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c 22 Shoreline Property Assistance Amendment Act, 1986

Ontario

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CHAPTER 22

**An Act to amend the
Shoreline Property Assistance Act**

Assented to July 7th, 1986

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

1. Section 1 of the *Shoreline Property Assistance Act*, being chapter 471 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

1. In this Act,

Definitions

“building raising” means the raising of a building or structure required by reason of damage or potential damage to the building or structure;

“building relocation” means the relocation of a building or structure required by reason of damage or potential damage to the building or structure;

“building repairs” means repairs to a building or structure required by reason of damage to the building or structure;

“damage” means damage caused by high water levels of or the impact of ice on a lake, river or other body of water or by damage to or erosion of the shore of a lake, river or body of water caused by the elements, and “potential damage” has a corresponding meaning;

“Minister” means the Minister of Municipal Affairs or such other member of the Executive Council to whom the administration of this Act may be assigned;

“municipality” means a city, town, village or township;

“prescribed” means prescribed by the regulations made under this Act;

“works” means retaining walls, dykes, breakwaters, groynes, cribs and other structures designed for the rehabilitation or protection, or both, of property on the shores of lakes, rivers or other bodies of water that have been damaged or eroded by the elements, and includes repairs and improvements to existing works.

Building
relocation

1a. A loan for building relocation may be made under this Act notwithstanding that the building or structure is to be relocated on a parcel of land other than the one it was on at the time the application was made for the loan,

- (a) if at the time of the application and at the time money is advanced under the loan, the applicant is assessed as owner of both parcels;
- (b) if the declaration required by subsection 3 (3) or clause 12 (3) (a) sets out the particulars referred to in the relevant subsection for both parcels of land,

and,

- (c) the money lent shall be deemed to be lent in respect of the parcel on which the building or structure is situate after the relocation;
- (d) subsection 3 (4) applies with necessary modifications to both parcels of land where the land is in a municipality and clause 12 (3) (b) applies with necessary modifications to both parcels of land where the land is not in a municipality.

2. Part I of the said Act is amended by striking out the heading “Rehabilitation and Protection Loans” and inserting in lieu thereof “Loans in Municipalities”.

3. Subsection 2 (1) of the said Act is repealed and the following substituted therefor:

Borrowing by
municipalities
R.S.O. 1980,
c. 347

(1) Subject to sections 64 and 65 of the *Ontario Municipal Board Act*, the council of a municipality may pass by-laws in the prescribed form authorizing,

- (a) the borrowing of money from the Treasurer of Ontario for the purpose of lending the money for any or all of the construction of works, building raising, building relocation and building repairs; and

- (b) the issuing of debentures in the prescribed form by the municipality or by a district, metropolitan or regional municipality on its behalf.

4.—(1) Subsection 3 (1) of the said Act is repealed and the following substituted therefor:

(1) An owner of land who is assessed as the owner thereof in a municipality or, where at any time after the return of the assessment roll and before the return of the assessment roll in the following year, the land is conveyed to some other person, such other person may make application to the council of the municipality in the prescribed form to borrow money for the purpose of,

Application
by owner for
loan

- (a) constructing works on the land or, with the prior consent of the Crown, on Crown land immediately adjacent to the land; or
- (b) building raising, building relocation or building repairs on the land.

(2) Subsection 3 (8) of the said Act, as re-enacted by the Revised Statutes of Ontario, 1980, chapter 471, section 16, is repealed and the following substituted therefor:

(8) A loan under this Part shall not exceed the amount prescribed.

Limitation
on loans

(9) A municipality shall not lend money for building relocation unless, following the relocation, the building or structure is in the same municipality as it was in at the time of the application for the loan.

Building
relocation
must be in
same
municipality

5. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) The council of a municipality borrowing money under this Part shall have a competent inspector assess the need for the work, the type of work proposed and the compatibility of the work with adjacent property.

Appointment
and duties of
inspector

(2) The inspector shall inspect the work and shall file with the clerk of the municipality an inspection and completion certificate in the prescribed form and no money shall be advanced by the municipality under the loan until the certificate has been filed.

Idem

(3) The costs of the services of the inspector shall be charged against the work inspected and shall be paid out of

Payment for
inspector's
services

the amount borrowed and deducted from the amount loaned under section 7.

6. Section 11 of the said Act is repealed and the following substituted therefor:

Discharge of
indebtedness
by owner

11. The owner of land in respect of which money has been borrowed under this Part may obtain a discharge of the indebtedness at any time by paying to the treasurer of the municipality the outstanding balance of the loan together with accrued interest.

7. Part II of the said Act, as amended by the Revised Statutes of Ontario, 1980, chapter 471, section 20, is repealed and the following substituted therefor:

PART II

LOANS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION

Application
by owner
for loan

12.—(1) An owner of land in territory without municipal organization who is assessed as the owner thereof may make application to the Minister in the prescribed form to borrow money for the purpose of,

- (a) constructing works on the land or, with the prior consent of the Crown, on Crown land immediately adjacent to the land; or
- (b) building raising, building relocation or building repairs on the land.

Where works
on Crown
land

(2) Where the money is borrowed to construct works on Crown lands, it shall be deemed to be borrowed in respect of the land of the owner who borrowed the money.

Statutory
declaration
of applicant

(3) The application shall not be acted upon unless it is accompanied by,

- (a) a declaration of the applicant stating that the applicant is the actual owner of the land mentioned in the application, and that the land is free from encumbrance, or if the land or any part of it is mortgaged or otherwise encumbered, stating the name and address of the mortgagee or other encumbrancer and where it has been assigned, the name and address of the assignee of the mortgage or other encumbrance; and

- (b) where there is a mortgage or other encumbrance, the written consent to the loan of each such mortgagee or other encumbrancer and assignee of the mortgage or encumbrance.

(4) The Minister is not required to hold a hearing before deciding on an application. Hearing
not required

(5) The approval of an application under subsection (1) is in the discretion of the Minister whose decision is final and written notice of the decision shall forthwith be given to the applicant and all mortgagees and other encumbrancers and assignees referred to in subsection (3). Discretion
of Minister

(6) A loan under this Part shall not exceed the amount prescribed. Limitation
on loans

(7) The Minister shall lend the money borrowed under the authority of this Part in sums of \$100 or multiples thereof for a term of ten years to be repaid in equal annual payments at a rate of interest prescribed by the regulations. Loans by
Minister

(8) No money shall be advanced under a loan under this Part unless the owner has delivered a signed note for the amount of the loan. Note
required

13.—(1) In the event of any default in the repayment of a loan made under this Part, Default

(a) interest on the amount due shall accrue during the time of such default at the rate prescribed from time to time; and

(b) in addition to any other remedy for the recovery thereof, should the default continue for a period of one year, the outstanding balance of the loan together with accrued interest and costs shall thereupon become due and payable.

(2) The amount lent under this Part is a debt due Her Majesty in right of Ontario from the owner of the land and any subsequent owner of the land and the outstanding balance of the loan, together with interest due and costs, may be recovered by an action in any court of competent jurisdiction against the owner or any subsequent owner. Debt owing
Her Majesty

(3) Her Majesty in right of Ontario has a special lien for the outstanding balance of a loan made under this Part, together with interest and costs, against the land in respect of Special lien

which the loan was made and against the buildings and structures on the land.

Priority

(4) The special lien conferred by subsection (3) has priority over,

- (a) every mortgage and other encumbrance in respect of which a consent to the loan was given; and
- (b) every mortgage and other encumbrance or claim that was created or that arose before the lien arose, if the mortgage, other encumbrance or claim was not registered in the proper land registry office against the title to the land at the time the lien arose.

Idem

(5) The Minister may register a notice of the special lien conferred by subsection (3) in the proper land registry office against the title of the land, and, upon registration of the notice, the special lien has, in addition to the priority given by subsection (4), priority over every mortgage or other encumbrance or claim registered in the proper land registry office against the title to the land after registration of the notice.

Additional remedies

(6) In addition to any other remedies, where there has been default in repayment of a loan made under this Part,

- (a) the amount of the loan due and unpaid, together with interest and costs, may be deducted from any money payable by the Province of Ontario to the person who is in default; and
- (b) if the land or any part of it is occupied by a tenant, the Minister may give notice in writing to the tenant requiring the tenant to pay to the Treasurer of Ontario the rent payable by the tenant as it becomes due to the amount of the loan due and unpaid, together with interest and costs.

Apportionment on subdivision of land

(7) Where a part of a parcel of land in respect of which money has been lent under this Part is sold, the Minister may apportion the amount owing, including interest and costs between the part sold and the part remaining, having regard to the effect of the works, building raising, building relocation or building repair on each part into which the parcel of land is divided and such other matters as the Minister considers appropriate, and the decision of the Minister with respect to the apportionment is final.

(8) The owner of land in respect of which money has been borrowed under this Part may obtain a discharge of the indebtedness at any time by paying to the Treasurer of Ontario the outstanding balance of the loan together with accrued interest and costs. Discharge of debt

(9) Upon the repayment in full of a loan made under this Part, the Minister shall cause to be registered in the proper land registry office against the title of the land a certificate discharging the special lien conferred by subsection (3). Idem

13a.—(1) The Minister shall have a competent inspector assess the need for the work, the type of work proposed and the compatibility of the work with adjacent property. Appointment and duties of inspector

(2) The inspector shall inspect the work and shall file with the Minister an inspection and completion certificate in the prescribed form and no money shall be advanced under the loan until the certificate has been filed. Idem

(3) The costs of the services of the inspector may be charged against the work inspected and may be paid out of the amount borrowed and deducted from the amount loaned under section 12. Payment for inspector's services

8. Clauses 14 (b) and (d) of the said Act are repealed and the following substituted therefor:

- (b) prescribing the maximum amount of loans that may be made under this Act;
-
- (d) determining the rate of interest for the purposes of subsection 5 (4), subsection 9 (2), subsection 12 (7) and subsection 13 (1).

9. This Act comes into force on the day it receives Royal Assent. Commencement

10. The short title of this Act is the *Shoreline Property Assistance Amendment Act, 1986.* Short title

