CHAPTER 399

The Tile Drainage Act

1.—(1) Subject to sections 64 and 65 of The Ontario Municipal Board Act, the council of a town, village or township may pass by-laws (Form 1) for borrowing for the purposes hereinafter mentioned, in sums of not less than $2,000, and not exceeding $200,000 in the whole, such amount as they may deem expedient, and for issuing therefor debentures of the municipality (Form 2), payable within ten or twenty years from the date of the debentures, which shall bear date in the year in which the money is borrowed from the municipality as is hereinafter provided, and bearing interest at a rate of not less than 3 per cent per annum, and it is not necessary to obtain the assent of the electors to any such by-law before the passing thereof.

(2) The amount of the indebtedness of the municipality in respect of money so borrowed and remaining unpaid, including the amount provided for in any by-law being passed, shall not at any time exceed $200,000, and no such by-law shall be passed except at a meeting of the council specially called for the purpose of considering it and of which notice has been published in accordance with subsection 3.

(3) A notice (Form 3) of every such meeting shall be published at least once each week for three successive weeks in such newspaper as the council may by resolution direct, and the first publication of the notice shall be not less than four weeks prior to the holding of the meeting.

(4) Notwithstanding subsections 1 and 2, the council of a town, village or township, the assessment of the whole rateable property in which according to the last revised assessment roll is not less than $3,000,000, may for the purposes hereinafter mentioned borrow sums not exceeding $300,000 in the whole, provided the indebtedness in respect of money so borrowed and remaining unpaid shall not at any time exceed $300,000. R.S.O. 1950, c. 392, s. 1.

2.—(1) After the passing of the by-law a copy of it shall be published in such public newspaper, published in the municipality or in the county town or in an adjoining or neighbouring municipality, as the council may by resolution...
designate, and in at least one number of such newspaper each week for three successive weeks.

(2) To each copy of the by-law shall be appended a notice (Form 4).

(3) If notice of an application to quash the by-law or any part thereof is not given within twenty days after the last publication under this section, or if such notice is given and the application is not made within one month after the last publication, the by-law shall not be questioned in any court and is valid and binding according to the terms thereof. R.S.O. 1950, c. 392, s. 2.

3. The debentures may be issued and sold by the municipality from time to time, for the purpose only of lending the proceeds thereof for tile, stone or timber drainage, as hereinafter provided, as money is required for the purpose. R.S.O. 1950, c. 392, s. 3.

4. The debentures shall be made payable to the Treasurer of Ontario and shall have coupons attached thereto that shall be for equal annual amounts of principal and interest. R.S.O. 1950, c. 392, s. 4.

5.—(1) The council, after the expiration of one month from the last publication under section 2, shall deposit with the Treasurer of Ontario a copy of the by-law, with affidavits of the head and clerk of the municipality (Forms 5 and 6), and may at any time thereafter apply for the purchase by the Province of the debentures authorized thereby.

(2) The application shall be sealed with the seal of the municipality and signed by the head thereof, and shall specify the names of the persons to whom the money is to be lent. R.S.O. 1950, c. 392, s. 5.

6. The Treasurer of Ontario shall investigate and report to the Lieutenant Governor in Council as to the propriety of all proposed investments in the order in which the applications therefore are received. R.S.O. 1950, c. 392, s. 6.

7.—(1) A person assessed as owner, and being the actual owner of land in the municipality, desiring to borrow money for the purpose of tile, stone or timber drainage may make application (Form 7) to the council.

(2) The application shall not be acted upon unless it is accompanied by a declaration of the applicant stating that he 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 encumbrancer, and, where it has been assigned, the name of the assignee of the mortgage or encumbrance with his address.

(3) Where it appears that there is a mortgage or encumbrance upon the land or any part of it the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered mail, sent to him by the clerk at his last known address.

(4) If a mortgagee, encumbrancer or assignee notifies the clerk in writing, within the time specified in subsection 3, that he objects to the granting of the application, the council shall hold a hearing of which the clerk shall give at least five days notice in writing by registered mail to the applicant and to the mortgagee, encumbrancer or assignee who gave the notice.

(5) The granting or refusal of any application is in the discretion of the council whose decision is final. R.S.O. 1950, c. 392, s. 7.

8. If the application is granted the council may issue debentures for such sum within the amount authorized by this Act and by the by-law of the municipality, as it may deem proper, but not exceeding the sum applied for, nor exceeding 75 per cent of the estimated cost of the drainage. R.S.O. 1950, c. 392, s. 8.

9. The Lieutenant Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund not exceeding in the whole at any time $5,000,000 in the purchase of debentures issued under such by-laws in respect of which the Treasurer of Ontario has certified to the propriety of the investment. R.S.O. 1950, c. 392, s. 9; 1958, c. 111, s. 1.

10. Notwithstanding any other provisions of this Act, no application shall be granted by a council until the Treasurer of Ontario has approved the purchase of such debentures as the council may require to issue to undertake a proposed drainage work. R.S.O. 1950, c. 392, s. 10.

11. After such investment, the debentures shall not be questioned in any court and are valid and binding according to the terms thereof. R.S.O. 1950, c. 392, s. 11.
12. The Treasurer of Ontario may sell, transfer and assign to the Accountant of the Supreme Court of Ontario or to the Workmen's Compensation Board any debentures issued under this Act after the 1st day of June, 1939. R.S.O. 1950, c. 392, s. 12.

13. (1) The council shall lend the money so borrowed only for the purpose of tile, stone or timber drainage and for a term of ten or twenty years, in sums of $100 or multiples thereof, subject to section 14, as the council may deem proper, to persons entitled to borrow. R.S.O. 1950, c. 392, s. 13 (1).

(2) No person by reason of having borrowed money under this Act is disqualified from being elected as a member of council or from sitting or voting therein provided no member of council shall vote on any question affecting an application for a loan in which he has an interest. 1956, c. 89, s. 1.

14. The amount loaned to any one person shall not exceed $3,000 for each 100 acres or fraction thereof, nor 75 per cent of the total cost of the work. R.S.O. 1950, c. 392, s. 14.

15. The council shall consider the applications in the order in which they are made, and shall lend the money in the same order to the persons whose applications are approved. R.S.O. 1950, c. 392, s. 15.

16. A council borrowing money under this Act shall employ a competent inspector of drainage, the cost of whose services and whose expenses shall be apportioned rateably against the works carried on under his inspection, and shall be paid by the council out of the money borrowed. R.S.O. 1950, c. 392, s. 16.

17. (1) On the completion to his satisfaction of any drainage work under his charge, the inspector shall file with the clerk a report to the council certifying that in his opinion the work has been satisfactorily completed, and showing,

(a) the number of rods of drainage constructed on each lot or parcel of land;

(b) the cost per rod;

(c) a plan of the work; and

(d) such other particulars as may be required by the council.

(2) The report shall be entered in a book provided by the council, and the money shall not be advanced by the council.
until the report of the due completion of the work has been so made. R.S.O. 1950, c. 392, s. 17.

18. The council shall impose by by-law (Form 8), and shall levy and collect for the term of ten or twenty years as the council may elect, over and above all other rates upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge the principal and interest of the money lent in ten or twenty years as the case shall be, and the rate shall be collected in the same manner as other special rates imposed under The Municipal Act. R.S.O. 1950, c. 392, s. 18.

19.—(1) Where a part of a parcel of land in respect of which money has been lent is sold, the council of the municipality may apportion the special annual rate between the part sold and the part remaining.

(2) The clerk shall give the owners of the parts into which the parcel is divided and the mortgagees, encumbrancers or assignees at least five days notice in writing by registered mail of the time and place the council will make the apportionment.

(3) The council in making the apportionment shall have regard to the part of the parcel affected by the drainage work and such other matters as it deems expedient and the decision of the council with respect to the apportionment is final.

(4) The apportionment shall be filed in writing with the clerk and thereafter the special annual rate shall be levied and collected in accordance with the apportionment. R.S.O. 1950, c. 392, s. 19.

20. The owner of land in respect of which money has been borrowed may at any time obtain the discharge of the indebtedness by paying to the treasurer of the municipality the amount borrowed, with interest thereon at the rate payable by the municipality to the Treasurer of Ontario or his assignee on the debentures of the municipality that the Treasurer or his assignee holds in respect of the said indebtedness, less any sum already paid on account of principal and interest, and upon the same being paid to the treasurer, he shall forthwith transmit it to the Treasurer of Ontario or his assignee who shall apply it towards payment of the debentures of the municipality. R.S.O. 1950, c. 392, s. 20.

21. A council that has borrowed money shall, on or before the 15th day of January in each year, make a return to the Provincial Secretary, showing, for the year that ended
on the 31st day of December next preceding, the amount expended in drainage, the number of rods of drain constructed, the names of the borrowers, the land upon which the money has been lent, the names of the persons whose applications have been refused and the reasons in each case for the refusal. R.S.O. 1950, c. 392, s. 21.

22.—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario or his assignee within one month after it became payable, together with interest at the rate of 7 per cent per annum during the time of any default in payment.

(2) In case of a continuance of such default the council, in the next ensuing year or as the case may require, shall assess and levy on the whole rateable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the municipality, a sum over and above the other valid debts of the corporation falling due within the year sufficient to enable the treasurer to pay the amount in arrear, together with interest thereon at the rate of 7 per cent per annum, from the time the same became payable until payment whether or not the same has been previously paid by or recovered from the persons or lands chargeable therewith.

(3) The amount so in arrear and the interest are the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-law they may have been raised.

(4) No treasurer or other officer shall, after such default, pay out of the funds of the municipality any sum except for the ordinary current disbursements, and salaries of clerks and other employees of the municipality or debts due to the Province until the amount so in arrear and the interest has been paid to the Treasurer of Ontario or his assignee.

(5) If the municipal treasurer or other officer pays any sum contrary to the provisions of subsection 4, in addition to any criminal liability that he may thereby incur, he is personally liable for every sum paid as for money had and received by him for the Crown.

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be contravened is also personally and individually liable for the full amount so in arrear and the interest, to be recovered as for money had and received by him for the Crown.
(7) No assessment, levy or payment made under this section exonerates the persons or lands chargeable under the by-law from liability to the municipality. R.S.O. 1950, c. 392, s. 22.

23. The Lieutenant Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act, and, subject thereto, the forms in the Schedule hereto shall be used. R.S.O. 1950, c. 392, s. 23.

SCHEDULE

FORM 1

(Section 1 (1) )

FORM OF BY-LAW

By-law No. ..............

A by-law to raise $.........................to aid in the construction of tile, stone or timber drains.

The Council of the........................of.................., pursuant to The Tile Drainage Act, enacts as follows:

1. The Reeve (or Mayor) may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the Municipality such sum not exceeding in the whole $........................., as may be determined by the Council, and may in manner hereinafter provided, issue debentures of the corporation in such sums as the Council may deem proper for the amount so borrowed, with coupons attached as provided in section 4 of the Act.

2. Subject to section 10 of The Tile Drainage Act, when the Council is of opinion that the application of any person to borrow money for the purpose of constructing a tile, stone or timber drain should be granted in whole or in part, the Council may, by resolution, direct the Reeve (or Mayor) to issue debentures as aforesaid and to borrow a sum not exceeding the amount applied for, and may lend the same to the applicant on the completion of the drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the money is borrowed, sufficient for the payment of the principal and interest as provided by the Act.

Passed the.....................day of.............19........

Reeve (or Mayor)

Clerk

(Corporate seal)

R.S.O. 1950, c. 392, Form 1.
FORM 2

(SECTION 1 (1))

FORM OF TILE DRAINAGE DEBENTURE

$........................................ No.........................................

Drainage Debenture of the........................................
The Corporation of the........................................, in the County of
........................................ hereby promises to pay to the Treasurer
of Ontario or order at the Bank of........................................ in the
of........................................, the sum of $.......................... of lawful money of Canada, and interest
thereon at.......................... per cent in.......................... equal annual instalments of $.......................... each, the first of such instalments to be paid on the..........................
.......................... day of........................................, 19..........., pursuant to by-law No...........................
entitled "A by-law to raise $.........................., to aid in the construction of tile, (stone or timber) drains".
(Corporate Seal)

Reeve (or Mayor) ........................................ Treasurer

FORM OF COUPON

Coupon for twentieth Annual
Instalment of........................................ Drainage
Debenture No. 1, issued under
By-law No......................................... of the
of........................................ $.......................... payable at the
Bank of........................................ in the........................................ of
on........................................ day of........................................, 19............

Reeve (or Mayor) Treasurer

R.S.O. 1950, c. 392, Form 2.

FORM 3

(SECTION 1 (3))

NOTICE OF MEETING TO CONSIDER BY-LAW

Take notice that a by-law for raising $........................................ under the
provisions of The Tile Drainage Act, will be taken into consideration by
the Council of the

of........................................, at the........................................ day
of........................................, 19..........., at the hour of........................................ o'clock in the

noon.

Clerk

R.S.O. 1950, c. 392, Form 3.
FORM 4
(Section 2 (2))

NOTICE

Corporation of the........................................ of.......

Take notice that the above is a true copy of a By-law passed by the Council of the........................................ of...................... on the.................................................................. day of........................................, 19........, and all persons are required to take notice that any one who desires to apply to have the by-law or any part thereof quashed must serve notice of his application upon the Head or Clerk of this municipality within 20 days after the date of the last publication of this notice, and must make his application to the Supreme Court of Ontario within one month after the said date. This notice was first published on the.................................................................. day of........................................, 19........, and the last publication will be on the............

........................................

Clerk


FORM 5
(Section 5)

AFFIDAVIT OF HEAD OF MUNICIPALITY

I,........................................, of the County of........................................

TO WIT:........................................ in the County of........................................

Reeve (or Mayor) of the........................................ of........................................ make oath and say:

I have not been served with any notice of intention to make application to quash a by-law passed on the.................................................................. day of........................................, 19........, by the Council of the........................................ of........................................ No........................................ entitled (insert title of by-law), nor have I been served with any notice of intention to make application to quash any part of the by-law, nor with any notice to that or the like effect.

Sworn, etc.,

Reeve (or Mayor)

R.S.O. 1950, c. 392, Form 5.

FORM 6
(Section 5)

AFFIDAVIT OF CLERK

I,........................................, of the........................................

TO WIT:........................................ in the County of........................................

Clerk of the........................................ of........................................ make oath and say:

1. On the.................................................................. day of........................................, 19........, the Council of the........................................ of........................................ at a meeting specially called for that purpose passed a by-law for borrowing money to be lent for the construction of tile, stone or timber drains, being No........................................ and entitled (insert title of by-law), a copy of which certified by me is now shown to me marked "A".
2. I have not been served with any notice of intention to make application to quash the by-law, or any part thereof, not with any notice to that or the like effect.

Sworn, etc.

Clerk

R.S.O. 1950, c. 392, Form 6; 1956, c. 89, s. 2.

FORM 7

(Section 7)

APPLICATION FOR LOAN

To the Council of...

1, E. F., owner of (if part state what part) lot No............................... in Concession of the Township of.......................................................... (or as the case may be) apply for a loan of $................................. to assist in the construction of.............................. rods of.............................. drain on such land. The proposed depth of drain is...................... inches, the proposed size of tile is.............................. inches (1).

E. F.

(1) If the proposed drain is to be stone or timber for the words "size of tile" substitute the words "inside size of drain".

R.S.O. 1950, c. 392, Form 7.

FORM 8

(Section 18)

BY-LAW IMPOSING A RATE

By-law imposing a Special Drainage rate upon Lot............................. in the Concession.

Whereas E. F., the owner of (if part state what part) Lot.............................. in the...................... Concession of the Township of.......................................................... (or as the case may be), applied to the Council of the Township under The Tile Drainage Act, for a loan for the purpose of draining such land; and whereas the Council has, upon his application, lent E. F., the sum of $1,000 (or as the case may be), to be repaid with interest by means of the rate hereinafter imposed:

Be it therefore enacted, by the Council, that an annual rate of...................... per annum is hereby imposed upon such land for a period of...................... years, such rate to be levied and collected at the same time and manner as ordinary taxes are levied and collected.

Passed this...................... day of......................, 19........

(Corporate seal)

Reeve (or Mayor)

Clerk

R.S.O. 1950, c. 392, Form 8.