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c 26 Municipal Interest and Discount Rates Act, 1981

Ontario

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CHAPTER 26

An Act to provide Alternative Methods of Fixing Penalty Charges, Interest Rates and Discount Rates on Payments to Municipalities

Assented to July 3rd, 1981

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

1. In this Act,

Interpretation

(a) "municipality" means a municipality as defined in the Municipal Affairs Act and a metropolitan, regional or district municipality or the County of Oxford and any local board thereof;

R.S.O. 1980, c. 303

(b) "overdue payment" includes any payment to be made to a municipality in respect of,

(i) overdue taxes owing to the municipality,

(ii) overdue amounts owing to the municipality pursuant to a levy or requisition made by that municipality upon another municipality,

(iii) overdue amounts owing to the municipality by another municipality to be applied towards outstanding indebtedness of the municipality, and

(iv) overdue amounts owing to the municipality by another municipality for the supply of water or some other service by the first-mentioned municipality to the other municipality;

(c) "prime rate" means the lowest rate of interest quoted by a chartered bank, named in Schedule A to the Bank Act (Canada), to its most credit-worthy borrowers for prime business loans;

1980-81, c. 40 (Can.)

(d) "prime rate percentage" means the prime rate of the chartered bank that has the highest prime rate on the

relevant day expressed as a percentage only, without the addition of the words "per annum".

Application

2. Sections 3 and 4 apply only where, under any general or special Act, a municipality is authorized or required to charge interest on overdue payments or to allow a discount for payments made in advance of their due date and where a municipality is authorized or required,

- (a) to charge interest on overdue payments, the municipality may charge interest in accordance with section 3 in lieu of charging interest in accordance with such other Act; and
- (b) to allow a discount for payments made in advance of the due date, the municipality may allow a discount in accordance with section 4 in lieu of allowing a discount in accordance with such other Act,

notwithstanding that the interest charged or the discount allowed is at a rate that is higher or lower than the rate authorized or required to be charged under such other Act.

Alternate
interest
rate

3.—(1) A municipality may, by by-law, provide that the interest payable on overdue payments shall be at the rate specified in the by-law, which rate shall not exceed the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum.

Idem

(2) A by-law passed in any year under subsection (1) in respect of interest payable on overdue payments,

- (a) may be amended to reduce the interest rate charged but shall not be amended to increase the rate;
- (b) may provide for interest to be added to overdue payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of interest payable on overdue payments comes into force in the next following year, or
 - (ii) the 31st day of March in the next following year; and
- (c) may be made applicable to overdue payments or any class or classes thereof, that are overdue on the day this Act comes into force or that thereafter become overdue.

(3) For the purposes of subsection (1), where a municipality is authorized by any general or special Act to fix a monthly interest rate to be added to overdue payments for each month or fraction of a month during which the payment remains unpaid, the interest rate specified in a by-law passed under subsection (1) shall not exceed one-twelfth of the prime rate percentage on the day the by-law is passed plus one-eighth of 1 per cent per month.

Monthly
interest
rate

(4) This section does not apply to any penalty for non-payment of taxes imposed under subsection 386 (3) or (4) of the *Municipal Act*.

Application

R.S.O. 1980,
c. 302

4.—(1) A municipality may, by by-law, provide that the discount rate on payments made to it in advance of their due date shall be at such rate as is specified in the by-law, which rate shall not exceed the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum.

Alternate
discount
rate

(2) A by-law passed in any year under subsection (1) in respect of discounts allowed on advance payments,

Idem

- (a) may be amended to increase the discount rate allowed but shall not be amended to decrease the rate;
- (b) may provide for discounts to be allowed on advance payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of discount rates comes into force in the next following year, or
 - (ii) the 31st day of March in the next following year; and
- (c) may be made applicable to advance payments or any class or classes thereof, made in respect of payments that become due after the day this Act comes into force whether the advance payment was or is made before or after that day.

(3) This section does not apply to discounts or interest allowed for taxes paid in advance under subsection 386 (5) of the *Municipal Act*.

Application

5.—(1) In lieu of imposing a percentage charge as a penalty for non-payment of taxes under subsection 386 (3) or (4) of the *Municipal Act* or allowing a discount or interest for advance payment of taxes under subsection 386 (5) of that Act, a municipality may impose penalties and allow discounts or interest in accordance with this section.

Application

Alternate
penalty for
non-payment
of taxes

(2) A municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding one-twelfth of the prime rate percentage on the day the by-law is passed plus one-eighth of 1 per cent and the by-law shall provide that the percentage charge shall be imposed on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied.

Idem

(3) As an alternative to a by-law passed under subsection (2), the municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or all or any class or instalment thereof not exceeding the prime rate of the chartered bank that has the highest prime rate on the day the by-law is passed plus 1½ per cent per annum from the date payment is due until it is made or until the 31st day of December of the year in which the taxes were levied, whichever is earlier.

Alternate
discount or
interest on
payment in
advance

(4) The municipality may, by by-law, authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

- (a) to allow a discount of any taxes so paid in advance at a rate not exceeding the prime rate of the chartered bank having the highest prime rate on the day the by-law is passed plus 1½ per cent per annum and may allow interest at a rate not exceeding the aforementioned maximum rate on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or
- (b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding the prime rate of the chartered bank having the highest prime rate on the day the by-law is passed plus 1½ per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment role on which such taxes are to be fixed and levied has not been revised and certified by the Assessment Review Court when any such advance payment is made.

Application

(5) A by-law passed under this section,

- (a) may be made applicable to taxes payable in 1981, whether or not such taxes are overdue on the day this Act comes into force, and to taxes paid in 1981, if notice of the by-law is given in accordance with subsection 386 (6) of the *Municipal Act*, and such a by-law applies

notwithstanding that prior to the coming into force of this Act, the municipality has imposed a percentage charge or allowed a discount under subsection 386 (3), (4) or (5) of the *Municipal Act* or that notices have been sent out in 1981 under section 159, 379 or 380 of that Act;

R.S.O. 1980,
c. 302

(b) shall be passed prior to the day on which tax notices are first given or mailed under section 159, 379 or 380 of the *Municipal Act*, where the by-law is passed after 1981; and

(c) applies only to taxes levied in the year in which it was passed.

(6) Where a by-law to which clause (5) (a) applies has been passed, any percentage charge or discount or interest in force in the municipality under subsection 386 (3), (4) or (5) of the *Municipal Act* on the day the by-law is passed shall, notwithstanding the *Municipal Act*, cease to have effect as of the day on which the percentage charge, discount or interest imposed or allowed by the by-law takes effect.

Idem

(7) A by-law passed,

Amendment-
to by-law

(a) under subsection (2) or (3), may be amended to reduce the percentage charge but may not be amended to increase the percentage charge;

(b) under clause (4) (a), may be amended to increase the discount rate but may not be amended to decrease the discount rate; and

(c) under clause (4) (b), may be amended to increase the interest rate but may not be amended to decrease the interest rate.

(8) Where in any Act there is a reference to subsection 386 (3), (4) or (5) of the *Municipal Act* and where a by-law has been passed under this section, the reference to the said subsection (3), (4) or (5) shall be deemed to be a reference to subsection (2), (3) or (4), respectively, of this section.

References
in other
Acts

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

Commence-
ment

7. The short title of this Act is the *Municipal Interest and Discount Rates Act, 1981*.

Short title

