Community Charter*, as applicable, apply in relation to meetings of
 - (i) the board of trustees,
 - (ii) select and standing committees of the board, and
 - (iii) any other body established by the board;
- (b) excluding a body under paragraph (a) (iii) from the application of one or more of the provisions referred to in paragraph (a);
- (c) modifying any of the provisions referred to in paragraph (a) in relation to bodies referred to in that paragraph;
- (d) making section 237 [*minutes of board committee meetings*] applicable to meetings referred to in section 741

[annual general meeting] and modifying any of the provisions of section 237 in relation to those meetings;

(e) requiring that the minutes of a board meeting, or a part of a board meeting, that is not closed under section 90 of the *Community Charter*, as that section may be made to apply by regulation under paragraph (a), be made available for public inspection.

First meeting of trustees in each year

740 (1) Subject to the letters patent, the first meeting in each year of the trustees of an improvement district must be held after, but not later than 30 days after, the date in the year on which the annual general meeting of the district or the last general meeting of a zone of it has been held.

(2) The time and place of the first meeting in each year must be set by the officer assigned responsibility under section 738.2 [*corporate administration*], by a majority of the trustees or, in the case of the first meeting of trustees after incorporation, by the official responsible for conducting the first election.

Appointment of select and standing committees

740 . 1 (1) A board of trustees may appoint a select committee to consider or inquire into any matter and report its findings and opinion to the board.

(2) The board may establish standing committees for matters the board considers would be better dealt with by committee and may appoint persons to those committees.

(3) Subject to subsection (4), persons who are not trustees may be appointed to select and

standing committees.

(4) At least one member of each select and standing committee must be a trustee.

Annual general meeting

741 (1) At least once in every 12 months, the board of trustees must call a meeting of the owners of land in the improvement district at which it presents the audited financial statements for the preceding calendar year.

(2) The annual general meeting must be open to the public.

(3) At least 14 days before the annual general meeting, the board of trustees must give advance public notice of the date, time and place of the meeting in accordance with the procedures established by bylaw under section 739 (1) (c).

Annual financial statements

741 . 1 (1) The fiscal year for an improvement district is the calendar year.

(2) Improvement district financial statements for a fiscal year must be

(a) prepared by the officer assigned responsibility under section 738.3

[financial administration], and

(b) presented to the board of trustees for its acceptance.

(3) Subject to subsection (4), the financial statements must be prepared in accordance with generally accepted accounting principles for local governments.

(4) The inspector may require or authorize, generally or for a specified improvement district, that the financial statements vary from or include additional information to the requirements of subsection (3).

(5) By May 15 in each year, the board of trustees

must submit to the inspector the audited financial statements of the improvement district for the preceding year and any other financial information required by the inspector.

Appointment of auditor

741 . 2 (1) A board of trustees must appoint an auditor for the improvement district.

(2) Sections 169 [*municipal auditor*] and 171 [*auditor's reports*] of the *Community Charter* apply to a person appointed under subsection (1).

(3) [Repealed 2003-52-328.]

Appointment of receiver

742 (1) The Lieutenant Governor in Council may appoint a receiver to manage the affairs of an improvement district if it appears in the public interest to do so.

(2) The receiver has

(a) all the powers of the trustees and other officers of the improvement district, and

(b) the exclusive control of the property, assets and revenues of the improvement district.

(3) After the appointment of a receiver, an action may not be brought against the improvement district or receiver without the consent of the Supreme Court.

Protection from legal proceedings

743 (1) A writ of execution against an improvement district may be issued only with the permission of the Supreme Court, and on the terms and conditions the court may specify.

(2) The corporate seal, books, tools and office furniture, fixtures and fittings of an improvement

district are exempt from seizure or sale by process of law.

Indemnification against proceedings

743 . 1 (1) A board of trustees has the power to indemnify against proceedings as set out in section 287.2 (1) to (6) [*indemnification against proceedings*].

(2) Without limiting subsection (1), the power to indemnify under that subsection applies in relation to the persons referred to in section 287 (1) (n), (o) and (q) [*volunteers and committee members*] as though those persons were officers or employees of the improvement district.

Improvement district property exempt from taxation

744 The land and its improvements of an improvement district are exempt from taxation by the Provincial government, a regional district or a municipality including the City of Vancouver.

Division 2 – Powers and Operations

General powers

745 (1) An improvement district is a corporation and has all powers necessary or useful in carrying out its objects.

(2) Without limiting subsection (1), an improvement district may do one or more of the following:

- (a) acquire, hold and dispose of land and other property, and charges on and interest in it;
- (b) borrow money, issue bonds, debentures, mortgages and other securities;

- (c) settle claims;
- (d) assess land and improvements, levy and collect taxes, tolls and other charges and recover them by suit, by distress or by sale of the assessed land;
- (e) construct, repair, improve, manage, maintain and operate works of any kind;
- (f) regulate the distribution of water, electricity or any other thing or service provided or conveyed by the improvement district;
- (g) make agreements;
- (h) any thing incidental to the things referred to in paragraphs (a) to (g) or necessary to carry out its objects.

(3) All contracts that, if made between natural persons, would have to be made in writing must be made under the district's seal.

(4) Money held by an improvement district that is not immediately required may be invested or reinvested by the board of trustees in investments referred to in section 183 [*investment of municipal funds*] of the *Community Charter*.

Powers that must be exercised by bylaw

746 (1) The trustees of an improvement district may make bylaws for one or more of the following:

- (a) entering into a contract about land or works;
- (b) borrowing by way of loan, temporary or otherwise, from a chartered bank or from any person, sums the trustees believe necessary;
- (c) executing cheques, promissory notes or other instruments that may

be necessary or desirable for the purpose referred to in paragraph (b);

(d) borrowing money by the issue and sale of notes, bonds, debentures and other securities in principal amounts the trustees believe necessary;

(e) [Repealed 2000-7-79.]

(f) establishing the tolls and other charges, including charges for capital expenditures, payable to the improvement district, and the times of their payment;

(g) establishing discounts or percentage additions to encourage the prompt payment of tolls and charges under paragraph (f);

(g.1) establishing the manner in which interest is calculated if

- (i) this or another Act provides a requirement or authority to apply interest to an amount owed to, or owing by, the improvement district, and
- (ii) the manner in which interest is calculated is not otherwise provided for;

(h) establishing the basis of assessment of the land and the value of land and improvements in the district;

(i) establishing the method to be followed by the assessor in classifying land in the district for assessment purposes;

(j) regulating the distribution and use of water, power or any other thing or service made available;

(k) regulating and requiring the

provision of works and services in respect of the subdivision of land;
(l) in relation to manufactured home parks,

(i) establishing a charge for fire protection for each space occupied by a manufactured home in a manufactured home park, payable by the person in charge of or operating the park,

(ii) establishing the time of payment of the charge, and

(iii) authorizing inspection by the improvement district of a manufactured home park and the records of the operator of the park;

(m) establishing penalties for failure to comply with regulations made under this section and bylaws made by the trustees;

(n) establishing a reserve fund for one or more capital purposes.

(2) Securities under subsection (1) (d)

(a) may be in a form, may bear interest at a rate and may be made payable as to principal and interest at the time, in the manner, at the place and in the currency the trustees believe expedient, and

(b) may be made redeemable in advance of maturity at the time and at the price the trustees by bylaw determine at the time of issue.

(3) Sections 759 and 762 to 768 apply to the collection of charges imposed under subsection (1) (l), and the money owing for the charges is deemed to be taxes recoverable under

section 762 and 763.

(4) The powers referred to in subsection (1) may only be exercised by bylaw, but all other powers of the improvement district may be exercised by the trustees by resolution.

Requirements for bylaws

747 (1) A bylaw of an improvement district must be

(a) sealed with the seal of the improvement district, and

(b) signed by the officer assigned responsibility under section 738.2 [corporate administration] and by the person presiding at the meeting at which the bylaw is passed.

(2) Subject to a regulation under subsection (4), the bylaws of improvement districts are effective only on registration with the inspector.

(3) For an improvement district bylaw that requires registration under subsection (2), the inspector may register or refuse to register it, or take any other action the inspector considers is in the interest of the improvement district or the Provincial government.

(4) The minister may, by regulation,

(a) provide exemptions from the registration requirement under subsection (2), and

(b) in relation to this, provide that an exemption is or may be made subject to the terms and conditions specified by the minister or the inspector.

(5) Section 136 [*when a bylaw comes into force*] of the *Community Charter* applies to bylaws that are exempt from the registration requirement under subsection (2).

Subdivision servicing requirements

747 . 1 (1) For the purposes of section 746 (1) (k), the board of trustees may, by bylaw, require that, within that subdivision,

- (a) a water distribution system,
- (b) a fire hydrant system,
- (c) a sewage collection system,
- (d) a sewage disposal system,
- (e) a drainage collection system, or
- (f) a drainage disposal system

be provided, located and constructed in accordance with the standards established in the bylaw.

(2) A bylaw under subsection (1) may be different in relation to one or more of the following:

- (a) different circumstances;
- (b) different areas;
- (c) different land uses;
- (d) different zones.

(3) An improvement district must not impose a requirement under subsection (1) in respect of a subdivision under the *Strata Property Act*.

(4) In addition to the authority under subsection (1), as a condition of

- (a) the approval of a subdivision, or
- (b) if an agreement under subsection (8) applies, the issuance of a building permit,

a board of trustees may require that the owner of the land provide works and services, in accordance with the standards established in a bylaw under this section, on that portion of a highway immediately adjacent to the site being subdivided or developed, up to the centre line of the highway.

(5) In addition to the authority under subsection (1), if an agreement under subsection (8)

applies, as a condition of the issuance of a building permit, a board of trustees may require that the owner of the land provide, on the site being developed, works and services in accordance with the standards established in a bylaw under this section.

(6) Requirements under subsections (4) and (5)

(a) may only be made to the extent that they are directly attributable to the subdivision or development, and (b) must not include specific services that are included in the calculations used to determine the amount of a capital expenditure charge under section 746 (1) (f), unless the owner agrees to provide the services.

(7) If the owner agrees to provide the services referred to in subsection (6) (b), section 933 (8) (a) [*deduction of amounts paid by owner*] applies to the calculation of the capital expenditure charge.

(8) A board of trustees and a local government may enter into an agreement under which the local government may refuse to issue building permits in accordance with this section.

(9) The authority to require works and services under this section is limited to works and services that are within the objects of the improvement district as described in its letters patent.

Excess or extended services and latecomer payments

747.2 (1) For the purposes of this section:

"excess or extended services" means a portion of a water, sewage or drainage system that will serve land other than the land being subdivided or developed;

"owner" means an owner within the meaning of section 5.

(2) A board of trustees may require that the owner of land that is to be subdivided or developed provide excess or extended services.

(3) If a board of trustees makes a requirement under subsection (2), the cost of providing the excess or extended services must be paid for

- (a) by the improvement district, or
- (b) if the board of trustees considers its costs to provide all or part of these services to be excessive, by the owner of the land being subdivided or developed.

(4) If the board of trustees imposes a requirement under subsection (3) (b), the improvement district must

- (a) determine the proportion of the cost of providing the water, sewage or drainage facilities that it considers constitutes the excess or extended service,

- (b) determine which part of the excess or extended service that it considers will benefit each of the parcels of land that will be served by the excess or extended service, and

- (c) impose, as a condition of an owner connecting to or using the excess or extended service, a charge related to the benefit determined under paragraph (b).

(5) If the improvement district pays all or part of the costs of excess or extended services, it may recover costs by a charge under subsection (4) (c).

(6) If the owner pays all or part of the costs of

excess or extended services, the improvement district must pay the owner

(a) all the charges collected under subsection (4) (c), if the owner pays all the costs, or

(b) a corresponding proportion of all charges collected, if the owner pays a portion of the costs.

(7) A charge payable under subsection (4) (c) must include interest calculated annually at a rate established by bylaw, payable for the period beginning when the excess or extended services were completed, up to the date that the connection is made or the use begins.

(8) Charges payable for latecomer connections or use under subsection (4) (c) must be collected during the period beginning when the excess or extended services are completed, up to

(a) a date to be agreed on by the owner and the board of trustees, or

(b) if there is no agreement, a date determined under the *Arbitration Act*,

but no charges are payable beyond 15 years from the date the service is completed.

(9) If an owner, in accordance with a bylaw under section 746 (1) (k) or 747.1, provides water, sewage or drainage facilities that serve land other than the land being subdivided or developed, this section applies.

Power to exercise rights under certain water licences

748 (1) If the objects of an improvement district include the operation of irrigation works, the right to divert, store and carry water granted under any licence for irrigation purposes appurtenant to land inside the improvement district is exercisable only by the improvement district or its assignees.

(2) An improvement district referred to in subsection (1)

(a) has the sole right to the use of all works for diverting, storing and carrying water authorized, constructed, maintained or used under the licence, whether they are inside the territorial limits or not, and
(b) may, without reference to the precedence of licences, distribute the water to any land inside the territorial limits.

(3) Subsections (1) and (2) apply to licences for domestic or waterworks purposes if the objects of the improvement district include the operation of works for waterworks purposes.

(4) When an improvement district is dissolved, the rights granted under the licences appurtenant to the land within the territorial limits are again exercisable by the respective owners of the land.

Power to expropriate water diversion licences and related works

749 (1) In addition to the rights conferred on licensees under sections 27 and 28 of the *Water Act*, an improvement district whose objects include the operation of works for waterworks purposes may expropriate

(a) a licence authorizing the diversion of water from a stream suitable for a water supply for the improvement district, and

(b) any work constructed or used under authority of the licence and any real property required for the operation, maintenance and protection of the work.

(2) If an improvement district exercises a power under subsection (1) that does not constitute an expropriation within the meaning of the *Expropriation Act*, compensation as determined by the Supreme Court is payable for any loss or damages caused by the exercise of the power.

General power to expropriate land and works

750 (1) An improvement district may expropriate land or works, or both, reasonably required to carry out its objects.

(2) The interest of a person in works located on Crown land, including works on highways, may be expropriated if the Lieutenant Governor in Council has consented to the expropriation.

Renewal of works

751 (1) An improvement district must make adequate provision in advance to renew works when they require renewal, and must raise amounts for that purpose.

(2) The board of trustees must establish reserve funds for the purpose of renewal of works referred to in subsection (1), and amounts raised as required under that subsection must be credited to the applicable reserve fund.

(3) Money in a reserve fund, and interest earned on it, must be used only for the purpose for which the reserve fund was established.

Appeal if improvement district refuses to provide services

752 (1) An improvement district has no obligation to convey or supply water or electricity or to provide any service to any person, land or premises.

(2) Despite subsection (1), a person to whom any improvement district refuses to convey or

supply water or electricity, or to provide any service, may appeal to the inspector, who may make any order in the matter that the inspector considers just and reasonable.

Division 3 – Taxes and Cost Recovery

Assessment roll

753 (1) The trustees of an improvement district may direct the assessor to prepare an assessment roll.

(2) The trustees must determine the basis of assessment, which may be by parcel, group of parcels, area or value of land or improvements or personal property, or any combination of them.

(3) Complete or partial exemption may be allowed for any of the bases of assessment or any kind or class of any of those bases.

(4) If areas are made a basis of assessment, the land may be classified into grades by any method of classification determined by the trustees.

Notice of assessment

754 (1) The assessor must assess every parcel of land or group of parcels in the name of the registered owner who appears entitled to possession of the land.

(2) After preparing an assessment roll, the assessor must

(a) mail every assessed owner an assessment notice showing the assessment of the owner's land and, if applicable, the assessment of the owner's improvements and personal property, and

(b) send an assessment notice to every holder of a registered charge on land who requests this in writing.

(3) The obligation to send an assessment notice under subsection (2) must be considered satisfied if the assessor made a reasonable effort to mail or otherwise deliver the notice.

(4) The assessment notice must state the date of the first meeting of the court of revision under section 755, which must not be earlier than 2 weeks after the sending of the notice.

Revision of assessments

755 (1) The trustees

(a) must provide for the revision of an assessment roll by the court of revision and for the consideration of all complaints about assessment, and
(b) must appoint 3 of themselves or other persons to constitute the court of revision.

(2) Any person having an interest in assessed land may file with the court of revision a complaint about the assessment of the person's land or other assessed land.

(3) The court of revision must consider the complaints filed and may ratify or amend an assessment.

(4) On completion of the revision, the court of revision must confirm the assessment roll.

(5) Within 2 weeks after notice of the determination of a complaint by the court of revision, a person may appeal to the inspector, who may, after the investigation the inspector believes proper, ratify or amend the assessment.

(6) The assessment roll as confirmed by the court of revision and, if applicable, as amended by the inspector, is valid and binding on all persons concerned, despite an omission, defect or error in it or in any assessment notice or the failure to send an assessment notice.

(7) An assessment roll referred to in subsection (6) remains in effect until a new roll has been prepared, revised and confirmed.

Tax collection on behalf of improvement district

756 (1) This section applies to improvement districts whose objects include

- (a) fire protection,
- (b) street lighting,
- (c) financial aid to hospitals,
- (d) acquisition of property for hospitals, or
- (e) ambulance service.

(2) If the improvement district is located wholly in one or more municipalities, the council of each municipality must levy and collect all taxes that may be levied on real property in the municipality by the improvement district for the objects referred to in subsection (1).

(3) If the improvement district is located wholly or partly in a rural area,

- (a) with the consent of the Minister of Finance, the trustees of the improvement district may, on or before November 30 of each year, provide to the assessor of the assessment district in which all or the greater portion of the improvement district is located a statement showing the amount of money required by the improvement district for the objects referred to in subsection (1) for the following year, and
- (b) on receipt of a statement under paragraph (a), the assessor must promptly apportion to the municipalities and rural area in the improvement district, according to the

basis of assessment established by the *School Act*,

(i) the amount shown on the statement, and

(ii) an amount estimated for the cost of assessment and collection, interest on money paid in advance of collection, and losses through failure to collect.

(4) If the improvement district is located wholly in a rural area,

(a) the assessor of the assessment district in which all or the greater portion of the improvement district is located must advise the collector of each collection district in which any part of the improvement district is located of the amount of money required to be levied by the collector and the applicable rates, and

(b) the collector must levy the amount according to the basis of assessment established by the *School Act*.

(5) If the improvement district includes a municipality and rural area,

(a) the assessor of the assessment district in which all of or the greater portion of the rural area is located must advise the trustees of the improvement district, the council of the municipality and the collector of each collection district in which any part of the improvement district is located of the amount of money required to be levied and the applicable rates for each of the component areas of the improvement

district, and

(b) the council of the municipality and the collector must levy that amount in their respective jurisdictions according to the basis of assessment established by the *School Act*.

(6) The amount to be raised within a municipality for improvement district purposes must be paid, on or before September 30 of the year in which the amount was levied, by the municipality to the improvement district, which must without delay pay the amount to the Minister of Finance.

(7) If the Minister of Finance believes the amount of money required by the improvement district under this section is too large to be levied in one year, that minister may authorize that the amount be levied over a number of years and in the manner that minister considers appropriate.

(8) The Minister of Finance may advance to the improvement district from the consolidated revenue fund amounts requisitioned by the improvement district in respect of the taxes before they are levied or collected.

(9) Except as to the basis of assessment provided in subsections (3) to (8),

(a) the *Taxation (Rural Area) Act* applies to the assessment, levy, collection and recovery of all taxes imposed under those subsections on land and improvements in rural areas and to the addition of interest,

(b) those taxes, when assessed and levied, are deemed to be taxes imposed and assessed under the *Taxation (Rural Area) Act*, and

(c) the proceeds of those taxes must be paid by the Minister of Finance to the improvement district, less an

amount that that minister believes should be retained to cover

- (i) [Repealed 2003-3-18.]
- (ii) interest on any money paid in advance of collection, and
- (iii) [Repealed 2003-3-18.]
- (iv) the annual sum required in repayment of any advance that has been made by that minister.

(10) Sections 754 and 755 do not apply to any taxes imposed, assessed or levied under this section.

Municipal collection of improvement district taxes

756 . 1 (1) Despite any Act, if all or part of a municipality is contained in the area of an improvement district, the objects of which include the provision of fire protection or street lighting, the council of the municipality must impose and collect all taxes imposable by the improvement district on real property in the municipality.

(2) The board of trustees of the improvement district must notify the council of the municipality of the amount to be raised for improvement district purposes in the municipality for the current year.

(3) The Surveyor of Taxes must advise the council of the applicable rates for improvement district purposes, based on the net taxable value of land and improvements but excluding property that is taxable for school purposes only by special Act, to be applied throughout the area of the improvement district.

(4) The council must incorporate the rates under subsection (3) under section 197 (1) (b) *[property taxes for other bodies]* of the *Community Charter*.

- (5) For the purposes of subsection (3) and section 756.2 (2) and (3),
- (a) the definition of "improvements" in the *Assessment Act* applies, and
 - (b) the exemptions in sections 129 to 131 of the *School Act* apply.

Payments to improvement districts

756.2 (1) On demand, the council must pay to the board of trustees of the improvement district the amount to be raised in the municipality for improvement district purposes.

(2) The board of trustees of the improvement district may ask the council of the municipality to advance the sums necessary to meet the current authorized obligations of the improvement district and the council may advance those sums, but only on evidence of the money being needed for operations and obligations of the board of trustees.

(3) As a limit on subsection (2), the total of the advances that may be made under that subsection must be according to the ratio that

- (a) the net taxable value of land and improvements of the property in the municipality that is in the improvement district, excluding property that is taxable for school purposes only by special Act,

bears to

- (b) the net taxable value of land and improvements of the property in the improvement district as a whole, excluding property that is taxable for school purposes only by special Act,

according to the revised assessment rolls on which the tax will be imposed.

(4) The board of trustees of the improvement

district must pay to the Minister of Finance, promptly on receipt, money received from the municipality that represents a share of advances made by the Minister of Finance on behalf of land and improvements in the municipality.

Levying of taxes by improvement district

757 (1) The trustees may, by bylaw, levy taxes to raise the funds considered necessary to meet the obligations of the improvement district and to carry out its objects.

(2) Taxes under subsection (1) may be established on the basis of parcels, groups of parcels, values or areas, or any combination of them and different rates of tax may be established for different grades or classes of land and improvements.

(3) A bylaw under subsection (1) may establish the minimum amount of taxes payable for a parcel or group of parcels and may provide for discounts or percentage additions to encourage prompt payment.

(4) Unless otherwise provided, a tax is deemed to have been levied and is owing on and from January 1 of the year for which the tax is levied.

(5) A person whose name appears on the assessment roll of an improvement district in any year as the owner of any land is liable to the improvement district for the taxes levied by the trustees for that year for that land.

(6) If the trustees levy a tax on the basis of values as referred to in subsection (2), they must adopt a variable tax rate system under which rates are separately determined and imposed for each property class.

(7) Section 199 [*property tax rates regulations*] of the *Community Charter* applies to a variable tax rate system under this section and, for these

purposes, a reference to a municipality in that section is to be read as a reference to an improvement district.

(8) A tax bylaw or tax must not be questioned on the ground that the rate of the tax exceeds what is required for the purposes for which taxes may be levied.

(9) Any action in which the validity of a tax bylaw is questioned must be commenced within one month after registration of the bylaw.

Tax notices

758 (1) As soon as practicable after a tax bylaw comes into force, the trustees must have sent to every registered owner of assessed land a tax notice that

(a) shows the amount of taxes owing by the assessed owner to the improvement district, and

(b) provides sufficient information on assessment and the rates of tax to show how the taxes are computed.

(2) The obligation to send a notice under subsection (1) must be considered satisfied if a reasonable effort was made to mail or otherwise deliver the notice.

Lien for taxes and tolls

759 (1) Despite anything contained in any statute, every assessment made, every tax imposed or levied, accrued or to accrue on any land, and every toll or charge established under a bylaw of an improvement district forms a lien and charge on the land on which it has been imposed, levied, accrued or established.

(2) A lien and charge referred to in subsection (1) has preference over any claim, lien, privileges or encumbrance of any person, except

the Crown and municipal taxes previously accrued, and does not require registration to preserve it.

(3) If it is necessary or advisable to protect or enforce a lien referred to in subsection (1) by action or proceeding, this may be done by order of any court of competent jurisdiction, on application and on the notice that the court directs.

(4) A lien referred to in subsection (1) constitutes a lien and charge on the whole parcel of land affected, even though the tax, toll or charge forming the lien may have been imposed, levied, established or calculated on a part only, or on improvements of any kind or class.

(5) If a parcel of land on which there are taxes owing to an improvement district is subdivided, the collector may apportion the taxes among the separate parts of the parcel and their owners as nearly as possible in conformity with the classification of the land comprising the parts at the time the taxes were levied.

Interest on taxes

760 (1) The taxes payable to an improvement district bear interest at the rate prescribed by the Lieutenant Governor in Council under section 11 (3) of the *Taxation (Rural Area) Act* from March 1 next following the date on which they are levied, until paid or recovered.

(2) The interest under subsection (1)

(a) is from day to day deemed part of the taxes, and a reference to taxes is deemed to include all interest so added, and

(b) is to the same extent as the taxes a lien and charge.

Division 4 — Tax Sales

Definitions

761 In this Division:

"purchaser" includes the improvement district;

"sale" includes the acquisition of land by the improvement district under this section.

Tax sale for recovery of taxes

762 (1) In addition to all other remedies for the recovery of taxes, including percentage additions and interest, the improvement district

(a) may hold a tax sale and there sell at public auction all the land on which there are taxes owing to the improvement district for 24 months or longer at the date of the sale, and
(b) must hold such a tax sale at least once in each year.

(2) The trustees must set the date, time and place of the tax sale.

(3) The collector must

(a) at least 60 days before the date set for the tax sale, give written notice in accordance with subsection (4) to each registered owner of a parcel proposed to be sold and to the holder of any registered charge on the parcel, either by serving the notice or by sending it by registered mail, and
(b) retain a copy of each notice under paragraph (a).

(4) The notice must include the following:

(a) the time and place set for the tax sale;
(b) a short description of the land for

which the taxes are owing;
(c) the amount of all taxes owing to the improvement district on the land and the amount of interest to the date of the tax sale;
(d) the amounts chargeable as expenses connected with the tax sale, including any applicable fee under the *Land Title Act* for issuance and registration of a tax sale deed;
(e) the upset price of the land for the purpose of the tax sale, being the total of the taxes, interest, expenses and fee;
(f) a statement that, if the amounts of taxes, interest and expenses are not paid before the tax sale, the collector will offer the land for sale by public auction at the time and place stated in the notice;
(g) a statement that the proposed tax sale of the land will be an absolute sale and that no right of redemption will remain in the owner or holder of the charge after the sale.

(5) On application, the Supreme Court may order that the notice under subsection (3) may be served by substituted service in accordance with the order.

(6) Notice, publication or advertisement of the tax sale, other than that required by subsection (3), is not necessary, but the trustees may direct the advertisement of a tax sale as they consider appropriate.

(7) In order to cover the expenses connected with a tax sale, the trustees may, by bylaw, establish amounts to be charged under subsection (8).

(8) The collector must charge against each parcel proposed to be sold at the tax sale the amount set under subsection (7).

Conduct of tax sale

763 (1) The collector must conduct the tax sale in accordance with the following:

(a) on the day and at the hour and place set for the tax sale, if the amounts of taxes, interest and expenses for land described in a tax sale notice have not been paid, the collector must offer that land separately for sale at the upset price stated in the notice, and may sell it to the highest bidder;

(b) if there is a bid of the upset price, but no higher bid, the person bidding the upset price must be declared the purchaser;

(c) the collector may adjourn the tax sale from day to day or for a period not exceeding 7 days at any one adjournment until all the land is disposed of.

(2) If the purchaser of a parcel of land at a tax sale fails to pay immediately to the improvement district the amount of the purchase money, the collector must without delay offer the parcel for sale again.

(3) A tax sale purchaser, at the time of paying to the collector the purchase price of the land sold to the purchaser, must sign, or have a person acting as agent sign, a copy of the tax sale notice relating to that land and stating the full name, occupation and post office address of the purchaser.

(4) The signed copy of the tax sale notice under

subsection (3)

(a) must be preserved by the collector with all the other records connected with the tax sale, and

(b) on the execution under this section of a deed of the land sold, is deemed to constitute the collector or the collector's successor in office as the duly authorized agent to apply

(i) on behalf of the purchaser for registration of the

purchaser's title to the land, or

(ii) in case of the purchaser's death, on behalf of the

purchaser's personal

representative for registration of

the representative's title to the land.

Disposal of surplus from tax sale

764 (1) If a parcel of land offered for sale at the tax sale sells for more than the upset price, on written request the surplus must be paid without interest to the registered owner or the personal representative of the registered owner, unless a claim to the surplus is made by some other person on the ground that the land belonged to the other person or that the other person is otherwise entitled to the surplus.

(2) If a claim referred to in subsection (1) is made, the surplus

(a) must be paid, without leave or order, into the Supreme Court, accompanied by a copy of the tax sale notice and a statement of the collector setting out

(i) the facts under which the payment into court is made,

and
(ii) the names of the registered owner and the claimant, and
(b) is payable out of court to the person entitled on the order of the court to be made on application in a summary manner and subject to the giving of notice as the court directs.

Improvement district as purchaser of tax sale land

765 A parcel of land offered for sale at the tax sale for which no bid equal to or greater than the upset price is received is deemed to be sold to the improvement district.

Tax sale deed

766 (1) Promptly after a tax sale, the collector must

(a) execute a deed of each parcel sold by the collector at the tax sale to the purchaser or, in case of the death of the purchaser, to the personal representative of the purchaser, and
(b) forward the deed to the registrar of land titles, together with any applicable fee under the *Land Title Act*.

(2) On receipt of a tax sale deed under subsection (1) and any applicable fee, the registrar of land titles must register indefeasible title to the land in the name of the purchaser or the personal representative, subject to Provincial taxes owing on the land.

(3) The registration of the improvement district or any other person as the owner of land under a tax sale deed executed under this section

(a) cancels registration of the indefeasible or absolute title of that land and any duplicate indefeasible

title or absolute certificate of title outstanding for that land, and
(b) disencumbers the land of all interest of every previous owner or of those claiming under a previous owner, and of all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every nature and kind, other than
(i) the restrictive conditions, reservations and exceptions subject to which the land was held at the time of the tax sale, and
(ii) existing liens of the Crown or of the municipality in which the land is located.

(4) In a court proceeding, a deed purporting to be issued for a sale of land for unpaid taxes, and purporting to be executed under this Act, is evidence that

(a) the deed is the tax sale deed that it purports to be,
(b) the sale alleged in the deed was conducted in a fair and open manner, and
(c) there were taxes due and in arrear on the land described in the deed at the time of the sale for which it could be sold.

(5) After the end of one year after the date on which the application is made to register in the purchaser the title of land sold at a tax sale, an action must not be brought to recover the land or to set aside the sale of the land, against

(a) the registrar, the improvement district, the trustees or the collector for the sale of the land or registration

of an indefeasible title to it, or
(b) except as provided in this section,
against the improvement district, the
trustees or the collector for any loss
sustained because the land was sold.

(6) A person who at the time of sale was the registered owner of the land sold, or the personal representative or assignee of that person, or a person who at the time of sale was the holder of a registered interest in or charge on the land, must be indemnified by the improvement district for loss sustained by the person because of the sale of the land if

(a) the land was not liable to taxation by the improvement district during the period for which the taxes were levied on the land sold,

(b) the taxes for which the land was sold had been paid, or

(c) notice of the intention to sell or offer the land for sale was not given in substantial compliance with section 762 (3).

(7) A proceeding to recover indemnity under subsection (6) must be commenced within one year after the date on which the application is made to register the title of the land in the purchaser.

(8) Despite subsection (6), there is no right to indemnity under that subsection if it is shown that the person claiming indemnity

(a) was aware at any time that the land was liable to be sold or offered for sale, or

(b) was aware at the time of the tax sale that the land was advertised or offered for sale.

Sale of Crown land held under a mortgage or

agreement for sale

767 (1) Subject to this section, sections 762 to 766 apply to land in respect of which taxes are in arrear if

(a) the fee simple of the land is in the Provincial or federal government, and
(b) the land is held under a mortgage to or agreement for sale from the Provincial or federal government, a minister of the Provincial or federal government or a board or corporation holding or having charge of the administration of the land on behalf of the Provincial or federal government.

(2) At a tax sale, the land must be sold subject to the interest of the Provincial or federal government and the collector must state at the time of sale that the interest of the Provincial or federal government is prior to all claims and is not affected by the sale.

(3) The Provincial or federal government may accept the tax sale purchaser as mortgagor or purchaser of the land and may deal with that purchaser to the exclusion of the person whose interest was sold at the tax sale and of all persons claiming under that person.

(4) If the Provincial or federal government accepts the tax sale purchaser as mortgagor or purchaser, that government must

(a) notify the trustees of this, and
(b) notify the registrar if the mortgage or agreement for sale is registered in the land title office.

(5) If the Provincial or federal government does not accept the tax sale purchaser as mortgagor or purchaser or does not notify the trustees within 6 months after the date of sale that that

government has accepted the purchaser, the purchaser is entitled to a refund from the improvement district of the amount the purchaser paid together with interest at the rate prescribed under subsection (6).

(6) The Lieutenant Governor in Council may prescribe a rate of interest for the purposes of subsection (5).

(7) If a refund is made under subsection (5), the collector must promptly replace on the tax roll, as taxes in arrear, the amount of the taxes, interest, costs and expenses, together with the interest paid to the purchaser under that subsection.

Disposal of tax sale land by trustees

768 The trustees may lease, sell or otherwise dispose of land of which the improvement district has been registered as owner under section 766 in the manner and on the terms they see fit, and may apply the proceeds of sale for any purpose for which taxes that may be levied by the trustees under this Act may be applied.

Division 5 — Borrowing and Securities

Provision of sinking funds

769 If a bylaw of an improvement district provides for a sinking fund, the improvement district must pay the instalments of the sinking fund to the Minister of Finance, who must invest them in investments permitted for a trust fund under section 40 (4) of the *Financial Administration Act*.

Provincial guarantee of improvement district securities

770 (1) The Lieutenant Governor in Council may, on

terms and in the manner and form the Lieutenant Governor in Council determines, guarantee the payment of principal and interest of

- (a) notes, bonds, debentures or other securities authorized to be issued under this Act or the *Water Act* by an improvement district for any purpose of the improvement district, and
- (b) loans, temporary or otherwise, authorized to be raised under this Act or the *Water Act* by an improvement district for any purpose of the improvement district.

(2) Without limiting subsection (1), the purposes of an improvement district include the following:

- (a) the acquisition, construction, reconstruction, replacement, improvement and extension of works for diverting, storing and conveying water for domestic use and irrigation of land;
- (b) the disposal of sewage;
- (c) the provision of fire protection;
- (d) the provision of street lighting;
- (e) the granting of financial aid toward the planning, constructing, reconstructing, purchasing, equipping or operating of a hospital, or the acquiring of land or buildings for those hospital purposes;
- (f) repayment of advances by the Provincial government to the improvement district;
- (g) repayment, refunding or renewal of all or part of a loan raised or securities issued by the improvement

district;

(h) payment of all or a part of any loan, liability or bonds, debentures or other securities, payment of which is guaranteed or assumed by the improvement district;

(i) payment of any other liability or debt of the improvement district.

(3) A guarantee given under subsection (1) must be signed by the Minister of Finance, or by another officer of the Ministry of Finance designated by the Lieutenant Governor in Council.

(4) On the guarantee being signed in accordance with subsection (3), the Provincial government is liable to pay the principal and interest of the notes, bonds, debentures, securities and loans guaranteed, according to their tenor.

(5) In the hands of any holder of the notes, bonds, debentures or securities, a guarantee signed in accordance with subsection (3) is conclusive evidence that that subsection has been complied with.

(6) The Lieutenant Governor in Council may make arrangements to supply the money necessary to fulfil the requirements of a guarantee under this section and may advance the amount necessary out of the consolidated revenue fund.

Form of securities

771 The notes, bonds, debentures and other securities authorized and issued by an improvement district must bear the seal of the improvement district and, together with any coupons attached to them, must bear the manual, engraved, lithographed or printed signatures of the chair and officer assigned

responsibility under section 738.3 [*financial administration*], or of the other persons the trustees may by bylaw determine.

Registration of securities

772 (1) An improvement district that issues or has issued bonds or debentures must keep or cause to be kept at the office of the improvement district or in the office of the registrar of the Ministry of Finance a registry book in which

(a) the owners of any of its bonds or debentures may register them as to principal only, and

(b) transfers of bonds or debentures so registered may be registered.

(2) Bonds or debentures of an improvement district pass by delivery unless registered as to principal in the name of the owner in the registry book, in which case the fact of registration must be noted on the bonds or debentures so registered.

(3) After registration, a transfer of a bond or debenture is not valid unless it is

(a) made by instrument in writing signed by the registered owner or by the authorized attorney of the registered owner, and

(b) registered in the registry book.

(4) Registration of an instrument under subsection (3) must be noted on the bond or debenture.

(5) The registration of a bond or debenture under this section may be discharged and the transferability of the bond or debenture by delivery restored by registration of a further transfer to the bearer of the bond or debenture, that is similarly registered and noted on the bond

or debenture as referred to in subsections (3) and (4).

(6) After the registration of a bond or debenture has been discharged, its registration may again in like manner be effected or discharged.

(7) Despite registration of a bond or debenture, the interest coupons continue to be payable to bearer and to be transferable by delivery.