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**c 96 Department of Municipal Affairs Act**

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CHAPTER 96

The Department of Municipal Affairs Act

PART I

1. In this Act,

(a) "Board" means Ontario Municipal Board;

(b) "Department" means Department of Municipal Affairs;

(c) "Deputy Minister" means Deputy Minister of Municipal Affairs;

(d) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof;

(e) "Minister" means Minister of Municipal Affairs;

(f) "municipality" means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs in an unorganized township or unsurveyed territory;

(g) "public utility" means any waterworks, gasworks, including works for the transmission, distribution and supply of natural gas, electrical power or energy works, or system for the generation, transmission or distribution of electric light, heat or power, any telephone system, any street or other railway system, any bus or other public transportation system or any other works or system for supplying the inhabitants generally with necessaries or conveniences which are
vested in or owned, controlled or operated by a municipality or municipalities or by a local board. R.S.O. 1937, c. 59, s. 1; 1946, c. 20, s. 1; 1949, c. 25, s. 1.

Establishment of Department.

2.—(1) There shall be a Department of Municipal Affairs, over which the Minister shall preside, and the Minister shall have power and authority to act for and on behalf of the Department. R.S.O. 1937, c. 59, s. 2 (1); 1942, c. 9, s. 2.

(2) A Deputy Minister of the Department shall be appointed by the Lieutenant-Governor in Council.

(3) The Lieutenant-Governor in Council may also appoint such officers, clerks and servants as from time to time may be deemed necessary for the proper conduct of the business of the Department. R.S.O. 1937, c. 59, s. 2 (2, 3).

Staff.

3.—(1) The Department shall administer all Acts in respect to municipal institutions and affairs, including The Ontario Municipal Board Act.

(2) The Department shall administer such other Acts as may be provided herein and as may from time to time be designated by the Lieutenant-Governor in Council.

Jurisdiction.

(3) The Department shall exercise general oversight over municipal institutions and their administration and such special oversight and powers in relation thereto as may be provided in or under the authority of this or any other general or special Act; provided that nothing herein shall be deemed to divest the Board of any jurisdiction or powers conferred on it by this or any other Act. R.S.O. 1937, c. 59, s. 3.

Other statutes.

4. The Ontario Housing Act, 1919, and The Municipal Housing Act, 1920, and amendments thereto, respectively, shall be administered by the Department, and for the purposes of the said Acts and the regulations made thereunder, the Deputy Minister shall hereafter be the director named and referred to in such acts. R.S.O. 1937, c. 59, s. 4.

Annual report.

5. The Department shall submit to the Lieutenant-Governor in Council an annual report upon the affairs and work of the Department, and such report shall be laid before the Assembly within 21 days after the commencement of the next session. R.S.O. 1937, c. 59, s. 5.

Powers of Inquiry.

6. The Deputy Minister and such of the officers of the Department who may be authorized thereto by the Lieutenant-Governor in Council shall for any of the purposes of the
Department or of any Act which it administers, have and may exercise the same powers as a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 59, s. 6.

**PART II**

7. The jurisdiction formerly exercised by the Bureau of Municipal Affairs and transferred by Part IV of *The Ontario Municipal Board Act, 1932*, to the Board, is hereby transferred to the Department, which shall exercise jurisdiction over all the matters formerly assigned to the said bureau. R.S.O. 1937, c. 59, s. 7 (1).

8. The Lieutenant-Governor in Council may make regulations,

   (a) governing the exercise by the Department of the powers conferred on the Department by clause j of section 9;

   (b) prescribing the fees payable for licences under clause j of section 9. 1941, c. 18, s. 1.

9. The Department may,

   (a) prescribe and regulate the system of estimates, book-keeping and accounting to be adopted by municipalities, and the form of and the manner in which all estimates, books of account, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues and expenditures of municipalities shall be kept, and the manner in which all funds and moneys thereof shall be accounted for;

   (b) prescribe the forms, returns, statements and information to be made and furnished by municipalities to the Department, annually, periodically or otherwise, and the times when and by whom they shall be made;

   (c) prescribe and regulate the system of auditing of the accounts, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues, expenditures, funds and moneys of municipalities and the reports, returns, statements and information to be made and furnished by municipal auditors and otherwise with respect to the performance of their duties;
collect, compile, analyze and record such statistical and other information relating to the financial and other affairs of municipalities as may be useful;

prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of disseminating information and advice in relation to municipal affairs as may be useful;

study, report and advise upon the system of municipal institutions and the government and administration of municipal affairs;

perform and do all things necessary or incidental to any of the aforesaid purposes;

effect improvement generally in the conduct and administration of municipal affairs and, among other things, consult with and assist by advice municipalities, develop proper methods of municipal administration, financing, accounting and audit, collaborate with municipal associations and other bodies and collect, compile and disseminate municipal statistics and information;

inquire at any time into any or all of the affairs, financial and otherwise, of a municipality or local board and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interest of such municipality, its ratepayers, inhabitants and creditors, and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations;

grant upon payment of the prescribed fee a licence to every person whom the Department deems qualified to perform the duties of a municipal auditor, and refuse, suspend or revoke any such licence.

The Department may, with respect to any of the matters mentioned in clauses a, b and c of section 9, prescribe different systems, methods and forms for the several classes of municipalities or for any municipality. R.S.O. 1937, c. 59, s. 9.

The Department may in respect of any municipality or class thereof, notwithstanding any other Act,
(a) prescribe the form of assessment returns, assessment rolls or collector’s rolls and the particulars to be set down therein, or combine or vary the same from time to time;

(b) order that the tax arrears procedures of this Act shall apply and that the tax sale procedures of The Rev. Stat., Assessment Act shall not apply and in such case the use or disposition of land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition shall be subject to the approval of the Department. 1946, c. 20, s. 2; 1949, c. 25, s. 2.

12. Every municipality and every member of the council or a local board thereof and every officer thereof shall comply with any system, methods or forms prescribed under this Part to be adopted, kept or made by such municipality, local board or by the class of municipalities or local board of which such municipality or local board is one. R.S.O. 1937, c. 59, s. 10.

13. A municipality which has adopted a system of estimates, bookkeeping, accounting or auditing which the Department is satisfied to approve may continue such system until otherwise directed by the Department and until such time it shall not be necessary for the municipality to comply with any system prescribed under this part. R.S.O. 1937, c. 59, s. 11.

14.—(1) All returns required by any Act to be made to the Secretary of the Bureau of Industries or to the Bureau of Municipal Affairs shall be made to the Department.

(2) Where in any Act reference is made to the Director of the Bureau of Municipal Affairs such reference shall be deemed to be made to the Department. R.S.O. 1937, c. 59, s. 12.

15.—(1) The Department, upon its own initiative or whenever requested by any municipality expressed by resolution of its council, or on a petition in writing signed by not less than 50 ratepayers assessed as owners and resident in a municipality, may direct a provincial municipal audit of the financial affairs of the municipality.

(2) Any direction given by the Department may extend to an audit of all the financial affairs of a municipality or may be limited to the financial affairs of any local board thereof, or
to any specified phase of such financial affairs or to any specified books, accounts, registers, records, vouchers, receipts, funds, money or financial transactions, kept by or under the charge of any officer of the municipality designated by the Department. R.S.O. 1937, c. 59, s. 13.

16. An audit directed to be made under this Part may be made by any officer of the Department, or by a competent auditor appointed by the Minister, and the officer and person so appointed shall for the purposes of such audit have all the powers mentioned in section 17. R.S.O. 1937, c. 59, s. 14.

17. For the purposes of any audit the officer of the Department or other person appointed to make the audit may require the production of all or any books, records and documents which may in any way relate to the affairs of the municipality the subject of the audit, and inspect, examine and audit and copy the same, and may require any officer of the municipality and any other person to appear before him and give evidence on oath touching any of such affairs and for such purpose shall have the same powers as a commissioner under The Public Inquiries Act. R.S.O. 1937, c. 59, s. 15.

18. Upon completion of an audit under this Part the auditor shall report thereon in writing to the Deputy Minister, who shall forthwith transmit a copy of the report to the municipality. R.S.O. 1937, c. 59, s. 16.

19. The Department, as a result of any audit of the affairs of a municipality made under this Part, may make such orders as it may see fit requiring the municipality to carry out, put into effect, observe, perform or enforce such matters or things as the audit may have disclosed as being necessary or desirable in the interests of the municipality or with respect to the due accounting for, collection or payment of any of its assets, liabilities, revenues, expenditures, funds or money or otherwise in any respect as the order of the Department may provide. R.S.O. 1937, c. 59, s. 17.

20. The Department may fix the fees and allowances for expenses payable with respect to any audit of a municipality under this Part, and the amount so fixed shall forthwith be paid by the municipality. R.S.O. 1937, c. 59, s. 18.

21. Nothing in this Part shall give to the Department any jurisdiction with respect to any of the affairs of a municipal utility commission, the exclusive jurisdiction over which is by statute conferred upon The Hydro-Electric Power Commission of Ontario. R.S.O. 1937, c. 59, s. 19.
22. Nothing in this Part shall affect or impair any security given by any officer of a municipality for the due and faithful performance of the duties of his office, nor relieve his sureties from liability in case of his default therein, nor shall anything in this Part relieve any municipality from its duty to appoint competent auditors. R.S.O. 1937, c. 59, s. 20.

23. Where a municipality fails, neglects or refuses to make or provide to the Department any form or return, statement or information prescribed or ordered made under this Part the Deputy Minister may authorize some person to make and furnish the same at the expense of the municipality. R.S.O. 1937, c. 59, s. 21.

24. Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any willful breach of any of the provisions of this Part or of any order of the Department made thereunder shall be guilty of an offence and on summary conviction, in addition to any other penalty provided by law, shall be liable to a penalty of not less than $20 and not more than $200 and, if a member of a council or a local board shall, upon conviction, be disqualified from holding any municipal office for a period of two years. R.S.O. 1937, c. 59, s. 22.

PART III
SPECIAL JURISDICTION OVER DEFAULTING MUNICIPALITIES

25. In this Part,

(a) "improved land" means any parcel of land separately assessed which has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;

(b) "registrar" means the registrar of a registry office;

(c) "registry office" means the registry office of the registry division for the county or district in which a municipality subject to this Part is situate; R.S.O. 1937, c. 59, s. 23, cl. (a-c).

(d) "sheriff’s office" means the office of the sheriff for the county or district in which a municipality subject to this Part is situate; 1939, c. 47, s. 6 (1).

(e) "vacant land" means any parcel of land separately assessed, which has no building thereon, but does not include any improved land. R.S.O. 1937, c. 59, s. 23, cl. (d).
26.—(1) The Board shall have and may exercise the special jurisdiction and powers conferred by this Part, whenever, upon request of the Department or of a municipality expressed by resolution of its council, or upon request of the creditors of a municipality having claims representing not less than 20 per cent of its indebtedness, including debenture debt, it is satisfied upon inquiry that the municipality,

(a) has failed to meet and pay any of its debentures or interest thereon as the same became due and after payment thereof has been duly demanded; or

(b) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the municipality; or

(c) has or may become financially involved or embarrassed so that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures.

(2) In the course of an inquiry the Board may investigate any or all of the affairs of a municipality.

(3) The Board may exercise the said powers with respect to any separate school board of any municipality which has not been made subject to this Part, upon request expressed by resolution of the school board. R.S.O. 1937, c. 59, s. 24.

27.—(1) If upon inquiry the Board is of opinion that the circumstances so warrant or appear to render desirable, it may make such order as it may deem proper or necessary to vest in the Department control and charge over the administration of all the affairs of the municipality as set forth in the order and to declare that thereafter and until the Board shall otherwise determine and order such municipality shall be subject to this Part.

(2) During such time as the Deputy Minister is a member of the Board he shall not sit as a member thereof with respect to any application or matter before the Board under this Part. R.S.O. 1937, c. 59, s. 25.

28.—(1) Except as otherwise provided in this Part, the Department shall have and may exercise the powers conferred on it by this Part and such additional powers as by any
order of the Board or by the terms of any agreement entered into under the authority of this Part may be conferred on it, and may do all things necessary or incidental to the exercise of any such powers.

(2) The jurisdiction and powers to be exercised under this Part by the Department shall extend to and include not only control over all the affairs of the corporation of the municipality, but also over all the affairs of every local board of the municipality, unless an order made by the Board otherwise expressly declares and directs. R.S.O. 1937, c. 59, s. 26.

29. The council or a local board or any creditor dissatisfied with any order of the Department may within five days after such order is transmitted to the head of the municipality, or its clerk or treasurer or, in the case of a local board, to its chairman or secretary, appeal therefrom to the Minister, who may himself dispose finally of the appeal or direct the same to be disposed of by the Board. R.S.O. 1937, c. 59, s. 27.

30. Where a municipality has become subject to this Part, notice thereof shall be given in The Ontario Gazette and in such one or more newspapers, published in or near the municipality and elsewhere and to such persons and in such form as the Board may direct. R.S.O. 1937, c. 59, s. 28.

31.—(1) When notice has been published in The Ontario Gazette that a municipality is subject to this Part, such publication shall operate as a stay of all actions or proceedings pending against the municipality and as a stay of execution as the case may be, and thereafter no action or other proceeding against the municipality shall be commenced or continued nor shall a levy be made under a writ of execution against the municipality, without leave of the Board.

(2) Where the commencement or continuance of any action or proceeding or the making of any levy under a writ of execution is prevented or stayed under this section, the time during which such prevention or stay continues shall not be computed for the purposes of any statute or law of limitations until leave of the Board to commence or continue such action or proceeding or make such levy is obtained but the person having the right of action or to take any proceeding or to make a levy under a writ of execution shall upon the removal of the prevention or stay, have the same length of time within which to take action or proceed or make a levy under a writ of execution, as the case may be, as he had when such prevention or stay came into operation; provided that this subsection shall not apply unless application is made to the
Board for approval of the continuance or commencement of any such suit, action or proceeding, within the time so limited as aforesaid by statute or law of limitations and such approval is refused. R.S.O. 1937, c. 59, s. 29.

(3) Subsection 1 shall not apply to a municipality subject to this Part after the Board has made an order under clause b or j of subsection 1 of section 34 with respect to the municipality. 1950, c. 14, s. 1.

32. Nothing in this Part shall take away any lien, hypothec or other charge, if any, in existence and subsisting at the time this Part comes into force with respect to any municipality upon or against any revenue or other asset of the municipality and the same shall continue to exist until it is satisfied and discharged. R.S.O. 1937, c. 59, s. 30.

33. The Department shall with respect to the municipality and every local board thereof have control and charge over the exercise by any of them of any of their powers and over the performance by any of them of any of their duties and obligations with respect to,

- the appointment and dismissal of its officers, employees and servants, and their powers, duties, salaries and remuneration;
- the collection, receipt, application and payment of its revenues and expenditures;
- the keeping, investment, use, application, payment and disposition of all sinking funds and of the moneys belonging thereto and of all rates levied and moneys collected for the purposes of any such sinking fund;
- the system of accounting and audit, and the dealing with its assets, liabilities, revenues and expenditures;
- the making of and the manner and times for making the assessment and assessment rolls and of appeals therefrom;
- the yearly or other estimates and the form, preparation and completion thereof, and the times when the same shall be made;
- the amounts to be provided for and included in the yearly or other estimates, whether the same are to be provided by taxation or otherwise;
(h) the imposition, rating, levying and collection of all rates and collection rates, assessments and taxation, the mode and times thereof; for collecting the same and the allowance of discounts or imposition of penalties thereon, and for the making and return of the collector's roll;

(i) borrowing of moneys for the current expenditures of the corporation until the taxes are collected;

(j) subject to The Power Commission Act, the rates, utility rates; rents and charges imposed, levied or collectable for supply or service of any public utility;

(k) imposition, charging and collection of all licence, permit or other fees, charges and expenses;

(l) the sale or other disposition of any of its assets; and

(m) without being limited by the foregoing, generally with respect to any other matter in any way affecting or pertaining to its affairs and their administration.

R.S.O. 1937, c. 59, s. 31.

34.—(1) Where a municipality has become subject to this Part the Board, with respect to the debenture debt and debentures of the municipality and interest thereon and with respect to any other indebtedness thereof, shall have power to authorize or direct,

(a) consolidation of the whole or any portion thereof;

(b) issue, on such terms and conditions, in such manner and at such times as the Board may approve, of debentures, certificates or other evidences of indebtedness, in substitution and exchange for any outstanding debentures or in payment and satisfaction of the whole or any portion of such other indebtedness, and compulsory acceptance of such debentures, certificates or other evidences of indebtedness in payment and satisfaction of such outstanding debentures or other indebtedness;

(c) issue of new debentures to cover any such consolidation;

(d) retirement and cancellation of the whole or any portion of the existing debenture debt and outstanding debentures, upon the issue of new debentures to cover the same or in exchange therefor;
(e) terms, conditions, places and times for exchange of new debentures for outstanding debentures;

(f) postponement of or variation in the terms, times and places for payment of the whole or any portion of the debenture debt and outstanding debentures and other indebtedness and interest thereon and variation in the rates of such interest;

(g) cancellation, increase, decrease or other variation in the levy and collection of any assessment, rate or taxation, rent or charge imposed to meet, pay and discharge any debenture debt, debentures, or other indebtedness, and interest thereon, and to vary the basis, terms and times of payment thereof;

(h) creation and setting aside of sinking funds and special reserves out of any portion of the revenues of the municipality for meeting, paying and discharging its debenture debt, debentures, or other indebtedness or any portion thereof or interest thereon;

(i) custody, management, investment and application of sinking funds, reserves and surpluses;

(j) ratification and confirmation of any agreement, arrangement or compromise entered into with its creditors or any of them respecting its debenture debt, debentures or other indebtedness or any portion thereof and interest thereon;

(k) any variation, amendment or cancellation of any order made by it under this section or of the terms of any agreement, arrangement or compromise ratified and confirmed by it under this section;

(l) an interim plan, pending a final order or plan with respect thereto, which may cancel all or any portion of interest in arrear and may alter, modify or compromise the rights of debenture holders or other creditors during any period of time between the date of default and the end of the fifth year following the date of the order of the Board.

Limitation. (2) The Board shall not make any order under clause l of subsection 1 unless creditors representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness
in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of such order. R.S.O. 1937, c. 59, s. 32; 1940, c. 28, s. 21 (2-4); 1946, c. 20, s. 3 (1).

(3) Where a municipality has become subject to this Part, the Board, with respect to the debenture debt and debentures of such municipality and interest thereon and with respect to any other indebtedness thereof, may,

(a) authorize or direct any municipality, whether or not it has become subject to this Part, to continue to guarantee any such debentures notwithstanding any postponement or variation in the terms, provisions and time of payment thereof, and to guarantee any new debentures issued in substitution and exchange therefor;

(b) authorize or direct any municipality, whether or not it has become subject to this Part, to assume and pay by the issue of debentures or otherwise a share of any liability in respect of which such municipality may be jointly or jointly and severally liable with any other municipality, which share may be either in full satisfaction of such liability of such municipality or on account thereof, and, if on account, the Board may order that provision be made for further payment in respect thereof;

(c) summon and enforce the attendance of such persons as the Board thinks fit to summon,

and the Board shall direct that reasonable notice be given of any application under this subsection to every person whose interests it deems to be directly affected thereby and every order made under this subsection shall be binding upon every such person. 1938, c. 10, s. 2; 1946, c. 20, s. 3 (2).

35. The Board upon the application of the separate school board of a municipality which has been made subject to this Part or of the separate school board of any other municipality where such board has been made subject to this Part, although the municipality itself has not been made so subject, shall have power to make orders under and in accordance with the provisions of section 34 with respect to the debenture debt, debentures and other indebtedness of the separate school board and interest thereon. R.S.O. 1937, c. 59, s. 33.
36.—(1) Where the Board upon application to it by the Department or the council or a separate school board or any of the creditors of the municipality intends to exercise any of the powers conferred on the Board under subsection 1 of section 34 or section 35, it shall, before so doing, give or direct that there be given notice of such intention in The Ontario Gazette and by such other publication and to such persons and in such manner as to the Board may seem proper, and such notice shall state the time and place when the matter is to be dealt with by the Board, which time shall be not less than two months after the notice is published in The Ontario Gazette. 1938, c. 10, s. 3 (1).

(2) The provisions of subsection 1 shall not apply with respect to any matter which is merely incidental to the exercise of any of said powers. R.S.O. 1937, c. 59, s. 34 (2).

(3) The Board shall not make any order under subsection 1 of section 34 if objection in writing to the making of such order is filed with the Board by creditors representing not less than one-third in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness, but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable. R.S.O. 1937, c. 59, s. 34 (3); 1938, c. 10, s. 3 (2).

(4) If creditors representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of any order of the Board under subsection 1 of section 34, it shall not be necessary that two months shall elapse as required under subsection 1. R.S.O. 1937, c. 59, s. 34 (4); 1938, c. 10, s. 3 (3).

(5) When a matter is being dealt with by the Board under this section and the Board intends to vary the terms thereof, it shall, before so doing, give or direct that there be given notice of such intention to such persons and in such manner as to the Board may seem proper and such notice shall state the time and place when such variation is to be dealt with by the Board, which time shall not be less than two weeks after the notice. 1946, c. 20, s. 4.

37. After an order of the Board has been made under section 34 no portion of the debenture debt of the corporation represented by debentures ordered to be cancelled, retired
or exchanged shall form part of its debt within the meaning of any Act limiting its borrowing powers. R.S.O. 1937, c. 59, s. 35.

38. The municipality may, with the approval of the Variation or Department, enter into agreements with any person with whom the municipality has previously entered into any agreement, contract or obligation which or some term, provision or obligation of which remains in whole or in part or in any manner to be observed, performed or carried out by the municipality, for the variation, amendment or cancellation of any such subsisting agreement, contract or obligation. R.S.O. 1937, c. 59, s. 36.

39.-(1) The municipality shall not, under any special or general Act, exercise or be required to exercise any of its powers if such exercise will or may require money to be provided by the issue of debentures of the corporation, without the approval of the Department first being obtained.

(2) The municipality may, with the approval of the Department, pass by-laws providing for the issue of debentures and to authorize the hypothecation or sale thereof, but no such by-law shall have any force and effect until approved by the Department. R.S.O. 1937, c. 59, s. 37.

40. It shall not be necessary that the assent of the electors of the municipality or of those thereof qualified to vote on money by-laws be obtained with respect to any by-law of the municipality or the issue thereunder of any debentures if such by-law is approved by the Department. R.S.O. 1937, c. 59, s. 38.

41. The Department shall have full charge and control over all moneys belonging to the municipality and received by any person for or on its behalf and such moneys shall be deposited in a chartered bank, the Province of Ontario Savings Office or a loan or trust company registered under The Loan and Trust Corporations Act to be designated by the municipality and when so deposited shall only be applied, used, transferred and withdrawn for such purpose, in such manner and at such time or times as the Department may approve and direct, and all cheques drawn and issued by the municipality shall be signed and countersigned by such persons and in such manner as the Department may authorize and no moneys belonging to or revenues of the municipality may be appropriated, applied, paid, used, transferred or withdrawn by any person except with the approval of or otherwise than directed by the Department. R.S.O. 1937, c. 59, s. 39; 1946, c. 20, s. 5.
42.—(1) Notwithstanding any general or special Act or any by-law of the municipality, only such rates, assessments or amounts shall be imposed, rated, levied or directed so to be upon the rateable property within the municipality or upon any part thereof as the Department approves or directs. R.S.O. 1937, c. 59, s. 40 (1); 1941, c. 18, s. 3.

(2) Nothing in this Part shall relieve a municipality from the obligation to ultimately provide and pay to the county of which it forms or has formed part, the amounts of all county rates heretofore or hereafter directed to be levied by the county in such municipality with interest thereon at such rate as the county may have been obliged to pay upon any money borrowed by it upon debentures or otherwise until payment is made, and the payment of the said amounts with interest shall be made as and when the Department may direct.

(3) The council of a county by a vote of two-thirds of all the members thereof may accept in full settlement and payment of the county rates owing by any municipality subject to this Part less than the whole amount thereof. R.S.O. 1937, c. 59, s. 40 (2, 3).

43. Notwithstanding anything in The Assessment Act, the court of revision for the municipality shall consist of three members to be appointed by the council with the approval of the Department and the members need not necessarily be members of the council. R.S.O. 1937, c. 59, s. 41.

44. The collector shall return his roll to the treasurer on or before such day as the Department may direct. R.S.O. 1937, c. 59, s. 42.

45.—(1) Where any part of the taxes on any vacant land within the municipality remains unpaid on the 31st day of December in the year next following that in which the taxes were levied, such vacant land shall be vested in and become the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection 8.

(2) Where any part of the taxes on improved land within the municipality remains unpaid on the 1st day of January in the third year following that in which the taxes were levied, such improved land shall be vested in and become the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection 8.
hereinafter provided and to subsection 8. R.S.O. 1937, c. 59, s. 43 (1, 2).

(3) The treasurer, with respect to vacant land upon which any part of the taxes remains unpaid after the time mentioned in subsection 1 and with respect to improved land upon which any part of the taxes remains unpaid after the time mentioned in subsection 2, may register in the registry office a certificate to be known as a tax arrears certificate (Form 1), setting forth therein a description of the vacant land or improved land, as the case may be, and the amount of all unpaid taxes, with the amount of all penalties, interest and costs added thereto, and thereupon the land described in the certificate shall vest in and become the property of the municipality, its successors and assigns, in fee simple, clear of and free from all other estate, right, title or interest, subject only to the right of redemption hereinafter provided and to subsections 8, 10 and 11. R.S.O. 1937, c. 59, s. 43 (3); 1941, c. 18, s. 4; 1950, c. 14, s. 2 (1).

(4) Immediately upon registration of a tax arrears certificate, the treasurer shall cause to be sent by registered mail to the last known address of the assessed owner of the land therein described and to all persons appearing by the records of the registry office and the sheriff's office to have an interest therein a written notice (Form 2) of the registration of such certificate and of the last day for redemption of the land. R.S.O. 1937, c. 59, s. 43 (4); 1939, c. 47, s. 6 (2).

(5) The treasurer, forthwith after he has sent the notice as required by subsection 4, shall make and register in the registry office a statutory declaration describing the land to which it relates and setting forth the names and addresses of all persons to whom he has sent the notice and the date of sending the same to each person, and a copy of the notice shall be attached to the declaration as an exhibit.

(6) The registrar shall be paid a fee of $1 for registration of the statutory declaration. 1949, c. 25, s. 3.

(7) The statutory declaration shall for the purposes of registration be deemed to be an instrument which within the meaning of The Registry Act may be registered, and it shall not be necessary for its registration that the declaration be accompanied by any proof of execution other than that attested in the declaration. 1950, c. 14, s. 2 (2).

(8) Where the Crown, whether as represented by the interest of Government of Canada or the Government of Ontario, has
any interest in any land in respect of which taxes are in arrear, the interest only of the persons other than the Crown therein shall be vested in the municipality by the registration of a tax arrears certificate, and where such interest is that of a lessee, licensee or locatee, the vesting shall be valid without requiring the consent of the Minister of Lands and Forests.

(9) The treasurer shall not register or cause to be registered any such certificates until authorized so to do by the Department, and any such authority may be general or special in its terms and shall not be required to be registered or referred to in any certificate which is registered. R.S.O. 1937, c. 59, s. 43 (5, 6).

Easements.

(10) Where a tax arrears certificate is registered with respect to a dominant tenement, the easements appurtenant thereto shall be vested in and become the property of the municipality, and where a tax arrears certificate is registered with respect to a servient tenement, the registration shall not affect any easement to which it is subject.

(11) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of subsection 10. 1938, c. 10, s. 4 (1).

46. Where land is vested in a municipality under section 45, any expenditure necessary to keep the land in a proper state of repair or to insure the same may be made by the treasurer and the amount thereof with interest as provided in section 142 of The Assessment Act may be added to the amount required to redeem the land, provided that the treasurer has sent by registered mail at least one month before making the expenditure a notice containing particulars of the proposed expenditure and an estimate of the cost thereof to the last known address of the assessed owner of the land and to all persons appearing by the records of the registry office and the sheriff’s office to have an interest therein. 1944, c. 15, s. 1.

47.—(1) The owner of or any person appearing by the records of the registry office or the sheriff’s office to have an interest in any vacant land or improved land in respect of which a tax arrears certificate has been registered may redeem the land at any time within one year after the date of registration of the certificate by paying to the municipality the amount set forth in such certificate in respect of the land to be redeemed with interest thereon to the day of redemption, together with the amount of all expenses incurred by the municipality and the treasurer in registering the certificates.
and for searches and postage and $1 for each certificate and for each notice sent under subsection 4 of section 45, and also by paying to the municipality all taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and had been liable for ordinary taxation and if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement, and a certificate of the treasurer as to the total amount payable in order to redeem the land shall be final and conclusive. 1946, c. 20, s. 6.

(2) Where land is redeemed under this section, the treasurer shall forthwith register in the registry office a certificate to be known as a redemption certificate (Form 3), setting forth therein a description of the land redeemed, and a redemption certificate shall, when registered, be a valid and effectual cancellation of the tax arrears certificate registered with respect to the land and, subject to subsection 3, the land shall thereupon vest in and become the property of the persons who would be entitled thereto if the tax arrears certificate had not been registered, according to their respective rights and interests. 1941, c. 18, s. 5.

(3) If land is redeemed by any person entitled to redeem the same other than the owner such person shall have a lien upon the owner's interest therein for the amount paid to redeem the land. R.S.O. 1937, c. 59, s. 44 (3).

48.—(1) Every certificate registered under sections 45, 47 and 50 shall be entered by the registrar in the registry book in its proper order and in the proper abstract index provided under The Registry Act. R.S.O. 1937, c. 59, s. 45 (1); 1939, c. 33.

(2) The registrar shall be entitled to the following fees for registration of a certificate under section 45, 47 or 50, and for searches made for the corporation for the purposes mentioned in section 45 and no others:

(a) for registering a tax arrears certificate of vacant land, $2, and 10 cents additional for every lot in excess of the first lot embraced in such certificate;
(b) for registering a tax arrears certificate of improved land, $2;

(c) for registering a redemption or vacating certificate, 50 cents, and if the certificate embraces more than one parcel of land, for each additional parcel over one, five cents;

(d) for each search made for the corporation for the purposes mentioned in section 45, five cents for each lot searched, but in no case to be more than $5 for a search in respect of the lands described in any one certificate; R.S.O. 1937, c. 59, s. 45 (2).

(e) for furnishing to the corporation for the purposes mentioned in section 45 a list in writing of the names and, if recorded, the addresses of all persons appearing by the records of the registry office to have an interest in the land described in a tax arrears certificate, 50 cents for each lot embraced in the certificate. 1950, c. 14, s. 3 (1).

(3) Upon the written request of the treasurer of a municipality for the purposes mentioned in section 45, the sheriff shall, in respect of the land described and the persons named in the request, furnish to the treasurer a certificate showing the names and addresses of all persons, if any, appearing by the records of his office to have an interest in such land, and for the certificate the sheriff shall be entitled to a fee of 75 cents for each lot embraced in the request. 1950, c. 14, s. 3 (2).

(4) No tax shall be payable under The Land Transfer Tax Act on registration of any tax arrears or redemption certificate or vacating certificate.

(5) A tax arrears certificate of improved land shall not embrace more than one such property or any vacant land which is a separate parcel, and a tax arrears certificate of vacant land shall not embrace lots according to more than one registered plan or any improved land. R.S.O. 1937, c. 59, s. 45 (3, 4).

49. Where land to which section 45 applies is registered in a land titles office, the certificate and declarations which may be registered under any provision of this Part shall be registered in the proper land titles office, and all the provisions of this Part in relation to such certificates and declarations and their registration, and as to fees payable for registrations, searches, lists and certificates shall mutatis mutandis apply to lands entered in a land titles office, and The Land Titles Act shall be deemed to permit of such registrations. 1950, c. 14, s. 4.

50.—(1) Where under this Part, Part VI of The Ontario Municipal Board Act, 1932 or Part III of The Department of Municipal Affairs Act, 1935 a tax arrears certificate has
been registered with respect to any land and it is subsequently ascertained that the same was registered by mistake or that lands have erroneously been included therein, or where an agreement for composition and payment of the arrears of taxes for which the certificate was registered has been entered into under section 54, the Department may direct the treasurer of the corporation to register a certificate to be known as a vacating certificate (Form 4), setting forth therein a description of the land wherein the title of the corporation is to be vacated, and such vacating certificate shall, when registered, be as valid and effective in law as a conveyance of the land described therein to the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, of the original estate of such registered owner; provided however that the registration of any vacating certificate shall not in any way cancel or affect taxes or arrears of taxes, if any, which may be due upon the land described therein. R.S.O. 1937, c. 59, s. 47 (2); 1938, c. 10, s. 5.

(2) The Department may require the council of a municipality subject to this Part to make application to the judge of the county or district court for the purposes mentioned in section 90 of The Registry Act.

(3) This section shall apply to all lands acquired by the corporation of the city of Windsor under section 3 of The City of Windsor Act, 1932. R.S.O. 1937, c. 59, s. 47 (3, 4). 1932, c. 95.

51. Notwithstanding the provisions of this or any other Act, where land in respect of which a tax arrears certificate has been registered has become vested in the municipality and the period for redemption has expired and where the land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 4 of section 45 shall at any time, with the approval of the Department, be entitled to a conveyance of the land upon payment of the full amount that would have been payable in respect of taxes, interest and penalties had the land not become vested in the municipality, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such vesting and of the conveyance. 1946, c. 20, s. 7, part.

52. The proceeds derived from the sale or other disposition of lands that become the property of the municipality by virtue of section 45 shall be distributed in such manner and in such amounts as may be agreed upon, or failing agreement, as the Department may direct, to the bodies that would have received
the proceeds of taxes on such lands, if taxes had been collected in the usual way. 1946, c. 20, s. 7, part.

53.—(1) The Department shall have the same right of appeal as any person assessed has under subsection 3 of section 69 of *The Assessment Act* with respect to the assessment roll of the municipality, and shall have in addition the rights of appeal conferred by this section.

(2) An appeal by the Department under this section may be made at any time within 20 days after the return of the roll and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all of the assessments included in the roll or any area of the municipality described in the notice of appeal or generally with respect to assessments of land only or buildings only or business included in the roll or in any area of the municipality defined in the notice of appeal.

(3) The Department shall have the same right of appeal from any decision of the court of revision or county judge as a person assessed has under *The Assessment Act*.

(4) Save as provided in subsection 2, in any appeal against a particular assessment by the Department the practice and procedure thereon shall be the same as in the case of an appeal by a person assessed.

(5) In any general appeal by the Department under this section the practice and procedure shall be determined by the court of revision, county judge or the Board, as the case may be, and such notice or notices of the appeal shall be given by publication or otherwise as may be determined by the court, judge or Board and upon the hearing of any such general appeal the court, judge or Board shall have jurisdiction to review any or all of the assessments included in the roll as may be necessary to determine the appeal and may make any changes, alterations and amendments therein, and also to direct the making of a new assessment roll in accordance with the terms of the order of the court, judge or Board. R.S.O. 1937, c. 59, s. 48.

54.—(1) The Department may authorize a compromise of tax arrears to be entered into between the corporation and any ratepayer and in such compromise may provide for an extension of the time of payment of such arrears or a reduction of the amount thereof or both and acceptance of any debentures or debenture coupons of the corporation in satisfaction of the whole or part thereof. R.S.O. 1937, c. 59, s. 49 (1).
Where a compromise of tax arrears has been entered into under this section and an extension of the time of payment thereof agreed upon, such tax arrears shall be and remain a special lien upon the land in respect to which they are payable in priority over all claims, liens, privileges and encumbrances thereon, except claims of the Crown, and the liens, priorities and other rights with respect thereto provided for in *The Assessment Act* shall continue to apply thereto and to the collection and enforcement thereof, except that the treasurer and collector of taxes of the municipality without thereby waiving the statutory rights and powers of the municipality or of themselves shall not enforce collection of such tax arrears during the time the agreement is in force. R.S.O. 1937, c. 59, s. 49 (2); 1938, c. 10, s. 6.

Any agreement entered into in accordance with this Part shall be binding upon and enure to the benefit of the parties thereto and all persons over whom the Legislature has legislative authority. R.S.O. 1937, c. 59, s. 50.

The housing commission may with the approval of the Department amend the terms of any agreement for sale of property heretofore or hereafter entered into by it, and with respect to property sold under any agreement which has been cancelled or determined may enter into new agreements for sale thereof, and the terms of any such amended or new agreement may be such as the Department may approve. R.S.O. 1937, c. 59, s. 51.

The jurisdiction and powers of a municipality subject to this Part exercisable under any general or special Act shall only be exercised in accordance with and subject to this Part and any order of the Department or the Board made, or agreement entered into thereunder. R.S.O. 1937, c. 59, s. 52.

(1) The Department or the Board shall have exclusive jurisdiction as to all matters arising under this Part or out of the exercise by the municipality or any other person of any of the powers conferred by this Part, and such jurisdiction shall not be open to question or review in any action or proceeding or by any court.

(2) The Department or the Board may at any time of its own initiative or upon application made to it review any order, direction or decision made by it and confirm, amend, vary or revoke the same.

(3) Any order made or approval given by the Department or the Board under this Part shall, subject to the right of the
Board or the Department to review and amend or revoke the same, be final and conclusive and not open to question in any court.

(4) The Board only shall have and exercise exclusive jurisdiction to make any order under sections 26, 27, 34, 35, 36 and 65, and otherwise shall have jurisdiction only with respect to appeals to it under section 29.

(5) Except as provided by sections 26, 27, 29, 34, 35, 36 and 65, and by subsection 4, the Department only shall have and may exercise exclusive jurisdiction with respect to all matters provided for in this Part. R.S.O. 1937, c. 59, s. 53.

59. The Department or the Board may make such orders and prescribe such forms from time to time as it may deem necessary to carry out the provisions of this Part or any agreement made in pursuance thereof and make rules and regulations in respect of applications, matters and things under this Part. R.S.O. 1937, c. 59, s. 54.

60. Every certificate, notice or other form which is in substantial conformity with the form thereof required by this Part or prescribed by the Department or the Board; shall not be open to objection on the ground that it is not in the form required by this Part or prescribed by the Department or the Board. R.S.O. 1937, c. 59, s. 55.

61. Where a municipality has become subject to this Part, all acts, deeds, matters and things done, made or performed by or for the Board or by or for the Department under this Part in relation to the affairs of such municipality shall for all purposes be deemed to have been made, done and performed by and for the municipality and in its name. R.S.O. 1937, c. 59, s. 56.

62. The Board and the Department shall have access at all times to all books, records, papers and documents of the municipality and of every local board, including but without limiting the generality of the foregoing all assessment rolls, collectors’ rolls, by-laws, minute books, books of account, vouchers, and other records, papers and documents relating to its and their financial transactions, and may inspect, examine, audit and copy the same or any part thereof. R.S.O. 1937, c. 59, s. 57.

63.—(1) Where a municipality has become subject to this Part, and its council or any local board fails, neglects or refuses to comply with any order, direction or decision of the Board
or the Department, the Board or the Department may, upon such notice, if any, as it may prescribe, do or order done all acts, deeds, matters and things necessary for compliance with such order or direction, and may exercise all the powers of the council or local board for such purpose and under its or their name and seal.

(2) The council of the municipality and every local board thereof, and every one of its or their members, officers, employees and servants shall comply with the orders, directions and decisions of the Board or the Department in any matter relating to the administration of the affairs of such municipality or local board, and any such person who knowingly or wilfully fails, neglects or refuses to observe and comply with any such order, direction or decision, or who, as a member of the council or local board, votes contrary thereto shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than $25 and not more than $500 for each offence, and any penalty so recovered shall belong to the general funds of the municipality.

(3) If a municipality subject to this Part applies any of its funds otherwise than as ordered or authorized by the Board or the Department, the members of the council or local board who vote for such application shall be jointly and severally liable for the amount so applied, and the same may be recovered in any court of competent jurisdiction, and such members shall also be disqualified from holding any municipal office for five years. R.S.O. 1937, c. 59, s. 58.

64. The Department may dismiss from office any officer, employee or servant of a municipality who fails, neglects or refuses to carry out any order, direction or decision of the Board or the Department. R.S.O. 1937, c. 59, s. 59.

65. The Board may by injunction proceedings instituted in its own name prevent or stop the exercise by or for a municipality of any of its powers which have not been approved by the Board or the Department, when such approval is required under this Part. R.S.O. 1937, c. 59, s. 60.

66. The Department may direct that any two or more of the offices of the municipality shall be combined and held by the same officer, and may subsequently separate any of the offices so combined. R.S.O. 1937, c. 59, s. 61.

67.—(1) The Department may direct payment of such fees, or remuneration and travelling and other expenses reasonably incurred by the Department as it may determine.
(2) The Department may appoint some person who may be an officer of the municipality to exercise such powers and duties as the Department may provide, and the person so appointed shall be paid such salary and allowed such travelling and other expenses as the Department may determine.

(3) The Department in determining the salaries to be paid to any person appointed by it under subsection 2 shall give consideration to such representations with respect thereto as the council may at any time make.

(4) All salaries, fees, remuneration, travelling and other expenses payable under this section and all other expenses incurred by the Board or the Department in carrying out the provisions of this Part or in the exercise of their powers thereunder shall be paid by the municipality or local board, as the case may be, and be chargeable to such of its accounts as the Department may direct. R.S.O. 1937, c. 59, s. 62.

68. The powers contained in this Part shall be deemed to be in addition to and not in derogation of any power of the Board, Department or municipality under this or any other Act, but where the provisions of any general or special Act or any other Part of this Act conflict with the provisions of this Part, the latter shall prevail. R.S.O. 1937, c. 59, s. 63.

69.—(1) Where the Department is of opinion that the affairs of a municipality no longer require to be administered under this Part the Board may make an order directing that on, from and after a date fixed thereby this Part shall no longer apply to the municipality and on, from and after such date the Board and the Department shall cease to exercise jurisdiction and control over the municipality under this Part. R.S.O. 1937, c. 59, s. 64.

(2) Notwithstanding the provisions of subsection 1 or of an order made thereunder, where such order has been or is made, the tax arrears procedures of this Part shall continue to apply to the municipality in the same manner as if such order had not been made and the tax sale procedures of The Assessment Act shall not apply and the use or disposition of any land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition shall be subject to the approval of the Department. 1943, c. 28, s. 15.

70. Where the Department has heretofore ceased or hereafter ceases to exercise jurisdiction and control over a municipality under this Part pursuant to an order made under sec-
tion 69, the Board shall notwithstanding such order continue to have and may, subject to the approval of the Department, exercise any of the powers mentioned in section 34 in the same manner as if such order had not been made. 1942, c. 9, s. 3, part.

71. Subject to The City of Windsor (Amalgamation) Act, 1935, the municipalities and local boards heretofore declared subject to Part VI of The Ontario Municipal Board Act, 1932 or Part III of The Department of Municipal Affairs Act, 1935 shall be and remain subject to this Part and to the jurisdiction and control of the Board and the Department as provided for in this Part. R.S.O. 1937, c. 59, s. 65; 1938, c. 10, s. 7.

FORM 1

(Section 45 (3))

TAX ARREARS CERTIFICATE

To the Registrar of the Registry Division of the ............ of ..........

I HEREBY CERTIFY by virtue of The Department of Municipal Affairs Act, section 45, that the lands hereinafter described, by reason of certain taxes thereon remaining unpaid for the period mentioned in said section are hereby vested in and have become the property of the ......... .............. of .......... (naming the municipality).

<table>
<thead>
<tr>
<th>Description of Lands</th>
<th>Amount of Unpaid Taxes with Penalties, Interest and Costs</th>
<th>Whether Vacant or Improved Land</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

The period within which the right of redemption may be exercised under the said Act with respect to the above described land is one (1) year from the date of registration of this certificate.

Dated at .............. this .............. day of .............., 19 ....

.................................................................
Treasurer

R.S.O. 1937, c. 59, Form 1.
FORM 2
(Section 45 (4))

NOTE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE that by virtue of The Department of Municipal Affairs Act, section 45, a tax arrears certificate has been registered against the following lands, namely:

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

and by reason thereof the same are vested in and have become the property of the corporation of the (naming the municipality) subject only to your right of redemption of the same on or before the day of ..., 19 ..., which is the last day for redemption.

Dated at .............. this day of ....... , 19 ....

Treasurer

R.S.O. 1937, c. 59, Form 2.

FORM 3
(Section 47 (2))

REDEMPTION CERTIFICATE

To the Registrar of the Registry Division of the .............. of ..............

I HEREBY CERTIFY that the lands hereunder described have been redeemed by .............. under the provisions of The Department of Municipal Affairs Act.

Description of Lands

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

Take notice that where land is redeemed by any person entitled to redeem the same other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem said land.

Dated at .............. this day of .............. , 19 ....

Treasurer

R.S.O. 1937, c. 59, Form 3.
FORM 4

(Section 50 (1) )

VACATING CERTIFICATE

To the Registrar of the Registry Division of the......of..........

I HEREBY CERTIFY that the title of the corporation of the ...............of.............to the lands hereunder described is hereby vacated by the said corporation under the provisions of The Department of Municipal Affairs Act.

Description of Lands

Dated at............this.........day of............., 19....

Treasurer

R.S.O. 1937, c. 59, Form 4.