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Farm Tenure in Iowa
V. Some Legal Aspects of Landlord-Tenant Relationships

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FARM TENURE IN IOWA

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- I. Tenancy problems and their relation to agricultural conservation. Rainer Schickele and Charles A. Norman. Bul. 354. January, 1937.
- II. Facts on the farm tenure situation. Rainer Schickele. Bul. 356. February, 1937.
- III. The national farm institute symposium on land tenure. Bul. 357. April, 1937.
- IV. Farm tenure conditions in Palo Alto County. Rainer Schickele. Bul. 364. August, 1937.
- V. Some legal aspects of landlord-tenant relationships. Marshall Harris, Albert H. Cotton and Rainer Schickele. Bul. 371. April, 1938.

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FOREWORD

Many phases of the farm tenure problem have been discussed in recent years, and the growing interest in this question is reflected in the nationwide attention given to the President's Committee on Farm Tenancy during the winter of 1936-37, in the Bankhead-Jones Tenant Act passed by Congress in the summer of 1937, in the Landlord-Tenant Act passed by the Oklahoma legislature in 1937 and in the appointment of state committees on farm tenancy by the governors of two states, Arkansas and Iowa.

These developments indicate that people are beginning to contemplate possible ways and means to improve farm tenure conditions through some form of legislative action. The policies suggested in this field fall into two main classes: (1) Those encouraging owner-operatorship, and (2) those improving landlord-tenant relationships. It is with this latter problem that the present bulletin is concerned.

Not all tenancy problems can be solved by legislation. Mutual cooperation, education and the development of a sense of responsibility on the part of both tenant and landlord are essential. All that legislation can do is to provide a framework of certain minimum standards in landlord-tenant relationships which will facilitate a clearer understanding of the rights and responsibilities of the two parties and prevent certain practices distinctly detrimental to land and community.

We now have several laws regulating landlord-tenant relationships. Some of them are ill-adapted to farm conditions; others may need to be modified; and the adoption of several new statutes may prove desirable. In making these adjustments, it should be remembered that in the long run the interests of landlord and tenant are mutual. They are not antagonistic. The farming enterprise must be efficiently organized to assure sustained yields and profits, and rural communities must be serviceable and attractive if landlord and tenant are to prosper.

The relationship between the two parties is of vital concern to the state. The present tenants are the future owners of Iowa land. The present owners are the trustees of the land resources for future generations. Both must be willing to fulfill their responsibilities if our soil and the welfare of our rural communities are to be preserved.

If one is to evaluate the possibilities of improving landlord-tenant relationships by legislative means, a knowledge of the existing legal status of landlords and tenants is indispensable. An understanding of the economic and social implications of present laws and statutes will contribute a great deal in arriving at a sound judgment regarding the possibilities and limitations of statutory regulations. It is for this purpose that the present bulletin, the fifth in the series on Farm Tenure in Iowa, is intended. It should prove valuable to farmers, land owners, legislators and the general citizenry of the state.

APPENDIX

PART I—FORMS

FORM A

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934

STATEMENT OF AFFAIRS

GENERAL TITLE (FORM L)

1. Is your principal occupation farming?
2. Are you unable to meet your liabilities as they become due?
3. Give names, addresses and amounts of claims of creditors.

Name	Secured Amount	Nature of Claim
Name	Unsecured Amount	Nature of Claim

4. Give description and location of farm. Value \$
5. Give list of live stock.
6. Give list of implements, machinery and other personal property.
7. What is the gross productive value of these assets?
8. What is the cost of production?
 - (a) Hired labour?
 - (b) Fertilizer?
 - (c) Fuel oil?
 - (d) Twine or baskets?
 - (e)
9. How much crop of each kind was raised on the land
 - in the year 1932?
 - in the year 1933?
 - in the year 1934?
10. What is your present or prospective capability of meeting existing obligations?
11. Are you married or single? If married, number of children, sex and ages.
12. What other property have you?
13. How long have you farmed?
14. Where have you farmed?
15. How long have you operated your present farm?
16. How much of your farm is tillable?
17. How much is under cultivation?
18. In what state of cultivation is the land?
19. In what condition are your buildings?
20. What is the cause of your financial difficulties?

I, of
 in the county or district of in the Province of
 do solemnly declare that the above statement gives to the best of my knowledge
 and belief a full, true and complete statement of my affairs on this.....
 day of 19... and fully discloses all my property, and I make this
 declaration knowing it to be of the same force and effect as if made under oath and
 by virtue of the Canada Evidence Act.

Solemnly declared before me at of the county or
 district of in the Province of this
 day of 19...

A Commissioner, etc.

FORM B
THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
MINUTES OF A MEETING OF CREDITORS
GENERAL TITLE (FORM L)

.....Chairman.

Creditors present in person or by proxy

	Secured		
Name	Represented by	Nature of Claim	Amount proved
	Unsecured		
Name	Represented by	Nature of Claim	Amount proved

Voting letters received.

Resolution respecting proposal.

Creditors assenting Names. Creditors dissenting Names.

Was any counter proposal or amendment proposed, and if so what?

Other business.

Dated atin the county or district of
in the Province of..... this day of
19...

.....
Official Receiver.

Approved atin the
Province of
thisday of
19...

.....
Judge of the Court
for the of

FORM C
THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
REPORT OF OFFICIAL RECEIVER
GENERAL TITLE (FORM L)

I, of
in the county or district of in the Province of
Official Receiver, respectfully report to the court as follows:

1. That the above named farmer did on the day of
..... lodge with me a proposal, a true copy whereof is
attached to this report.

2. That on the day of notice
was given by registered post to every known creditor of calling of the meeting of
creditors to be held on the day of
19... to consider the said proposal. A true copy of the farmer's statement of
affairs was sent with each notice and a copy of the statement of affairs is attached
hereto.

3. That the said meeting of creditors was duly held on the
day of 19...

4. That a true copy of the minutes of said meeting is attached hereto.

FORM C (continued)

- 5. That in my opinion the cause of the financial difficulties of the farmer is:
- 6. That in my opinion the dissenting creditors (if any) opposed the proposal for the following reasons:

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

.....
Official Receiver

FORM D

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934

NOTICE OF APPLICATION TO APPROVE PROPOSAL

GENERAL TITLE (FORM L)

Take notice that application be made to.....
in chambers at.....on the.....day of
.....19.....at.....o'clock in the.....
noon to approve the composition (or extension or scheme of arrangement) duly
accepted by the statutory majority of creditors.

Dated this.....day of.....19.....

.....
Official Receiver

FORM E

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934

REPORT OF OFFICIAL RECEIVER TO BOARD OF REVIEW

GENERAL TITLE (FORM L)

I, of..... in the
Province of.....Official Receiver for the
.....of.....respectfully report to the
Board of Review as follows:—

- 1. That meeting of creditors was duly held herein on the.....
day of.....19.....at.....
- 2. That in the discussion of his affairs at the said meeting the following
conclusions were arrived at by me as to the said farmer being an efficient
producer:
- 3. That the following conclusions were arrived at by me as to the cause of
his financial difficulties:
- 4. That the following conclusions were arrived at by me as to the form of
proposal, if formulated, which the farmer could reasonably be expected
to meet:
- 5. That in my opinion the attitude of *the farmer* or all the creditors or
.....a creditor was unreasonable at the meeting
for the following reasons:

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

.....
Official Receiver

FORM F

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
REQUEST FOR REVIEW
GENERAL TITLE (FORM L)

I, the above namèd farmer, or
..... a creditor of the above mentioned
farmer, request that the Board of Review endeavour to formulate an acceptable
proposal for a composition, extension of time or scheme of arrangement herein.
Dated at..... this..... day of
..... 19.....

FORM G

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
NOTICE OF REQUEST FOR REVIEW
GENERAL TITLE (FORM L)

Take notice that a written request has been received from.....
the above mentioned farmer (or a creditor of the said farmer) that the Board of
Review endeavour to formulate an acceptable proposal for a composition, exten-
sion of time or scheme of arrangement of the affairs of.....
farmer, and the Board will proceed to deal with this request after fifteen days
from the date hereof.
You may make representations in writing or you may apply to be heard
orally, if you so desire.
Dated at..... this..... day of
..... 19.....

.....
*Registrar of the Board of Review of
the Province of.....*

FORM H

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
CONFIRMATION ORDER

Province of..... In the Board of Review.

GENERAL TITLE (FORM L)

A request having been made by the above mentioned farmer (or a creditor
of the above mentioned farmer) to the Board to endeavour to formulate an
acceptable proposal to be submitted to the creditors and the debtor, and the
Board having formulated such a proposal and the creditors (or the debtor)
having declined to approve the proposal (and the Board having amended the
proposal so formulated by it).
The Board now confirms the proposal for a composition (extension of time
or scheme of arrangement), a copy of which is attached hereto, and declares the
same to be binding upon all the creditors and the debtor.
Dated at..... this..... day of
..... 19.....

By the Board.....
Registrar.

FORM I

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
PRELIMINARY SHORT STATEMENT OF AFFAIRS

In the matter of the assignment of.....
farmer, for the general benefit of his creditors (otherwise same as Form A only
add as additional questions the following:

- 21. What are the causes of your insolvency?
- 22. What assets have been disposed of within the past year which are not enumerated above?
- 23. Have you made any payments or given any security to any of your creditors during the past year other than in the ordinary course of business?)

FORM J

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
NOTICE TO CREDITORS
GENERAL TITLE (Form L)

Take notice that....., residing in the
county or district of.....in the Province of
.....has submitted to me for the consideration
of his creditors a proposal for a composition (or extension of time or scheme
of arrangement). A general meeting of creditors will be held at.....
.....on the.....day of.....
at the hour of.....o'clock in the.....noon.

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

.....
Official Receiver

FORM K

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
OFFICIAL RECEIVER'S CERTIFICATE
GENERAL TITLE (Form L)

I, Official Receiver for and in
the county (or district) of..... in the Province
of..... certify that.....
farmer resident in the said county (or district) did on the.....
day of..... 19.... submit to me a proposal for a
composition (or extension of time or scheme of arrangement).

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

.....
Official Receiver

FORM L

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
GENERAL TITLE IN CASE OF A PROPOSAL

In the matter of a proposal for a composition, extension or scheme of arrangement of.....farmer.

FORM M

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934
NOTICE OF FINAL DIVIDEND AND APPLICATION OF TRUSTEE FOR HIS RELEASE

In the matter of the Assignment
of.....Farmer.

1. Enclosed herewith is a copy of the final statement of receipts and disbursements and dividend sheet duly approved by the Superintendent of Bankruptcy.

2. Take notice that on theday of 19..., dividends on all claims of creditors not objected to before the time for payment will be paid.

3. Take further notice that the undersigned trustee will apply to the Superintendent of Bankruptcy on theday of19..., at the hour of 10 o'clock in the forenoon to be released from any further duties and obligations with respect to the above estate.

4. And take further notice that any objection you may have to make to the release of the trustee herein must be forwarded in writing to the Superintendent of Bankruptcy at Ottawa, to be received by him at least two days prior to the date fixed for consideration of the application of the trustee for his release, and a copy thereof served on the undersigned within the time aforesaid.

5. Take further notice that, if no objection is made, you are required to cash the dividend cheque of the undersigned trustee promptly so that the trustee may include in his affidavit verifying the administration of the estate to the Superintendent proof that all of the dividend cheques have been duly honoured, otherwise the amount of your dividend will be forwarded to the Superintendent of Bankruptcy to be deposited with the Receiver General of Canada and that you will thereafter be required to make application to the Receiver General of Canada for payment of the same.

Dated atthis.....day
of.....19....

.....
Trustee
(Address)

FORM N

THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934

AFFIDAVIT VERIFYING APPLICATION OF TRUSTEE FOR HIS RELEASE

In the Court of.....

In the matter of the Assignment of.....Farmer.

I,the Trustee named in the application hereto annexed make oath and say:

That the several statements in the said application are within my own knowledge true.

That the statement of receipts and disbursements attached to the said application and marked "Exhibit A" hereto is an accurate and correct statement of the administration of the above mentioned estate.

That all the assets which came into my hands have been realized with the exception of the following:

(Here give full particulars, description and value of all property not sold or realized upon and reasons why not sold.)

and have not otherwise been improperly disposed of to the best of my knowledge and belief.

That all claims filed were properly examined and that to the best of my knowledge and belief, except where disputed claims were compromised or otherwise allowed by the inspectors, the dividend sheet hereto attached and marked "Exhibit B" contains a true and correct list of the claims of creditors entitled to share in the estate.

That every disbursement in the said statement was a proper and correct one to be made.

That I have not received, nor do I hope nor expect to receive, nor have I been promised any other consideration or remuneration than as appears in the said statement.

That I have not been a party to nor have I any knowledge of any undisclosed arrangement with the farmer or with any other person, wherein any creditor received any consideration or payment in excess of that to which he was properly entitled out of the assets or proceeds of the estate.

That all dividend cheques have been forwarded to the creditors in accordance with the dividend sheet "Exhibit B" and that such cheques have been duly cashed and honoured and that no funds remain in my hands to the credit of the estate.

Sworn before me at the }
..... }
of }
thisday of }
..... 19.. }

A Commissioner, Notary Public, etc.

TARIFF OF FEES FOR OFFICIAL RECEIVERS UNDER THE FARMERS'
CREDITORS ARRANGEMENT ACT.

1. Fees

An arrangement may be made with the Official Receiver whereby he shall receive as remuneration a monthly allowance while he is acting as Official Receiver. Failing such an arrangement the following fees shall be allowed:

- (a) Composition completed without appeal to Board of Review.. \$10.00
- (b) Composition determined by Board of Review..... 15.00
- (c) Assignment 20.00

Provided, further, that where the composition as approved provides that the creditors, secured or unsecured, are to be paid in cash the fees and disbursements of the Official Receiver or Trustee shall first be paid out of the cash available for all the creditors whose claims are to be paid in cash.

TARIFF OF FEES FOR SOLICITORS UNDER THE FARMERS'
CREDITORS ARRANGEMENT ACT.

Fees.

The Tariff of costs in force in the Court of the County or District where the farmer resides or in force with respect to other matters in the said county or district shall apply in all matters or proceedings for services rendered by a solicitor.

OFFICE CONSOLIDATION

1935

CANADIAN FARM LOAN ACT

**As amended by 24-25 George V, Chapter 46 (1934) and by
The Canada Farm Loan Act Amendment Act, 1935.**

OTTAWA
J. O. PATENAUDE
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1935

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CANADIAN FARM LOAN ACT

R.S.C. 1927, Chapter 66, as amended by 24-25 George V, Chapter 46 (1934) and by The Canadian Farm Loan Act Amendment Act, 1935.

NOTE.—All persons making use of this consolidation are reminded that it has not Parliamentary sanction, that the amendments have been embodied only for convenience of reference and that the original Act should be consulted for all purposes of interpreting and applying the Act.

SHORT TITLE

1. This Act may be cited as the Canadian Farm Loan Act. Short title. 1927, c. 43, s. 1.

INTERPRETATION

2. In this Act, unless the context otherwise requires, Definitions.
- (a) "Board" means the Canadian Farm Loan Board established by this Act; "Board."
 - (b) "Borrower" means a farmer who has obtained a loan under the provisions of this Act; "Borrower."
 - (c) "Commissioner" means the Canadian Farm Loan Commissioner appointed under the provisions of this Act; "Commissioner."
 - (d) "Farmer" means a person whose principal occupation consists in farming; "Farmer."
 - (e) "Farming" includes stock raising, dairying and the tillage of the soil. "Farming."
 - (f) "Farm Land" or "Farm" means land under occupation and cultivation by a farmer or land purchased by a farmer for immediate occupation and cultivation by him; "Farm Land."
 - (g) "Farm Loan" or "Loan" means a loan made to a farmer under the provisions of this Act; "Farm Loan" or "Loan."
 - (h) "Farm Loan bond" means a bond issued under the authority of this Act; "Farm Loan bond."
 - (i) "Minister" means the Minister of Finance for the time being; "Minister."
 - (j) "Mortgage" and "First Mortgage" include, with relation to loans made in the province of Quebec under this Act, hypothecs and vente à réméré, whether, with relation to the latter, the Board has or has not expressly accorded to the borrower, at the time of making the loan, an additional right to redeem notwithstanding elapse of the time for repayment, and "mortgagor" and "mortgagee" shall be construed accordingly. 1927, c. 43, s. 2. 1935, c. 16 Am. "Mortgage."

PART I

3. (1) There shall be a board, known as the Canadian Farm Loan Board, which shall consist of not less than three nor more than five members who shall be appointed by the Governor in Council, on such terms and conditions as the

"Canadian Farm Loan Board."

Governor in Council may prescribe. One of such members shall be the Deputy Minister of Finance or the Comptroller, Government Guarantee Branch of the Department of Finance.

Farm Loan
Com-
missioner.

(2) One of the members so appointed shall be designated the "Canadian Farm Loan Commissioner," and shall be the chairman of the Board.

Tenure
of office.

(3) The Commissioner shall be appointed for such a period of years as the Governor in Council may designate.

Compen-
sation.

(4) The Commissioner shall be paid such salary and the other members such fees as the Governor in Council may prescribe, such salary and fees to be a charge against the revenues of the Board.

Board as
agent of
owner.

(5) The Board shall be a body corporate and politic and be and be deemed to be for all the purposes of this Act, except contractual dealings between the Government of Canada and the Board relating to the purchase by that Government of the capital stock or bonds of the Board or the repurchase by the Board of those bonds, the agent of His Majesty the King in his right of the Dominion of Canada and to take security, receive, lend, pay, agree, acquire, hold, convey, transfer and otherwise do as this Act directs or authorizes as such agent and not otherwise. 1927, c. 42, s. 3; 1935, c. 16 Am.

Power of
board.
Farm Loan
bonds.

4. The Board may

(a) issue and sell bonds to be known as Canadian Farm Loan bonds, buy the same on its own account and retire the same at or before maturity;

Long term
loans.

(b) make long term loans to farmers on the security of first mortgages on farm lands upon and subject to the conditions hereinafter prescribed;

Real
Estate.

(c) hold real estate which, having been mortgaged or otherwise secured to it, is acquired by it for the protection of any loan, sell, mortgage, lease or otherwise dispose thereof and, if the Board in its discretion shall decide so to do, but not as an obligation, pay yearly to local taxing authorities amounts to the extent of the taxes that would have been owing on such real estate had the same been assessed and a levy made thereon in that year: Provided, however, that any such real estate shall be disposed of within three years from the date on which it is acquired or within such additional period, not exceeding two years, as the Governor in Council may fix and determine;

Investments.

(d) invest its funds in the debentures, bonds, stocks or other securities of, or guaranteed by, the government of Canada, or of, or guaranteed by, the government of any province of Canada;

Assistance.
Incidental
powers.

(e) employ such assistance and exercise by itself or through its duly authorized agents all such incidental powers as shall be necessary or expedient to carry on the business authorized by this Act.

Collateral
Security.

(f) accept and hold such additional and collateral security for loans as the Board may deem proper;

Composi-
tion, etc.

(g) make such composition, extension of time or scheme of arrangement with any borrower on his loan as the Board deems advisable;

- (h) subsequent to the making of any loan, make advances to borrowers for seed grain, fodder, fertilizer, or harvesting expenses. 1927, c. 43, s. 4, 1934, c. 46, s. 2, 3; 1935, c. 16 Am. Advances for seed grain, etc.

5. The capital requirements of the Board shall be provided as follows:— Capital requirements

(1) The Government of Canada may subscribe to an initial capital to an amount not exceeding five million dollars and may pay the amount of any such subscription at such times and in such amounts as in the judgment of the Board are necessary for the purposes of the Board; and the amounts provided from time to time under this subsection shall be free from interest charges for a period of three years, after which time interest shall be paid at such rate as the Governor in Council shall direct, repayment of the amounts so provided shall be made from time to time out of the earnings of the Board; Provided that before any such proposed repayment is made, the reserve fund of the Board provided for by section nine of this Act, shall be at least equal to the total repayments, including the repayment then proposed to be made. Initial capital.

(2) In addition to the initial capital provided for in the next preceding subsection the Board shall issue capital stock in shares of one dollar each, which shares shall be subscribed for by the Government of Canada from time to time as loans are made under this Act to an amount equal to five per cent of the said loans, so that the total amount subscribed under this subsection shall equal at any time as nearly as may be, five per cent of the total amount of principal outstanding on loans theretofore made, the same to be called for by the Board as required. Capital stock.

(3) The Minister may purchase at a price not exceeding the par value thereof, the capital stock issued by the Board to any province and for the purpose of such purchase the Minister may make the necessary expenditure out of any unappropriated moneys in the Consolidated Revenue Fund. Purchase of capital stock.

(4) The Board may retire the outstanding capital stock subscribed by borrowers under the Act, by crediting the amount of the par value of the stock subscribed by the borrower as a payment upon the borrower's indebtedness under his loan from the Board, and when so credited, the borrower shall thereupon cease to be a stockholder of the Board. 1927, c. 43, s. 5; 1935, c. 16 Am. Retirement of outstanding capital stock.

6. (1) The outstanding Farm Loan bonds shall not exceed at any time twenty times the paid up capital stock subscribed for by the Government of Canada in the manner provided in the next preceding section. Limit of outstanding bonds.

(2) Such bonds shall be issued at such a rate of interest as in the opinion of the Board will make the market value of the bonds at the date of issue approximately par. Rate of interest.

(3) The bonds shall be issued for such period, not exceeding thirty-five years, and in such denominations as the Board may determine. Time limit. Denominations.

(4) Provision may be made for the redemption of the bonds at the option of the Board before their due date, in which case the Board may provide for the payment of such premium as it may deem reasonable. Redemption before date due.

Form and conditions.

(5) Each Farm Loan bond shall be signed by the Commissioner, or by a member specially authorized thereunto by the Board, and by the secretary or treasurer of the Board, and it shall have printed thereon a certificate by the Commissioner that it is issued under the authority of this Act and that at the time of issue the Board holds mortgages or charges on farm lands, and personalty at least equal to the total amount of bonds issued under this Act. 1927, c. 43, s. 6; 1934, c. 46, s. 4; 1935, c. 16 Am.

LOANS

Conditions for loans.

7. Loans made under the authority of this Act shall be subject to the following conditions:—

“First Mortgages.”

(a) Loans shall be made only on the security of first mortgages on farm lands not exceeding fifty per cent of the actual value of such lands and the buildings thereon as appraised by the Board: Provided that in arriving at such actual value, the value of the buildings shall be considered only to the extent to which the same add to the actual value of the land as farm land and no one person and no two or more persons having joint or several ownership of the land to be mortgaged shall have by way of loan in the aggregate at any one time more than five thousand dollars.

Use of proceeds.

(b) The proceeds of such loan shall be used for following purposes and no other:—

- (i) To purchase farm land;
- (ii) To purchase fertilizers, seed, live-stock, tools, machinery and any implements and equipment necessary to the proper operation of the farm mortgaged;
- (iii) To erect farm buildings or to clear, drain, fence or make any other permanent improvement tending to increase the productive value of the land;
- (iv) To discharge liabilities already accumulated;
- (v) Any purpose which in the judgment of the Board may be reasonably considered as improving the value of the land for agricultural purposes.

Loans only to persons engaged in cultivation of farm mortgaged.

(c) Loans under this Act shall be made only to farmers actually engaged in or shortly to become engaged in the cultivation of the farm mortgaged and whose experience, ability and character are such as to warrant the belief that the farm to be mortgaged will be successfully cultivated: Provided that no loan shall be made on the security of unimproved land except for the purpose of making improvements on the same.

Appraisal value.

(d) The appraised value shall be based on the value of the land for agricultural purposes and as far as possible on the productive value as shown by experience; and no other basis of valuation shall be considered.

Interest.

(e) The interest rate on loans under this Act shall be such a rate in excess of the interest rate yielded at the time of issue by the last series of Farm Loan bonds issued by the Board as shall be sufficient, in the judgment of the Board, to provide for the expenses of operation and for the necessary reserves for losses, or if no such bonds have been issued, such a rate as in the judgment of the

Board will be yielded by the Farm Loan bonds when issued, increased by provision for expenses and reserves as aforesaid.

- (f) Every loan made under this section shall be repay-^{Repayment.} able upon such terms and within such periods not in excess of twenty-five years as the Board may prescribe: Provided, however, that all loans repayable over a period in excess of five years shall be repayable in equal annual or semi-annual instalments of principal and interest.
- (g) Notwithstanding anything contained in the Interest ^{Interest on} Act every borrower shall pay simple interest on defaulted ^{defaulted} payments. payments. at a rate not exceeding eight per cent per annum and shall agree to pay when due all assessments, taxes and other charges necessary to be paid for the security of the Board in respect of the loan and to effect such insurance as the Board may require; and should such taxes, assessments and charges not be paid when due, they may be paid by the Board and charged to the borrower, and if not repaid to the Board on or before the next interest date with interest thereon at a rate not exceeding eight per cent per annum the borrower shall be considered in default under the mortgage.
- (h) Except as provided in, and subject to, such regulations, ^{"Payments} not inconsistent with the provisions of the Interest Act, ^{by Bor-} as the Board may prescribe, any borrower may at any time repay the whole or part of his loan on any date on which an instalment becomes due. When the payment is part of the loan only it shall be credited to the borrower in such manner as the Board may by regulation prescribe, but so that no such payment shall relieve the borrower from liability to pay or from continuing to pay, at the times agreed upon, the various instalments next ensuing due after such partial payment is made, and until the loan and interest is repaid in full.
- (i) If any borrower under this Act expends any part of a ^{If loan} loan for any purpose other than that approved by the ^{expended} Board, the said loan shall at the option of the Board ^{for other} become forthwith payable in full. ^{purposes.}
- (j) It shall be a term of any mortgage taken as security for ^{In case} a loan that upon the sale or lease of the farm land ^{of sale.} mortgaged the loan shall, at the option of the Board, immediately become due and payable. 1927, c. 43, s. 7; 1935, c. 16 Am.

8. (1) All monies lent under this Act after the thirtieth day of June, 1935, by the Board upon mortgage or other security, and, as well, all monies thereafter owing to the Board by reason of the terms of such mortgage or other security, and secured hereby or pursuant to the provisions of this Act, shall be deemed, for so long as any part of any of such monies remains unpaid to the Board, to be monies of His Majesty the King in his right of the Dominion of Canada, secured by a first and paramount right, privilege, lien and charge upon and against the and or other property to which such mortgage or other security relates.

(2) When the effect at law of any mortgage or other security made or given under this Act after the thirtieth day of June, 1935, to the Board is to convey or transfer to the Board the legal title to the land or other property to which such mortgage or other security relates, such land or other property shall, for so long as any part of any monies lent upon such mortgage or other security or owing to the Board by reason of the terms of such mortgage or other security, and secured thereby or pursuant to the provisions of this Act, remains unpaid, be deemed to be the land or property of His Majesty the King in his right of the Dominion of Canada.

(3) Notwithstanding any law, whether statute or other, now in force or which hereafter may be in force in any province, no mechanic's lien law, taxation lien law or other law or privilege of any species whatever whereunder liens, charges or privileges upon or against land or other property of any species whatever are created, arise or exist shall, without the consent in writing of the Board, which consent shall be revocable, affect or apply to any land or other property of any species whatever or any part thereof or interest therein, to which any mortgage or other security, lien, charge or privilege made or given to the Board under this Act after the thirtieth day of June, 1935, shall relate, in prejudice of the Board as the holder of any such mortgage or other security, lien, charge or privilege so made or given, but every such mortgage or other security, lien, charge or privilege thereafter made or given to the Board shall, for so long as it shall remain wholly or partially unpaid, rank upon such land or other property or part thereof or interest therein, as the case may be, in priority to all other securities, liens, charges or privileges, whatsoever.

(4) Notwithstanding the provisions of the next preceding subsection, if any mortgagor or other person who shall give or make to the Board under this Act after the thirtieth day of June, 1935, any mortgage or other security, lien, charge or privilege shall fail or neglect to pay any lawful rates, taxes or assessments, which, under the law of the province concerned, are claimed to be liens or charges upon or against any land or any such other property, or part thereof or interest therein, to which any mortgage or other security, lien, charge or privilege so thereafter made or given to the Board relates, or if the mortgagor of such mortgage, or other person who has made or given such security, lien, charge or privilege, having agreed with the Board to insure the property to which such mortgage, security, lien, charge or privilege relates and to pay the premiums of insurance, shall fail or neglect to pay such premiums of insurance, as agreed with the Board, and at the times agreed, it shall be lawful, but not obligatory, for the Board to pay—

- (a) such rates, taxes or assessments, if any, as the Board by regulation approved by the Governor in Council on the recommendation of the Minister shall determine to be of a species of taxation which, in general, is of benefit to farm lands.
- (b) such premiums of insurance, if any, as such mortgagor or other person shall have so failed or neglected to pay: Provided, that in any case where the Board shall be advised in advance by the insurer that the latter has

reason to believe that the mortgagor or other person concerned will fail or neglect to pay any such premium of insurance, as and when due, the Board may, in order to prevent the lapse of such insurance, pay or contract to pay any such premium before failure or neglect as aforesaid has actually occurred.

(5) Whenever, pursuant to the two next preceding subsections, the Board shall have paid any such rates, taxes, assessments or insurance premiums all monies so expended by it, with interest thereon not exceeding eight per centum per annum, computed from the time of payment, shall be repaid by such mortgagor or such other person, as the case may be, to the Board on demand and until wholly repaid such payments shall be and be deemed to have been added to the principal sum secured by the mortgage or other security, lien or charge, as the case may be, and failure or neglect fully to repay such payments or any of them on demand shall constitute default on the part of such mortgagor or such other person, as the case may be, entitling the Board to proceed at once to realize by suit or, lawfully, otherwise, upon the mortgage, lien, charge, privilege or other security concerned. 1935, c. 16 Am.

9. The Board shall annually carry to a reserve fund ^{Reserve fund.} twenty-five per cent of the net earnings of the Board until the said reserve shall equal twenty-five per cent of the paid capital stock of the Board, and thereafter there shall be carried to the reserve fund at least ten per cent of the net earnings.

(2) A dividend may be declared annually on the capital ^{Dividend.} stock of the Board when in the judgment of the Board the net earnings of the Board warrant such payment: Provided that no dividend greater than five per cent shall be declared until the reserve fund shall have reached the amount of twenty-five per cent of the paid capital stock.

(3) Whenever, whether as the result of proceedings taken ^{"When title transferred to Board."} to realize upon a mortgage or other security or as the result of compromise or agreement, the right or interest in the land and/or other property concerned which by law remained in the mortgagor or other person after the making or giving of the mortgage or other security becomes vested in the Board so that it holds, as against such mortgagor or other person, title, ownership and right to possession, or whenever, as the result of such proceedings, an amount is realized which is not sufficient to discharge in full the amount of the loan, interest, costs and charges, the capital stock of the Board subscribed for by the Government of Canada shall be cancelled to an amount equivalent to that so subscribed for with relation to loans of the like amount and the amount paid upon capital stock in respect of such loan shall be transferred to reserve account. 1927, c. 43, s. 9; 1935, c. 16 Am.

10. (1) The Board may appoint, for any province or prov- ^{Chief executive officer in provinces.} inces in which it operates or is about to operate, such chief executive officer as, on the nomination of the Board and the recommendation of the Minister, the Governor in Council may approve.

(2) Such officer shall, in the province or provinces for which he is appointed have charge of the operations of the

Board and exercise and perform such powers and duties as it may confer and impose upon him. 1935, c. 16 Am.

Local loan
advisory
board.

11. The Board may appoint for any province or for any two or more provinces in which the Board is authorized to make loans, a local loan advisory board of not more than three members. The chief executive officer appointed by the Board for such province or provinces shall, *ex officio*, be a member of such local loan advisory board and the chairman thereof. The associate members of such local board shall hold office at the pleasure of the Board, and shall be paid such fees as the Board may by regulation prescribe. 1935, c. 16 Am.

Legislation
prejudicially
affecting
security.

12. In the event of legislation being passed by the legislature of any province after loans have been made available in that province which, in the opinion of the Board, would prejudicially affect the security of existing or future loans, the Board, by notice to be published in the *Canada Gazette*, may cease to make further loans in that province. 1927, c. 43, s. 12.

Audit.

13. An audit of the books of the Board shall be made in accordance with regulations made under the provisions of section seventeen of this Act by a firm of chartered accountants appointed for that purpose by the Governor in Council, and a copy of the report of the said accountants on the annual statement of the Board shall be laid before Parliament by the Minister within the first fifteen days of the first session thereof following the date of the said report. 1927, c. 43, s. 14; 1935, c. 16 Am.

Report.

Action of
Board
conclusive.

14. Except as may be otherwise decided from time to time by the Governor in Council, all actions and decisions of the Board shall be deemed within its powers and shall be conclusive against all interested parties. 1927, c. 43, s. 16.

Investment
by
insurance
companies.

15. (1) Notwithstanding anything contained in the Insurance Act any Canadian company as defined in the said Act, may invest its funds or any portion thereof, in the purchase of Farm Loan bonds, and any British company and any foreign company, as therein defined, may hold the said bonds as assets in Canada for the purposes of the said Act.

Investment
by loan
companies.

(2) Notwithstanding anything contained in the Loan Companies Act, any loan company subject to the provisions of the said Act, or any of them, may invest its funds, or any portion thereof, in the purchase of Farm Loan bonds.

Investment
by trust
companies.

(3) Notwithstanding anything contained in the Trust Companies Act, any trust company subject to the provisions of the said Act, or any of them, may invest its funds or any portion thereof in the purchase of Farm Loan bonds. 1927, c. 43, s. 17.

Purchase
of bonds by
Minister.

16. (1) The Minister may purchase from time to time, on behalf of the Dominion of Canada, from the Board, bonds issued by the Board, which bonds shall on the request of the Minister be repurchased by the Board at the price originally paid therefor when funds for that purpose become available through the public sale of Farm Loan bonds: Provided that the amount of such bonds held at any one time by the Minister on behalf of the Dominion of Canada shall not exceed fifty million dollars.

(2) The Governor in Council may authorize the guarantee ^{Guarantee.} of the principal and interest of Farm Loan bonds to the amount of forty million dollars.

(3) The guarantee or guarantees may be signed on behalf ^{Signed by} of His Majesty by the Minister and such signature shall be ^{the Minister.} conclusive evidence for all purposes of the validity of the guarantee and that the provisions of this Act have been complied with. 1927, c. 43, s. 18; 1934, c. 46, s. 8; 1935, c. 16 Am.

17. The Board may, subject to the approval of the Governor in Council, make regulations ^{Regulations.} not inconsistent with the provisions of this Act for the conduct of the business of the Board, and without limiting the generality of the foregoing provision the Board shall have power to provide by regulation for

- (a) the employment of officers, appraisers, inspectors attorneys, clerks and other employees, their remuneration and their duties;
- (b) the charges to be made against borrowers for the expenses of appraisal, determination of title and recording;
- (c) the bases of valuation of farm land;
- (d) the form of application for loans, farm loan bonds, mortgages, books of account and annual statements of the Board;
- (e) the manner of crediting advance payments by borrowers under the mortgages;
- (f) the auditing and inspection of the accounts and assets of the Board;
- (g) the bonding of agents, officers and employees of the Board;
- (h) the signing of cheques, transfers, assignments, discharges, deeds, bonds and other instruments of the Board;
- (i) the duties and salaries of the chief executive officers appointed under section ten;
- (j) the duties, fees and scale of expenses of the local advisory loan committees appointed under section eleven. 1927, c. 43, s. 19; 1935, c. 16 Am.

18. The amount of any payment by the Government of ^{Payments} Canada on account of capital of the Board or as payment for ^{out of the} Farm Loan bonds purchased shall be paid out of the Consolidated ^{Consolidated} Revenue Fund on the authority of the Governor in Council. ^{Revenue} Fund. 1927, c. 43, s. 20.

PART II

19. (1) Notwithstanding anything contained in Part I of ^{Further} this Act, the Board may in any case where it lends on the ^{loan may} security of a first mortgage, make a further loan for a period of not more than six years, repayable on such terms as the Board may determine, on the security of a second mortgage on the farm lands and in those provinces of Canada where chattel security may be taken by the Board, of a charge on live stock and other personal property.

(2) The aggregate of loans made to any one borrower under ^{Aggregate} the provisions of Parts I and II of this Act shall not exceed, ^{of loans.} in those provinces of Canada where chattel security may be

taken by the Board, two-thirds of the appraised value of the land and buildings in respect of which security is taken, and in any province where chattel security may not be taken sixty per cent of the said value and shall not exceed at any one time the sum of six thousand dollars. The amount advanced under this section shall not exceed one-half the amount advanced on the security of the first mortgage.

Purposes
for which
loan is
to be used.

(3) Loans made under this Part of this Act shall be used for the following and no other purposes:—

- (a) to enable the debtor to pay existing liabilities;
- (b) to purchase live stock, tools, machinery, implements and equipment necessary for the proper operation of the farm mortgaged;
- (c) to erect farm buildings or to clear, drain, fence or make any other permanent improvement tending to increase the productive value of the land;
- (d) for such other purposes relating to the development and operation of the farm as the Board approves.

Interest
rates.

(4) The interest rate on loans made under this section shall not exceed the current rate charged in respect of first mortgage loans under this Act by more than one per centum per annum. 1934, c. 46, s. 9; 1935, c. 16 Am.

Loans to
mortgagee.

20. (1) In addition the Board may, subject to the conditions hereinafter provided, lend to a mortgagee on the security of the assignment or hypothecation of a first mortgage on farm lands situate in any province in which the Board is empowered to make loans under this Act.

When
composition,
etc.
approved,
1934, c. 53.

(2) Whenever a proposal for a composition, extension or scheme of arrangement made under *The Farmers' Creditors Arrangement Act, 1934*, has been duly approved, the mortgagee shall be eligible for a loan which shall be disbursed to the farmer for such purposes in connection with the proper operation of the farm lands covered by the first mortgage and in such instalments as may be agreed to by the Board.

Limit
of loan.

(3) No loan made hereunder shall be for an amount exceeding one-quarter of the principal amount owing on account of the mortgage assigned or hypothecated.

Rate of
interest.

(4) Each loan shall bear interest at the rate charged by the Board on loans made under Part I of this Act and shall be for a period not exceeding one year, but in any event shall be repayable with interest out of the first moneys received by the mortgagee or the Board on account of the mortgage assigned or hypothecated.

Extension
of time for
repayment.

(5) The Board may on the application of the mortgagee extend the time for the repayment of the loan for a further period not exceeding one year.

Conditions
as to rate
of interest.

(6) No loan shall be made to a mortgagee unless the mortgagee agrees that the rate of interest payable by the mortgagor to the mortgagee on advances made out of the proceeds of such loan shall not be in excess of the rate of interest payable on the mortgage assigned or hypothecated, and shall in no case be more than one per cent in excess of the rate charged the mortgagee by the Board.

When loans
become
payable
in full.

(7) In the event of the proceeds of any loan not being expended as provided by this section, such loan shall at the option of the Board become forthwith payable in full.

(8) The provisions of subsection two of section five of Part I of this Act shall not apply with respect to loans made under this section. Certain provisions not to apply.

(9) The Governor in Council may make advances to the Board out of any unappropriated moneys in the Consolidated Revenue Fund for the purposes of this section. Advances.

(10) In this section unless the context otherwise requires or implies, the expression, Interpretation.

(a) "first mortgage" and "mortgage" includes an agreement for sale securing the purchase price of farm lands to which the mortgagee has title; "First mortgage."

(b) "mortgagee" means any loan, trust or insurance company incorporated under Dominion or Provincial laws and such other corporations or persons or classes of corporations or persons as may be designated by the Governor in Council. 1934, c. 46, s. 10; 1935, c. 16 Am. "Mortgagee."

21. (1) The Board shall keep separate accounts in respect of the loans made under the provisions of this Part and if such accounts show that losses have been sustained, the amount of such losses shall at the close of each fiscal year be advanced to the Board out of any unappropriated moneys in the Consolidated Revenue Fund, and repayment of the amounts so advanced out of the Consolidated Revenue Fund shall be a first charge on any future profits resulting from operations under this Part. Separate accounts to be kept.

(2) For the purpose of ascertaining whether or not a loss has been sustained, the Governor in Council may make regulations to determine what expenses of the Board shall be allocated to operations under this Part. Regulations.

(3) The provisions of subsection three of section nine of this Act shall apply to loans made under section nineteen of this Act. When title transferred to the Board.

(4) Dividends on capital stock issued by the Board in respect of loans made under this Part shall be declared only out of profits from the operations of the Board under this Part and no such dividend shall be declared until all advances made under the provisions of sub-section one of this section are repaid. 1934, c. 46, s. 11; 1935, c. 16 Am. Dividends.

22. The provisions of Part I of this Act shall apply *mutatis mutandis* in the case of loans made under this Part, except in so far as the provisions of this Part are inconsistent therewith. 1934, c. 46, s. 12. Application of Part I.

1936

(SECOND SESSION)

CHAPTER 2.

An Act to Provide for the Reduction and Settlement of
Certain Indebtedness.

(Assented to September 1, 1936.)

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

1. This Act may be cited as "*The Reduction and Settlement of Debts Act.*" Short title

2. In this Act, unless the context otherwise requires— Definitions—

(a) "Debt" means any sum in the nature of a liquidated "Debt"

demand for the payment of which any person is
liable by virtue of any contract, agreement, coven-
ant or stipulation, whether in writing or oral, and
whether express or implied, but does not include—

(i) any debt due to or by the Crown in the right
of Canada;

(ii) any debt due to or by the Crown in the right
of the Province;

(iii) any debt due to the Canadian Farm Loan
Board or the Soldier Settlement Board;

(iv) any indebtedness for assessments, rates or
taxes payable pursuant to any statute or pur-
suant to the terms of any agreement provid-
ing for the consolidation and payment of
taxes, rates or assessments;

(v) any debt due to or by a city, town or village,
municipal district, improvement district,
school district, irrigation district, drainage
district or municipal hospital district;

(vi) any indebtedness guaranteed by the Crown
in the right of the Province;

(vii) any debt in respect of which a direction has
been made or given by the Debt Adjustment
Board under the provisions of *The Debt
Adjustment Act, 1933*, for the payment of
money in the year 1936;

(viii) any other kind or description of debt which
is declared by the Lieutenant Governor in
Council to be a debt to which this Act does
not apply.

"Debt Adjustment Board"

(b) "Debt Adjustment Board" means the Debt Adjustment Board constituted pursuant to *The Debt Adjustment Act, 1936*; and

"Old debt"

(c) "Old debt" means any debt the whole of the consideration for which arose before the first day of July, 1932, and includes any debt of any person under any guarantee for the payment of any old debt whether the guarantee was given prior to the first day of July, 1932, or at any time thereafter.

Extent of old debt recoverable

3. Notwithstanding any covenant, agreement or stipulation, whether express or implied and howsoever created, by virtue of which any old debt is made payable, the amount which shall be recoverable on account of any old debt shall be the following amount and no more, namely: the amount of the balance of the old debt outstanding and payable as at the first day of July, 1932, including any advances made under and by virtue of the agreement or other instrument, creating or securing the debt, together with any further advances so made since that date, reduced by any payments made since that date whether on account of principal, interest or otherwise; and as and from the first day of July, 1932, no interest shall be payable on any part of the said amount.

Extent of other debts recoverable

4. Notwithstanding any covenant, agreement or stipulation, whether express or implied and howsoever created, by virtue of which any debt other than an old debt is made payable, the amount which shall be recoverable on account of such debt shall be the following amount and no more, namely, the amount of the original debt together with any subsequent advances made in respect thereof together with simple interest thereon at the rate, if any, stipulated for the payment thereof or at the rate of five per centum per annum, whichever rate is the less, less all sums paid on account of the debt whether in respect of principal or interest since the time when the debt was originally created.

Unsatisfied judgments

5. In case any judgment has been entered in any court in any action for the recovery of any old debt which has not been satisfied at the time when this Act comes into force, the amount payable under such judgment shall be the amount of the old debt to the extent that the same is recoverable pursuant to section 3 hereof together with the taxed costs of judgment and execution.

Contracts as to addition of interest to principal

6. For the purpose of computing the amount of any indebtedness recoverable under this Act, no account shall be taken of any contract, agreement, covenant or stipulation whereby any interest accruing from and after the first day of July, 1936, is to be added to and form part of any principal sum and for the purpose of such computation every such contract, agreement, covenant and stipulation shall as and from the first day of July, 1936, be null, void and of no effect.

7.—(1) Unless it is otherwise ordered pursuant to subsection (3) or subsection (4) hereof, the amount recoverable in respect of any old debt shall be payable by ten annual instalments on the fifteenth day of November in the year 1937 and in each ensuing year in the following amounts, namely: the amount of the first, second and third instalments shall be five per centum of the amount recoverable; the amount of the fourth, fifth, sixth and seventh instalments shall be ten per centum of the amount recoverable; the amount of the eighth, ninth and tenth instalments shall be fifteen per centum of the amount recoverable.

Payment by instalments of old debt

(2) Notwithstanding subsection (1) hereof the person liable for the payment of any such old debt shall be entitled to pay the same either wholly or in part at any time before the days prescribed by this Act as the days upon which the instalments thereof are to become due and payable and the person entitled to payment shall accept any such payment.

(3) Any necessitous creditor may apply to the Debt Adjustment Board for an order fixing the amount of any instalment or instalments to be paid by the debtor in respect of the recoverable indebtedness at an amount greater than the amount fixed by this section or fixing as the date or dates upon which any instalment or instalments shall be paid a date or date other than the date or dates prescribed by this section, but no such order shall be made except—

- (a) upon five days' notice of the application to the debtor unless otherwise ordered by the Board;
- (b) a full enquiry has been made by the Board into the necessitous circumstances of the creditor and the circumstances of the debtor; and
- (c) the Board is satisfied, having regard to the necessity of the creditor and the ability of the debtor to pay, that it is convenient and proper that the debt should be made payable otherwise than in the instalments and at the times hereinbefore specified.

(4) In case default is made in the payment of any instalment or the part of any instalment directed to be paid pursuant to section 9, the Board may in its discretion, after due inquiry into the circumstances, make an order declaring that any instalment or instalments not then due are due and payable forthwith and issue a permit authorizing the creditor to take such proceedings in respect thereof as may be specified in the order.

8.—(1) From and after the coming into force of this Act no action of any kind shall be maintainable and no proceeding by way of distress or seizure for the recovery of any old debt shall be taken nor shall any such action or proceeding be continued unless the person liable for the payment thereof has made default in the payment of any of the instalments prescribed by section 7, and a permit has been issued pursuant to this Act authorizing the taking of such action or proceeding.

Prohibition of proceedings in respect of old debt without a permit

(2) For the purposes of this section "proceeding" includes the exercise of any right to seize or take possession of any crop created by any crop lease given in respect of any old debt or by virtue of any attornment by a debtor to a creditor in respect of any old debt.

Proceedings
in respect of
old debt on
default of
payment of
instalment

9.—(1) In case any instalment of an old debt is not paid on the day fixed by this Act for the payment thereof the person entitled to enforce payment of the old debt may apply to The Debt Adjustment Board for a permit to take such action or other proceedings as he may be entitled to take.

(2) If after due inquiry the Board is satisfied that the non-payment of the instalment was due to circumstances over which the debtor had no control such as drought, hail, frost or any other act of nature or due to the fact that the debtor was unable to make the payment because of his inability to obtain payment of debts due to him from others by reason of the existence of any similar circumstances, the Board shall not issue the permit applied for.

(3) If after such inquiry it appears to the Board that the debtor is in a position so to do, the Board may by order direct the payment of so much of the instalment as the Board deems fit and proper, and the Board may make the failure to comply with any such direction a condition of the refusal of a permit and shall distribute the balance of that instalment among the subsequent instalments and make additions thereto accordingly.

(4) Upon the refusal of any application for a permit pursuant to subsection (2), the time for payment of the instalment in respect of which the application is made shall be the fifteenth day of November following the application if the application is made before the first day of July and, if the application is made after the first day of July, on the fifteenth day of November of the following year: the time of payment for every subsequent instalment shall be postponed by the same number of years as the number of years of the postponement for the time for payment of the instalment in respect of which the application is made; and in case an application is made for a permit in respect of more than one instalment the earliest of such instalments shall, for the purposes of this subsection, be deemed to be the instalment in respect of which the application is made.

Non-
application
of sections
8 and 9

10. The provisions of sections 8 and 9 shall not apply when the debtor is a person against whom a Writ of Attachment may be issued, pursuant to the Rules of Court relating to absconding debtors.

Computation
of time
under *The
Limitation of
Actions Act,
1935*

11.—(1) The period during which proceedings by a creditor are prohibited under this Act shall not be included in the time within which an action or other proceeding is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time

within which actions or proceedings are to be commenced; and any party to an action or other proceeding which has been prohibited by this Act shall have the same time for continuing such action or proceeding after the expiry of the said period as he would have had if the action or proceeding had not been prohibited, and shall not be prejudiced by reason of the delay.

(2) For the purpose of this section the proceedings mentioned and described in sections 8 and 9 of this Act shall, whether or not such creditor has applied or hereafter applies to the Board for the issue of a permit pursuant to the said section, be deemed to have been prohibited so long as this Act remains in force, subject to the provisions contained in subsection (3).

(3) Upon the issue of the permit or written authority of the Board, the period subsequent to the issue thereof shall be included in the time within which the action or other proceeding affected thereby is to be commenced under *The Limitation of Actions Act, 1935*, or under any other statute or law for the time being in force in the Province limiting or prescribing the time within which actions or proceedings are to be commenced.

12. The Lieutenant Governor in Council may from time to time declare that any kind or description of debt is a debt to which this Act does not apply and every such order shall take effect upon publication in *The Alberta Gazette* either upon publication or upon any later date thereby fixed for the purpose, and upon such publication shall have the same force and effect as if it had been enacted as a part of this Act.

Declaration by Order in Council as to debts excepted from Act

13.—(1) The provisions of this Act shall not apply to any debt or old debt, which by any contract, agreement or settlement between the parties has been reduced to an amount which is less than the amount of the indebtedness which would otherwise be recoverable under this Act.

Non-application of Act to certain contracts for settlement of debts

(2) Except as provided in this section, it shall not be competent for a debtor to waive or to forego any of the benefits to which he may become entitled under this Act, and every contract, agreement or arrangement whatsoever to that end shall be absolutely void.

Contracts waiving Act void

14. The provisions of *The Debt Adjustment Act, 1936*, as to any matters of procedure in relation to the issuance of permits shall, *mutatis mutandis*, apply to the issuance of permits under this Act.

Application of *The Debt Adjustment Act, 1936*

15. This Act and *The Debt Adjustment Act, 1936*, shall be read and construed together, and in the case of any conflict between any of the provisions of this Act and any of the provisions of *The Debt Adjustment Act, 1936*, the provisions of this Act shall prevail.

Construction of Act

Restriction
of Act to
matters
within com-
petence of
Legislature

16. The provisions of this Act shall not be so construed as to authorize the doing of any act or thing which is not within the legislative competence of the Legislative Assembly.

Coming into
force of Act

17. This Act shall come into force on the day upon which it is assented to.

EDMONTON: Printed by A. Shnitka, King's Printer

I hereby certify that this
Bill passed SEP 1 1936

R. A. Anderson

.....
Clerk of the Legislative Assembly.

I certify that this is a true
and correct copy of the
Bill as passed.

R. A. Anderson

.....
Clerk of the Legislative Assembly.

Price 3d.

The
**Mortgagors and Lessees
Rehabilitation Act, 1936.**

13^A

Explanatory Notes.

Published by direction of Hon. H. G. R. Mason, Minister of Justice.



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IMPORTANT.

If your mortgage is "running on" after the expiry of the date of repayment originally agreed upon, and you have been relying on the protection of previous legislation to prevent its being called up, note that that legislation is now repealed. Moneys owing under such mortgages may shortly be called up unless application be made under the new Act, according to the directions given in this pamphlet.

Do not delay your application to the last minute.

**CLOSING DATE for making applications
31st January, 1937.**

PART I.

LIABILITIES UNDER MORTGAGES AND LEASES.

Liabilities which arise out of a Mortgage.

§ 1. A mortgage is a charge upon property made by way of security for the repayment of money lent or for the carrying-out of certain promises. In the normal case the borrower (mortgagor) obtains a loan upon condition that he will repay it on a particular date or by instalments and that he will pay interest in the meantime on particular dates. He also promises to carry out certain contracts which are set out in the mortgage.

To protect the lender (mortgagee) the mortgagor gives him security over certain land or other property and agrees that, if the mortgagor breaks any of his promises set out in the mortgage, the mortgagee may sell the land or other property. Out of the price he obtains on such sale the mortgagee is entitled to retain enough to repay the loan and pay the costs of the sale and other expenses. The essential part of a mortgage is the promise to pay interest and to repay the loan. The charge is given over the property for the purpose of better enabling the mortgagee (the lender) to enforce his rights.

The promise to pay is called the personal covenant which also includes all other promises set out in the mortgage. The promises comprised in the personal covenant are contracts which may be enforced through the Courts in the same manner as other contracts, apart altogether from the rights against the property.

Persons who may be or become liable under a mortgage are as follows :—

- (1) All persons who signed the mortgage or a variation of it although they may not now own the mortgaged property or may never have owned it.
- (2) All persons who guaranteed performance of the personal covenant by the mortgagor who signed the mortgage or variation—that is, persons who have undertaken to pay if the mortgagor fails to do so.
- (3) All persons who at any time become owners of property which is subject to an existing mortgage although they may no longer own the property.
This liability arises under a promise implied by law to indemnify the person from whom they purchased against any proceedings under the personal covenant.
- (4) By law a person whom the mortgagee has sued under the personal covenant and against whom he has obtained judgment ceases to be a mortgagor and is liable only under the judgment.

This Act enables such a person to obtain relief as a mortgagor or a guarantor.

- (5) In some cases also exercise of the power of sale or entry into possession by the mortgagee causes the mortgagor to cease to be a mortgagor but still liable under the personal covenant.

Under this Act he is entitled to obtain relief as a mortgagor or guarantor.

- (6) Under this Act the person who is the present owner of the land is dealt with as a “mortgagor.” All other persons liable under the personal covenant are dealt with as “guarantors.”

Liability arising under a Lease.

§ 2. A lease is a document whereby the owner of property allows the lessee to have possession of it subject to payment of rent and other charges and performance of various conditions. The promise to pay and perform the conditions is a contract and is called the personal covenant.

Liability arises under the personal covenant in a lease as it does under that in a mortgage. The persons liable are—

- (1) Those who signed the lease or any variation of it although they do not now occupy the property or never occupied it.
- (2) Those who have guaranteed the performance of it by the lessee.
- (3) Those to whom the lease has at any time been assigned or transferred.
- (4) A tenant or lessee under a lease remains liable under the "personal covenant" for any outstanding liability, such as arrears of rent, notwithstanding that the lease may have expired or otherwise been determined before expiry. The Act provides that such persons may apply for an adjustment of their liability as guarantors.
- (5) A sublease is dealt with under the Act as a lease.

Under this Act the person who is named in the lease as the lessee (if there has been no assignment of the lease) or the person (if there has been any assignment of the lease) who occupies under the assignment of the lessee's rights is dealt with as the lessee. Any other persons liable under the personal covenant are dealt with as guarantors.

PART II.

MORTGAGORS AND LESSEES REHABILITATION ACT, 1936.

Purpose of Act.

§ 3. The general purpose of the Act is set out in respect of three classes of applicants—that is, (1) farmer mortgagors and farmer lessees, (2) home mortgagors and home lessees, and (3) those mortgagors and lessees who are not farmers and whose application is not in respect of their homes.

Farmer Applicants.

The general purpose of the Act in relation to farmer applicants is—

- (1) To retain them in the use and occupation of their farms as efficient producers; and
- (2) To make such adjustments of their liabilities as will ensure—
 - (a) That the liabilities secured on any property do not exceed the value of that property;

(b) That the rent of any leasehold property does not exceed the rental value of that property; and

(c) That the total amount and terms of payment of all their liabilities (whether secured or unsecured) are such that, after allowing for all normal current expenditure and providing for the maintenance of themselves and their families in a reasonable standard of comfort, the applicants may reasonably be expected to meet their liabilities as they become due, either out of their own moneys or by borrowing on reasonable terms. (Section 2 (1).)

Home Applicants.

The general purpose of the Act in relation to home applicants is—

(1) To retain them in the occupation of their homes; and

(2) To make such adjustments of their liabilities as will ensure—

(a) That the liabilities secured on any property do not exceed the value of that property;

(b) That the rent of any leasehold property does not exceed the rental value of that property; and

(c) That the total amount and terms of payment of those of their liabilities that are secured by adjustable securities* or are adjustable debts† are such that the applicants may reasonably be expected to meet them as they become due, either out of their own moneys or by borrowing on reasonable terms. (Section 2 (2).)

Other Applicants.

The general purpose of the Act in relation to applicants who are not farmer applicants or home applicants is—

(1) To enable them to retain possession of their mortgaged or leasehold property; and

(2) To make such adjustments of their liabilities as will ensure—

(a) That the liabilities secured on any property do not exceed the value of that property;

(b) That the rent of any leasehold property does not exceed the rental value of that property; and

(c) That the total amount and terms of payment of those of their liabilities that are secured by adjustable securities* or are adjustable debts† are such that the applicants may reasonably be expected to meet them as they become due, either out of their own moneys or by borrowing on reasonable terms. (Section 2 (3).)

* Adjustable securities: That is to say, mortgages to which the Act applies and other mortgages or charges over property that is subject to a mortgage to which the Act applies. (See § 4.)

† Adjustable debts: (See § 13.)

PART III.

MORTGAGES.

Mortgages to which the Act applies.

§ 4. The Act applies to—

- (1) All mortgages over any kind of property that were executed before the 1st October, 1936 :
- (2) All mortgages that were in fact operative before the passing of the Act though not executed :
- (3) Any mortgages that after the passing of the Act may have been varied if the Act at any time has applied to them :
- (4) Any mortgages that, after the passing of the Act, have been executed in substantial replacement of a mortgage to which the Act applies :
- (5) Agreements for sale and purchase of land are covered under the heading of mortgages, and the purchasers under such agreements have the same right as mortgagors :
- (6) Leases containing a compulsory purchasing clause or an optional purchasing clause where the option has been exercised are also included under the heading of mortgages, and the lessee to that extent is deemed to be a mortgagor.

NOTE.—The Act applies to mortgages even though the property is worth more than the amount secured on it. In such a case the mortgagor may need and may obtain an extension of the time for repayment, a reduction in the rate of interest, or a variation of any other conditions of the mortgage. (See § 6.)

ADJUSTMENT OF LIABILITIES UNDER MORTGAGES.

Reduction of Mortgage Debt.

§ 5. In general the Act provides that where any property is subject to a mortgage to which this Act applies, the amount secured by the mortgage is to be reduced to the value of the property, or, in the case of farm lands, the basic value of the farm land. The balance of the amount due under the mortgage then becomes unsecured and an “adjustable debt.” (See § 13.)

Variation of Terms of Mortgage.

§ 6. Whether or not there has been any reduction of the principal secured by a mortgage the Adjustment Commissions have power to vary the rate of interest and any of the other terms of the mortgage. Such variation will be made by the Commission having regard to the general purpose of the Act, and may provide for repayment of the moneys secured by instalments on table mortgage or else on fixed dates on flat mortgage. If no order is made for repayment by instalments, then that portion of the mortgage debt that could be refinanced by the mortgagor on reasonable terms becomes payable to the mortgagee in five years and the balance on such later date as the Adjustment Commission fixes.

LEASES.

Leases to which the Act applies.

§ 7. The Act applies to all written leases and to all deferred-payment licenses which were executed before the 1st October, 1936, and to any renewal of such a lease.

Adjustment of Liabilities under Leases.

Reduction of Rent.

§ 8. The rental payable under any lease to which the Act applies is to be reduced to the rental value of the property. The arrears of rent become unsecured debts and therefore "adjustable debts." (See § 13.)

Variation of Terms of Lease.

§ 9. The Commission may also vary the terms of the lease, whether or not the rent payable under it has been reduced in pursuance of the Act.

SALE OF LAND AFTER ADJUSTMENT.

§ 10. In any case where the mortgage debt or the rent under a lease has been reduced or any arrears of rent have been remitted the mortgagor or lessee is prohibited, until 1st January, 1941, from selling the land or his interest in the lease without the leave of the Court previously obtained. The Court will give leave only in exceptional circumstances. This prohibition also applies until 1st January, 1941, to any one who buys the land or the lease from the mortgagor or lessee.

If the Court does permit a sale it may order so much of the price as it thinks fit to be paid into Court for the benefit of the creditors.

GUARANTORS.

Guarantors to whom the Act applies.

§ 11. The following persons are dealt with as guarantors under the Act:—

- (1) Persons who guaranteed a mortgage or lease covered by the Act by signing the mortgage or lease or a separate guarantee.
- (2) Persons who at any time signed such a mortgage or lease which is still running as mortgagor or lessee, but who do not now own the property subject to the mortgage or hold the property comprised in the lease.
- (3) Persons who at any previous time have owned or held property which was subject to a mortgage or comprised in a lease which is still running.
- (4) Persons who are registered as owners of property subject to a mortgage or as lessees of property comprised in a lease and who have abandoned the property or have been dispossessed by the mortgagee or lessor.

Adjustment of Liabilities of Guarantors. (See also § 41.)

§ 12. All the liability of a guarantor under a mortgage or lease is dealt with as an "adjustable debt" (unless some security has been given otherwise for it).

PART IV.

UNSECURED DEBTS.

§ 13. Unsecured debts are those which are not secured under a mortgage or lease or by a statutory charge. Under this Act only some unsecured debts are dealt with, according to the type of applicant, and they are called "adjustable debts":—

Farmer applicants—All unsecured debts are treated as "adjustable debts."

Home applicants—Only unsecured debts arising out of the acquisition, extension, improvement, and maintenance of the home become "adjustable debts."

Other applicants—No unsecured debts become "adjustable debts."

Discharge of "Adjustable Debts."

§ 14. Adjustable debts comprise—

- (a) Amounts by which the mortgage debt is reduced (See § 5).
- (b) Arrears of rent under an adjusted lease. (See § 8.)
- (c) The liability of the applicant as a guarantor. (See § 11.)
- (d) Certain unsecured debts according to the type of applicant. (See § 13.)

All the adjustable debts of an applicant are discharged and written off unless the Court makes an order for some or all of them to be paid or secured.

If the applicant has no assets the Court cannot order payment of any adjustable debts, unless it considers they should be paid because of the income received by the applicant or the hardship that would be suffered by the creditor or for any other reason.

Abandoned Properties.

Farm and Home Applicants.

§ 15. Although the applicant has been dispossessed or has abandoned the property or it has been let temporarily to a tenant, the Commission may still order that he is a farm applicant or a home applicant and deal with his case accordingly. (See "adjustable debts," § 13.)

PART V.

PRELIMINARY ORDERS.

§ 16. Before proceeding with the adjustment the Commission will make preliminary orders so far as may be necessary on the following matters:—

- (1) Whether the applicant is a farmer applicant or a home applicant. (See § 13.)
- (2) The value of his property (other than farm lands). (See § 18.)
- (3) The basic value of his farm lands (if any). (See § 17.)
- (4) The basic rent of his leasehold property.

- (5) Whether he is entitled to retain any property which is mortgaged or which is held on lease. For this purpose the Commission must consider—
- (a) The applicant's conduct in the care and management of the property and the disbursement of his income :
 - (b) Whether any relief granted is reasonably likely to enable him to meet his liabilities in the future :
 - (c) In the case of a farmer applicant, whether the area of the farm lands is more or less than is sufficient to enable him to obtain a reasonable standard of comfort for himself and his family :
 - (d) Any other relevant considerations.
- (6) The amount he owes under any mortgage or charge. Before fixing the amount the Commission may remit any arrears of interest (whether or not they may have been capitalized) and any 10-per-cent. penalty on rates.

BASIC VALUE OF FARM LANDS.

§ 17. The figure to which the amount secured by mortgages of farm lands is reduced is the basic value of those farm lands. The Commission is directed to ascertain the basic value on the basis of the net income that can be derived from the lands by the average efficient farmer. The income is to be calculated by reference to the prices for farm products received over a period from eight to ten years immediately prior to 31st July, 1935.

VALUE OF OTHER PROPERTY.

§ 18. In the case of home property and all other property subject to mortgages, and all other unencumbered property, the Commission is directed to determine the value after having regard to the values of such property subsisting at the passing of the Act.

PART VI.

APPLICATIONS FOR ADJUSTMENT.

By Mortgagors, Lessees, and Guarantors.

§ 19. Applications by mortgagors, lessees, or guarantors are to be in the prescribed form. Forms are available at any office of the Court of Review. (See list of Courts on § 23.) A postcard for the convenience of applicants in procuring the prescribed application forms is printed on the back cover, and can be detached. Applicants may complete their applications (together with the necessary lists of creditors and debtors and statement of assets and liabilities, &c.), and hand them in duplicate to the Registrar of the Court or to the nearest Postmaster. The prescribed filing fee is 5s., which should be attached in stamps to the original copy of the application.

The official concerned will give to the applicant an acknowledgment of his receipt of the application, and this acknowledgment will be conclusive proof that an application has been filed. Copies of all applications must be served by the applicants on the mortgagees and lessors concerned. This may be done by posting copies of the application by registered letter.

N.B.—It is important that intending applicants should not leave it till the last week to apply for the requisite forms.

Case of Two or More Liabilities.

§ 20. No person should make more than one application for adjustment. If an applicant has more than one property subject to mortgages or comprised in leases, or if he is liable under the provisions of more than one mortgage, lease, or guarantee, he must set out in his application the particular liability in respect of which he desires adjustment. If an applicant discovers that he has omitted to include any mortgage, lease, or guarantee in his application, he should at once file in the Court an amended list of creditors and an amended statement of assets and liabilities. The prescribed filing fee for such amended statement is 2s.

Mortgagees and Lessors may also apply.

§ 21. Mortgagees and lessors respectively may also make application for the adjustment of the liabilities of their mortgagors or lessees if the latter have made default under the mortgage or lease and have not filed applications. (As to mortgagees' claims against guarantors, see § 41.)

Within twenty-one days (or such extended time as the Court may allow in special cases) after the mortgagee's or lessor's application has been served on him the mortgagor or lessee must file in the Court a statement of his assets and liabilities and a list of his creditors and debtors and statement of his financial position. If he fails to do so the Court may direct, even before 31st January, 1937, that he shall have no further relief, and the mortgagee or lessor can then exercise his powers of sale or re-entry and other powers under his mortgage or lease.

Protection of Mortgagees and other Creditors.

§ 22. If in such a case the mortgagor or lessee fails to file his list of creditors and debtors and his statement of assets and liabilities within the time fixed, or if the mortgagor or lessee cannot be found, the Commission may nevertheless make an adjustment in the interests of any of the mortgagees or guarantors or other creditors.

ASSISTANCE TO APPLICANTS.

§ 23. Provision is also made for the appointment of Registrars of the Court who will be located in the Supreme Court or the Magistrate's Court at each of the more important towns. Their duties will be to receive applications for adjustment, to assist and advise applicants in completing their applications, and to perform other statutory duties defined in the Act. It is proposed

to appoint Registrars of the Court of Review at the undermentioned places : Kaitaia, Kaikohe, Whangarei, Dargaville, Auckland, Pukekohe, Thames, Te Aroha, Tauranga, Whakatane, Opotiki, Hamilton, Rotorua, Te Kuiti, Taumarunui, Raetihi, Gisborne, Wairoa, Napier, Hastings, Dannevirke, Waipukurau, New Plymouth, Eltham, Stratford, Hawera, Taihape, Wanganui, Marton, Feilding, Palmerston North, Levin, Pahiatua, Masterton, Lower Hutt, Wellington, Blenheim, Nelson, Westport, Grey-mouth, Hokitika, Rangiora, Christchurch, Ashburton, Timaru, Waimate, Oamaru, Cromwell, Dunedin, Balclutha, Gore, Invercargill.

Applicants will nevertheless be well advised to have their affairs handled by a solicitor, if possible, as this makes for orderliness and expedition when their cases are dealt with by the Commission or the Court.

APPLICATIONS UNDER RURAL MORTGAGORS FINAL ADJUSTMENT ACT, 1934-35.

§ 24. All applications that were pending under the Rural Mortgages Final Adjustment Act are deemed to be continued under the new Act, and a fresh application is not necessary. This, however, does not apply where the application under the 1934-35 Act has been refused, settled, or otherwise disposed of, nor to applications under the Mortgages and Tenants Relief Act, 1933, and in such cases a new application must be made. In any case of doubt the safest course is to make a new application.

CROWN TENANTS.

Applications for Revaluation under Land Act, 1924.

§ 25. All these applications *which are now pending* will be continued under the Act, and the applicants will have their cases dealt with as though they had applied under this Act.

LAST DAY FOR FILING APPLICATIONS.

§ 26. The last day for filing any application is *31st January, 1937*; an extension of time can be granted only in the most exceptional circumstances for a further month until 28th February, 1937.

REVIVAL OF UNRESTRICTED RIGHTS OF MORTGAGEES AND LESSORS.

§ 27. The last day for filing, that is, 31st January, 1937, is also the last day for the protection of mortgagees, lessees, and guarantors who have not filed an application for adjustment. If no application has been filed (see Applications, § 19 and § 21) all relief and protection that have been granted under any of the previous statutes or under this Act cease on 31st January, 1937, and all restrictions on the rights of mortgagees and lessors to exercise their full powers are entirely removed. (See Stay Orders, § 44.)

After the final adjustment has been made the mortgagees and lessors may exercise their full powers without restriction in case the mortgagor or lessee does not comply with the conditions of the mortgage or lease as modified by the order which finally adjusts it.

STAY OF PROCEEDINGS.

By Mortgagees, Lessors, and other Creditors.

§ 28. Until after 31st January, 1937, in any case, and, if an application has been filed, until the application has been dealt with, all mortgagees, lessors, creditors, and other persons are prohibited, except with the leave of the Court, from taking any action or exercising any rights in respect of any property subject to a mortgage or comprised in a lease, or in respect of any debt that is an adjustable debt.

Reopening Transactions where Proceedings have been taken since 25th August, 1936.

§ 30. Special power is given to the Court on the application of any person who claims to have been prejudiced, to reopen any case where a mortgagee, lessor, creditor, or other person has completed any act that is prohibited between the date of the introduction of the Bill (25th August, 1936) and the date when it was passed (1st October, 1936). In such a case the Court may, if it thinks fit, set aside such Act and reinstate the parties as nearly as may be in their former positions. Applications for reopening such cases must be made within one month after the Act was passed, that is, on or before *1st November, 1936*.

PROTECTION UNDER RELIEF ACTS CEASES.

§ 31. The Mortgagees and Tenants Relief Act, 1933, and its amendments, and the Rural Mortgagees Final Adjustment Act, 1934-35, and its amendment, are now repealed, and no further relief may be obtained under those Acts. All orders now existing made under those Acts are continued until 31st January, 1937, or (if an application is made) until final adjustment, unless the order was originally made for a shorter period.

PENALTIES.

Applicant defeating Claims of Creditors.

§ 32. The Court is given power to make any appropriate order that is necessary where it is satisfied that any mortgagor, lessee, guarantor who has applied for adjustment, or any creditor, or other person is committing or about to commit acts which may defeat the claims of any of the creditors of the applicant.

Mortgagors, lessees, and guarantors who are applicants are prohibited from selling or mortgaging or otherwise disposing of any part of their property without the consent of the Adjustment Commission previously obtained.

FARMER APPLICANTS OBTAINING CREDIT.

§ 33. Farmer applicants (because all their liabilities and debts are adjustable) are prohibited from obtaining credit for more than £20 without informing the creditor that they are applicants under this Act.

PART VII.

VOLUNTARY ADJUSTMENTS.

§ 34. The Court and the Adjustment Commissions are directed to endeavour to promote voluntary adjustments wherever possible, but it is provided that such adjustments will not come into effect until they have been embodied in an Order of the Court.

NO CONTRACTING OUT.

§ 35. There is a provision that no covenant or condition contained in any document, executed before or after the passing of the Act, by which any mortgagor, lessee, or guarantor contracts out of the Act shall have any force or validity to deprive him of his right to apply for an adjustment under the Act.

VENDOR-MORTGAGEES.

§ 36. There is a provision for the case of vendor-mortgagees whose mortgage debt has been reduced under this Act where the mortgagee considers that the property is still worth the amount at which he sold it. In such a case the vendor-mortgagee, with the leave of the Adjustment Commission, may purchase the property at the price which he received on the sale plus the present-day value of any improvements added since the sale, less a proper allowance for depreciation. If there are other mortgages they will be paid out of the price so payable by the vendor-mortgagee, so far as it will extend.

CURRENT SEASONAL ADVANCES.

§ 37. In order to protect those firms and persons who have made current advances during the past season and until the adjustment for the ordinary working and living expenses of the farmer, the Adjustment Commission is given special power to make provision for those advances to be paid or secured in priority to any other secured or unsecured debts of the applicant.

ADVANCES FOR REHABILITATION.

§ 39. Where it is necessary to expend moneys on the improvement of the applicant's farm lands, or for any similar purpose, in order to increase the productivity or value of the farm or the income it could produce, and the applicant has not sufficient money of his own for that purpose, the Adjustment Commission may make provision for moneys to be borrowed on the security of the farm lands or other property of the applicant (and, if necessary, in priority to any other mortgages on the farm lands) to be used for such purposes.

Please send me a set of forms to enable me to apply for an adjustment of my liabilities under the Mortgagors and Lessees Rehabilitation Act, 1936.

I intend to apply as a **Farm Mortgagor.**
Home, or other Mortgagor.

Strike out which are inapplicable.

Name :.....

Postal Address :.....

.....

POST - CARD:

REGISTRAR,

COURT OF REVIEW.

75TH CONGRESS
1ST SESSION

H. R. 8

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1937

Mr. JONES introduced the following bill; which was referred to the Committee on Agriculture and ordered to be printed

A BILL

To establish the Farmers' Home Corporation, to encourage and promote the ownership of farm homes and to make the possession of such homes more secure, to provide for the general welfare of the United States, to provide additional credit facilities for agricultural development, to create a fiscal agent for the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That this Act may be cited as the Farmers' Home Act.

4 SEC. 2. (a) There is hereby established a corporation
5 to be known as the Farmers' Home Corporation (herein-
6 after in this Act referred to as the Corporation), which is
7 hereby declared to be an agency and instrumentality of the

1 United States. The principal office of the Corporation shall
2 be located in the District of Columbia. The management
3 of the Corporation shall be vested in a board of directors
4 consisting of three officers or employees of the United States,
5 designated by the President of the United States, one of
6 whom shall be from the Treasury Department, one from
7 the Department of Agriculture, and one from the Farm
8 Credit Administration. The President shall designate, from
9 the agency of which each director is an officer or employee,
10 an alternate for such director. Each alternate director shall
11 possess all of the powers and perform all of the duties of the
12 director for which he is acting in the event that such director
13 is absent or unable to serve for any reason. The directors
14 and alternate directors shall receive no additional com-
15 pensation for their services as directors of the Corporation
16 but may be allowed actual necessary traveling and subsistence
17 expenses when engaged in business of the Corporation out-
18 side of the District of Columbia. The Corporation shall
19 annually make a full report of its activities to the Speaker of
20 the House of Representatives, who shall cause the same
21 to be printed for the information of the Congress.

22 (b) The board of directors shall have power (1) to
23 select from its members a chairman and a vice chairman;
24 (2) to determine and prescribe the manner in which the
25 obligations and expenses of the Corporation shall be incurred,

1 allowed, and paid; and (3) to adopt such bylaws, and to
2 promulgate such rules and regulations, not inconsistent with
3 the provisions of this Act, as may be necessary or convenient
4 for the proper conduct of the affairs of the Corporation or
5 to carry out the purposes of this Act.

6 (c) The capital of the Corporation shall be in the sum
7 of \$50,000,000, subscribed by the United States of America,
8 payment for which shall be subject to call, in whole or in
9 part, by the board of directors of the Corporation. The
10 Corporation shall issue to the Secretary of the Treasury
11 receipts for payments for such stock subscriptions and such
12 receipts shall evidence the stock ownership of the United
13 States. There is authorized to be appropriated, out of any
14 money in the Treasury not otherwise appropriated, a sum
15 not in excess of \$50,000,000 for the purpose of subscription
16 to the capital of the Corporation. In addition, there is
17 authorized to be appropriated, out of any money in the
18 Treasury not otherwise appropriated, for each of the ten
19 fiscal years succeeding the first fiscal year for which an
20 appropriation is made under the preceding sentence, a sum
21 not in excess of \$50,000,000, and the sums appropriated
22 in pursuance of this authorization shall be available to the
23 Corporation for the purposes of this Act.

24 (d) The Corporation, including its property, franchise,
25 capital, reserves, surplus, and other funds, and its loans and

1 income, shall be exempt from all taxation now or hereafter
2 imposed by the United States, by any Territory, depend-
3 ency, or possession thereof, or by any State, county,
4 municipal, or other local taxing authority; except that any
5 real property of the Corporation shall be subject to Terri-
6 torial, State, county, municipal, and other local taxation to
7 the same extent according to its value as other real property
8 is taxed. Mortgages, notes, and other lien and credit instru-
9 ments executed to, or held by, the Corporation and any
10 obligations issued or executed by it shall be deemed and
11 held to be instrumentalities of the United States, and as such
12 they and the income derived therefrom shall be exempt from
13 Federal, Territorial, State, county, municipal, and other local
14 taxation. The Corporation, when designated for that pur-
15 pose by the Secretary of the Treasury, shall be a depository
16 of public money, except receipts from customs, under such
17 regulations as may be prescribed by said Secretary; and
18 may also be employed as a financial agent of the Govern-
19 ment; and shall perform all such reasonable duties, as
20 depository of public money and financial agent of the Gov-
21 ernment, as may be required of it. The Corporation may
22 also function as an agent of the United States with respect
23 to lands in the public domain to the extent and in the man-
24 ner prescribed by the Secretary of the Interior, or by the
25 Commissioner of the General Land Office with the ap-

1 proval of the Secretary of the Interior. The Corporation,
2 with the consent of any board, commission, independent
3 establishment, or executive department of the Government,
4 may avail itself of the use of information, services, facilities,
5 officers, agents, and employees thereof in carrying out the
6 provisions of this Act.

7 (e) The directors shall have power, without regard
8 to the provisions of other laws applicable to the employ-
9 ment of officers and employees of the United States, to
10 employ and to prescribe the powers and duties of such
11 officers, examiners, attorneys, other experts, and employees
12 and agents as may be necessary to carry out the powers
13 and duties conferred upon the Corporation by this Act, to
14 require bonds of them and fix the penalties thereof, and to
15 dismiss them at pleasure, but the rates of compensation of
16 such officers, examiners, attorneys, other experts, and
17 employees and agents of the Corporation shall not exceed
18 the rates of compensation prescribed for comparable duties
19 by the Classification Act of 1923, as amended. The Cor-
20 poration shall be entitled to the free use of the United States
21 mails for its official business in the same manner as the
22 executive departments of the Government.

23 (f) The Comptroller General of the United States is
24 hereby authorized and directed to audit at least once each
25 governmental fiscal year, and at such other times as he

1 may prescribe, the books, records, and accounts of the Cor-
2 poration. Such audit shall be for the sole purpose of making
3 a report to the President of the United States and the Con-
4 gress, together with such recommendations thereon as the
5 Comptroller General deems advisable.

6 SEC. 3. (a) The Corporation shall have the power,
7 and it shall be its duty, to establish, and to assist in the
8 establishment of, farms and farm homes, for the purpose
9 of encouraging the ownership of farm homes and improv-
10 ing the situation of farm tenants.

11 (b) The Corporation shall have power, in order
12 effectively to exercise its functions under subsection (a) —

13 (1) To construct, maintain, or acquire necessary build-
14 ings, improvements, furnishings, equipment, implements and
15 machinery, supplies, facilities, and livestock.

16 (2) To enter into contracts, to make loans, and to ac-
17 quire, by purchase, gift, or otherwise, any real or personal
18 property or any interest therein: *Provided*, That (A) no real
19 property shall be purchased by the Corporation except upon
20 an appraisal by a competent expert, reported in writing and
21 sworn to and filed and preserved for inspection by the Con-
22 gress, or any authorized committee thereof; (B) no real
23 property shall be purchased by the Corporation at a price
24 in excess of the value as determined by said appraisal;
25 (C) in making an appraisal of farm real property the

1 normal value of the land for agricultural purposes shall be
2 the basis of appraisal and the earning power of said land
3 shall be a principal factor; (D) no purchases of real
4 property by the Corporation shall be made upon credit
5 or paid for in installments, except that nothing herein shall
6 be construed to prevent the Corporation from acquiring,
7 and making payments on, options to purchase such property;
8 and (E) no real property or interest therein shall be acquired
9 (except for administrative purposes) in any county except
10 with the approval of the county committee of that county
11 provided for in subsection (e).

12 (3) To improve, develop, or maintain any property
13 or interest therein acquired in accordance with paragraph
14 (2) of this subsection.

15 (4) To sell, lease, or otherwise dispose of any such
16 property or interest therein.

17 (5) To borrow money: *Provided*, That no indebted-
18 ness shall have maturities in excess of one year, and that the
19 aggregate amount of such indebtedness shall at no time
20 exceed one-fifth of the paid-in capital of the Corporation.

21 (6) To prescribe, consistently with the provisions
22 of this Act, the terms, covenants and conditions of deeds,
23 leases, and contracts of sale.

24 (7) To establish and maintain such branch and local
25 offices as it may deem necessary.

1 (8) To buy and sell bonds of the United States or
2 the bonds of any corporation, which are fully and uncon-
3 ditionally guaranteed both as to interest and principal by
4 the United States.

5 (9) To exercise all such incidental powers as may
6 be necessary or appropriate to the carrying out of its powers
7 and duties.

8 (c) The Corporation shall have succession in its
9 corporate name until dissolved by Act of Congress, and
10 shall have power—

11 (1) To sue and be sued in its corporate name in any
12 court of competent jurisdiction, Federal or State.

13 (2) To adopt and use a corporate seal which shall
14 be judicially noticed.

15 (3) To lease such real estate as may be necessary for
16 the transaction of its business.

17 (4) To exercise and perform such other powers and
18 duties as may be conferred or imposed upon it by or pur-
19 suant to any Act of Congress.

20 (d) Only natural persons who are farmers or are
21 about to become engaged in farming shall be eligible to
22 receive the benefits of this Act; but no such person shall be
23 eligible if the income from farm property owned by him is
24 sufficient to maintain his family, pay operating expenses
25 and taxes, maintain such property, and discharge the interest

1 and principal payments on any indebtedness secured by a
2 lien on such property. In making available the benefits
3 of the Act, the Corporation shall give preference to appli-
4 cants who are married or who have dependent families, or
5 who are farm tenants, sharecroppers, farm laborers, or who
6 were recently farm tenants, sharecroppers, or farm laborers.

7 (e) The board of directors shall appoint in each county
8 in which the activities of the Corporation are carried on a
9 committee of three persons, one of whom must be a farmer,
10 one a businessman, and one an experienced credit man, all
11 of whom shall have been bona-fide residents of the county
12 for at least one year immediately prior to the date of their
13 appointment. It shall be the duty of the committee so
14 appointed to certify to the Corporation, under such regula-
15 tions as the Corporation shall prescribe, those persons within
16 the county in which the committee members reside who, in
17 the opinion of the committee, are likely to meet the obliga-
18 tions which will be required of persons receiving the benefits
19 of this Act; and the Corporation shall not make such benefits
20 available to any person who has not been so certified by
21 the committee. Members of the committee shall receive
22 no compensation for their services, but may be allowed actual
23 and necessary expenses when engaged in the business of the
24 Corporation.

1 SEC. 4. (a) The power of the Corporation, conferred
2 by section 3 (b), to sell, lease, or otherwise dispose of real
3 property, when exercised in favor of those persons
4 eligible to receive the benefits of this Act, shall be subject to
5 the following limitations and conditions:

6 (1) No loan shall be made for the total or partial
7 refinancing of any indebtedness incurred in the acquisition
8 of real property acquired otherwise than from the Cor-
9 poration.

10 (2) No title to farm real property shall be transferred
11 by the Corporation to a purchaser until at least 25 per
12 centum of the purchase price has been paid; and no farm
13 real property shall be sold which is not limited in area to
14 the approximate size, as determined by the preceding Fed-
15 eral census, of an average farm in the same locality, or
16 which exceeds in cost the price of property of similar size
17 and value in the same locality.

18 (3) No real property or interest therein shall be leased
19 by the Corporation for a term in excess of five years and no
20 more than one renewal for a term of five years shall be
21 allowed to any one such lessee, except that the Corporation
22 may lease real property for a period not in excess of ten
23 years, provided an option, to be exercised in accordance with
24 the provisions of the following paragraphs of this subsection,
25 to purchase said property is given to the lessee.

1 (4) Any lease with an option to purchase shall pro-
2 vide (A) for annual rental payments to the Corporation,
3 during the period of the lease, equal in the aggregate amount
4 to at least 25 per centum of the agreed purchase price, such
5 payments to be credited upon said purchase price in case of
6 the exercise of the option; (B) that the lessee shall be en-
7 titled to make prepayments of the annual rental or payments
8 in excess of the total annual rental, which amounts may be
9 credited upon the lessee's obligations to the Corporation as
10 they mature and in the interim invested by the Corporation,
11 for and on behalf of the lessee, in bonds of the United States
12 or bonds which are fully and unconditionally guaranteed both
13 as to principal and interest by the United States; (C) that
14 upon the expiration or termination of the lease the lessee
15 shall be entitled to receive from the Corporation the amount
16 of any payments, plus the income thereon, which have not
17 been credited upon the obligations of the lessee to the Corpo-
18 ration; (D) that the lessee shall, at the time that said 25 per
19 centum of said purchase price has been paid to the Cor-
20 poration in the form of rental payments or otherwise, as
21 aforesaid, advise the Corporation that he has determined to
22 exercise or not to exercise the option to purchase; and (E)
23 that such lease shall not be assigned or sold without the
24 consent of the Corporation.

1 (5) Upon the determination by any lessee to exercise
2 his option to purchase real property leased by him as herein
3 provided, or in the case of a sale of real property not
4 involving a lease with an option to purchase, title to said
5 property shall be transferred to the purchaser in accordance
6 with a contract of sale executed by him and the Corporation
7 in accordance with the provisions of this section, and the
8 unpaid balance of the purchase price shall be secured by a
9 first lien on the property sold under said contract of sale.

10 (6) The interest rate on the unpaid balance of the pur-
11 chase price shall be the rate of interest charged, at the time
12 the option to purchase is exercised (or at the time of the
13 execution of the contract of sale, in any case not involving a
14 lease with an option to purchase), for direct loans by the
15 Federal land bank of the land-bank district in which the
16 property to be sold is located, and the unpaid balance of the
17 purchase price shall be paid to the Corporation in accord-
18 ance with amortization schedules prescribed by it, within a
19 period not in excess of forty years from the date upon which
20 the title has been transferred to the purchaser.

21 (7) Each contract of sale and lien instrument executed
22 as herein provided shall contain a provision that if a volun-
23 tary lien is created by the purchaser on any of the property
24 sold, or if the purchaser thereof shall sell or agree to sell
25 such property, or if an involuntary lien is established, the

1 Corporation may declare all unpaid installments of principa
2 and interest to be immediately due and payable.

3 (8) No real property or any interest therein in any
4 county (except property used for administrative purposes)
5 shall be sold, leased, or otherwise disposed of except with the
6 approval of the county committee of that county provided for
7 in section 3 (e).

8 (9) No purchaser shall be permitted to resell without
9 the consent of the Corporation any real property purchased
10 from or through the Corporation until his obligations to the
11 Corporation have been fully repaid.

12 (b) Loans made under the provisions of section 3 (a)
13 of this Act for general agricultural purposes or for acquiring,
14 raising, breeding, or fattening of livestock shall have maturi-
15 ties not exceeding years, and the interest rate on any
16 such loan shall be the rate of interest charged, at the time
17 the loan is made, by the production credit association,
18 (organized under the Farm Credit Act of 1933) serving
19 the locality in which the loan is made. Loans made to
20 provide buildings shall be subject to the maturity and interest
21 rate provisions of paragraph (6) of subsection (a).
22 Except in those cases specifically provided for, loans by the
23 Corporation shall have such maturities and shall bear such
24 rates of interest as may be prescribed by the board of
25 directors.

SEC. 5. The jurisdiction, both civil and criminal, over
2 persons resident on lands acquired under this Act shall not
3 be changed by reason of such acquisition: *Provided, however,*
4 That this section shall not be deemed to affect the jurisdiction
5 of the United States to punish offenses against the United
6 States; the intent of this section being that the several States
7 in which such lands are situated shall not, by reason of such
8 acquisition, lose their jurisdiction, nor the inhabitants thereof
9 their rights and privileges as citizens, or be absolved from
10 their duties as citizens, of the respective States.

11 SEC. 6. The Federal Reserve banks are authorized,
12 with the approval of the Secretary of the Treasury, to
13 act as depositories, custodians, and fiscal agents for the
14 Corporation.

15 SEC. 7. (a) Whoever makes any material representa-
16 tion, knowing it to be false, or whoever willfully over-
17 values any property, for the purpose of influencing in any
18 way the action of the Corporation upon any application,
19 advance, discount, purchase, or repurchase agreement, con-
20 tract of sale, lease, or loan, or any change or extension of
21 any of the same by renewal, deferment of action or otherwise,
22 or the acceptance, release, or substitution of security there-
23 for, shall be punished by a fine of not more than \$5,000
24 or by imprisonment for not more than two years, or both.

1 (b) Whoever, being connected in any
2 the Corporation, (1) embezzles, abstracts
3 willfully misapplies any moneys, funds, securities, or
4 things of value, whether belonging to the Corporation or
5 pledged or otherwise entrusted to it; or (2) with intent
6 to defraud the Corporation, or any other body politic or
7 corporate, or any individual, or to deceive any officer, audi-
8 tor, or examiner of the Corporation, makes any false entry
9 in any book, report, or statement of, or to, the Corporation
10 or draws any order, or issues, puts forth, or assigns any
11 note or other obligation or draft, mortgage, judgment, or
12 decree thereof; or (3) with intent to defraud the Corporation,
13 participates or shares in or receives directly or indirectly
14 any money, profit, property, or benefits through any transac-
15 tion, loan, commission, contract, or any other act of the
16 Corporation, shall be punished by a fine of not more than
17 \$10,000 or by imprisonment for not more than five years,
18 or both.

19 (c) Whoever willfully shall conceal, remove, dispose of,
20 or convert to his own use or to that of another, any property
21 mortgaged or pledged to, or held by, the Corporation, as
22 security for any obligation, shall be punished by a fine of
23 not more than \$5,000 or by imprisonment for not more
24 than two years, or both.

2- d) The provisions of sections 112, 113, 114, 115,
3 116, and 117 of the Criminal Code of the United States
4 (U. S. C., title 18, secs. 202-207, inclusive), insofar as
5 applicable, are extended to apply to contracts or agreements
6 of the Corporation, which for the purposes hereof shall be
7 held to include advances, loans, discounts, purchase and
8 repurchase agreements, contracts of sale, and leases;
9 extensions and renewals thereof; and acceptances, releases,
10 and substitutions of security therefor.

11 (e) Whoever conspires with another to accomplish any
12 of the acts made unlawful by the preceding provisions of this
13 section shall, on conviction thereof, be subject to the same
14 fine or imprisonment, or both, as is applicable in the case of
15 conviction for doing such unlawful act.

16 SEC. 8. No officer, attorney, or employee of the Cor-
17 poration shall, directly or indirectly, be the beneficiary of or
18 receive any fee, commission, gift, or other consideration for
19 or in connection with any transaction or business of the Cor-
20 poration other than such salary, fee, or other compensation
21 as he may receive from the Corporation. No person, part-
22 nership, association, or corporation shall, directly or indi-
23 rectly, demand or receive any fee, commission, gift, or other
24 consideration from any person entitled to receive the bene-
25 fits of this Act for services rendered such person in connec-
tion with any transaction or business with the Corporation,

1 except in such amounts as may be authorized by regulation
2 prescribed by the Corporation. Any person, partnership,
3 association, or corporation violating the provisions of this
4 section shall, upon conviction thereof, be punished by a fine
5 of not more than \$1,000 or imprisonment for not more than
6 one year, or both.

7 SEC. 9. The Corporation is hereby authorized to ex-
8 ercise and perform all of the powers, functions, and duties
9 conferred or imposed upon the Resettlement Administration
10 or its Administrator by Executive Orders Numbered 7027
11 (April 30, 1935), 7028 (April 30, 1935), 7041 (May 15,
12 1935), 7143 (August 19, 1935), and 7200 (September
13 26, 1935). There is hereby transferred to and vested in
14 the Corporation, without regard to the provisions of any
15 Act of Congress relating to the transfer or disposition of
16 personal property of the United States, all the personal
17 property or any interest therein (together with all funds,
18 contracts, options, rights, interests, books, papers, memo-
19 randa, and records) acquired by or allocated, allotted, or
20 transferred to the Resettlement Administration or its Ad-
21 ministrator. The President of the United States is hereby
22 authorized to provide for the transfer, either in whole or in
23 part, to the Corporation or to the Department of Agri-
24 culture of the tracts or parcels of real property or any
25 interest therein or appurtenant thereto, which are now

the jurisdiction and control of the Resettlement
Administration or the Administrator thereof.

3 SEC. 10. (a) If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the remainder of the Act, and the application of
6 such provision to other persons or circumstances, shall not
7 be affected thereby.

8 (b) The right to alter, amend, or repeal this Act is
9 hereby reserved.

75TH CONGRESS }
1ST SESSION }

H. R. 8

A BILL

To establish the Farmers' Home Corporation, to encourage and promote the ownership of farm homes and to make the possession of such homes more secure, to provide for the general welfare of the United States, to provide additional credit facilities for agricultural development, to create a fiscal agent for the United States, and for other purposes.

By Mr. JONES

JANUARY 5, 1937

Referred to the Committee on Agriculture and ordered
to be printed