



BILL NO. 155

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

An Act to Amend Chapter 51 of the Acts of 2006, the Richmond Stora Enso Taxation Act

CHAPTER 49
ACTS OF 2012

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 6, 2012**

The Honourable John M^{ac}Donell
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 51
of the Acts of 2006,
the Richmond Stora Enso Taxation Act**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Richmond–NewPage Port Hawkesbury Tax Agreement Act*.

2 The title of Chapter 51 of the Acts of 2006, the *Richmond Stora Enso Taxation Act*, is amended by striking out “Stora Enso Port Hawkesbury Limited” and substituting “Port Hawkesbury Paper GP Ltd.”.

3 Section 1 of Chapter 51 is amended by striking out “*Stora Enso*” and substituting “Port Hawkesbury Paper GP Ltd.”.

4 Section 2 of Chapter 51 is amended by

(a) adding “but subject to Section 2A” immediately after “enactment” in the second line;

(b) striking out “Stora Enso Port Hawkesbury Limited” and substituting “Port Hawkesbury Paper GP Ltd.” in the third line;

(c) striking out “the” immediately after “in” in the fifth line; and

(d) adding “A” immediately after “Schedule” in fifth line.

5 Chapter 51 is further amended by adding immediately after Section 2 the following Section:

2A Notwithstanding the *Assessment Act*, the *Municipality Government Act*, or any other enactment, the Municipality of the County of Richmond is hereby authorized to tax Port Hawkesbury Paper GP Ltd. to the extent and on the terms and conditions set out in the Agreement dated September 27, 2012, the text of which is set out in Schedule B to this Act, and which is hereby enacted for the term from September 28, 2012 until March 31, 2016.

6 Section 4 of Chapter 51 is amended by striking out “Stora Enso Port Hawkesbury Limited” and substituting “Port Hawkesbury Paper GP Ltd.” in the second line.

7 Section 5 of Chapter 51 is amended by

(a) adding “set out in Schedule A to this Act and” immediately after “Intent” in the second line; and

(b) adding “and the Agreement set out in Schedule B to this Act and referred to in Section 2A” immediately after “2” in the second line.

8 Section 6 of Chapter 51 is amended by

- (a) adding “set out in Schedule A to this Act and” immediately after “Intent” in the first line;**
- (b) adding “and the Agreement set out in Schedule B to this Act and referred to in Section 2A” immediately after “2” in the first line;**
- (c) striking out “is” in the first line and substituting “are”;**
- (d) striking out “Stora Enso Port Hawkesbury Limited” and substituting “Port Hawkesbury Paper GP Ltd.” in the second line.**

9 The Schedule to Chapter 51 is amended by adding “A” immediately after “SCHEDULE” in the first line.

10 Chapter 51 is further amended by adding immediately after the Schedule the following Schedule:

SCHEDULE B

THIS AMENDMENT TO TAX AGREEMENT dated as of the 27th day of September, 2012

BETWEEN:

**NEWPAGE PORT HAWKESBURY CORP.
 (“NPPH”)**

OF THE FIRST PART

-and-

**MUNICIPALTY OF THE COUNTY OF RICHMOND
 (the “MUNICIPALITY”)**

OF THE SECOND PART

-and-

**PACIFIC WEST COMMERCIAL CORPORATION
 (“PWCC”)**

OF THE THIRD PART

WHEREAS NPPH (formerly known as Stora Enso Port Hawkesbury Limited) and the Municipality are parties to a letter of intent dated May 25, 2006 (the “**Tax Agreement**”) with respect to municipal real property taxes to be paid by NPPH in respect of its property located within the Municipality for a term ending March 31, 2016;

WHEREAS the creditors of NPPH have approved a plan of arrangement or compromise, as amended, restated or supplemented, sanctioned by the Nova Scotia Supreme Court by order of September 25, 2012, (the “**Plan**”) made pursuant to the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) for which Pacific West Commercial Corporation (“**PWCC**”) is the plan sponsor;

WHEREAS NPPH and the Municipality have agreed to amend the Tax Agreement with effect as and from September 28, 2012 (the “**Effective Date**”);

AND WHEREAS PWCC has made certain representations as set out herein and joins herein to signify its acceptance and agreement with the terms hereof;

NOW THEREFORE the parties agree as follows:

1. Conditional upon implementation of the Plan, Sections 1-7 of the Tax Agreement are deleted in their entirety as and from the Effective Date and replaced with the provisions in Schedule "A" attached hereto.
2. The Tax Agreement is in full force and effect, except as specifically modified above.
3. The parties hereto agree to not file any appeals and to dismiss any appeals previously filed arising from the motions filed by the Municipality in respect of the disclaimer of the Tax Agreement by NPPH pursuant to the CCAA and the parties acknowledge that such failure to file or dismissal is without prejudice to any legal arguments relating thereto. NPPH shall pay \$60,000 on or before September 28, 2012 to the Municipality in respect of costs incurred and the parties agree not to seek any further or other costs in respect of those motions or appeals.
4. This Amendment to Tax Agreement is conditional upon the implementation of the Plan and the Province of Nova Scotia amending or repealing and replacing the *Richmond Stora Enso Taxation Act* (Local Acts 2006) c. 88 (the "Act") contemplated by Schedule "A". If, for any reason, the Plan is not implemented, or the Province of Nova Scotia does not amend or repeal and replace the Act as contemplated by Schedule "A" to provide the necessary authorization and empowerment of the Municipality, the parties agree that this Amendment to Tax Agreement shall automatically terminate, the Tax Agreement shall be unaffected, and the parties hereto shall have no liability to each other with respect to any matter contemplated by this Amendment to Tax Agreement.
5. The Municipality acknowledges that NPPH and PWCC have represented that, after implementation of the Plan, NPPH intends to convey legal title to certain lands owned by NPPH in the Municipality to Port Hawkesbury Paper GP Ltd. (the "**General Partner**") in its capacity as general partner for Port Hawkesbury Paper Limited Partnership, the partnership formed to operate the restructured business of NPPH, as contemplated in the Plan (the "**Limited Partnership**") and to assign this agreement to the General Partner. The Municipality consents to the assignment of this Amendment to Tax Agreement by NPPH to the General Partner in its capacity as general partner for the Limited Partnership at the time of such conveyance. Upon and as a condition of such assignment and Municipality consent, the General Partner on behalf of the Limited Partnership shall execute an assumption agreement binding itself to the provisions of this Amendment to Tax Agreement. Thereafter, the obligations of the Municipality shall be owed to the Limited Partnership and not to NPPH, and the Limited Partnership shall enjoy all the rights of NPPH under this Amendment to Tax Agreement. Except as contemplated by this section, this Amendment to Tax Agreement is exclusive to the parties hereto and is not negotiated on behalf of nor intended to benefit any other party, including any other municipality.
6. This Amendment to Tax Agreement may be executed in several counterparts and by transmission of pdf or facsimile signatures with original copies delivered by each party to the other, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. This agreement is binding on the parties and their successors and permitted assigns or transferees.

IN WITNESS WHEREOF the parties have executed this amendment on the day and year first written above.

DULY EXECUTED)	NEWPAGE PORT HAWKESBURY CORP.
in the presence of:)	
)	
)	
)	Per: _____
_____)	Name: Peter Wedlake
Witness)	Title: Chief Restructuring Officer
)	
)	MUNICIPALITY OF THE COUNTY OF RICHMOND

_____))
 Witness _____) Per: _____
 Name: Warren Olsen
 Title: Chief Administrative Officer

))
 _____))
 Witness _____) Per: _____
 Name: Victor David
 Title: Deputy Warden

))
 _____))
 Witness _____))
 _____))
PACIFIC WEST COMMERCIAL CORPORATION

))
 _____))
 Witness _____) Per: _____
 Name:
 Title:

Schedule A
(Replacement of Sections 1-7 of Tax Agreement)

1. NewPage Port Hawkesbury Corp. (formerly known as Stora Enso Port Hawkesbury Limited) (together with its permitted assign in accordance with section 7 hereof, "NPPH") and the Municipality will jointly approach the Province of Nova Scotia to amend or repeal and replace the *Richmond Stora Enso Taxation Act* (Local Acts 2006) c. 88 (the "Act") and to otherwise authorize and empower the Municipality with necessary retroactive effect to set municipal real property taxes for the lands described in Annex 1 attached hereto (the "Mill Lands") for a term from September 28, 2012 (the "Effective Date") until March 31, 2016 (the "Term") on the following basis:

- a) For the balance of the taxation year commencing on the Effective Date and ending March 31, 2013, property taxes payable in respect of the Mill Lands will be no greater than \$1,326,227.00, payable: (i) by a \$200,000.00 credit from the Municipality to and in favour of the legal owner in respect of its real property tax obligation, (ii) a promissory note from the legal owner in the principal amount of \$450,000.00 bearing no interest and repayable in four equal annual instalments payable on September 28 of each year from 2013 to 2016; and (iii) \$676,227.00 payable by the legal owner at any time on or before March 31, 2013;
- b) There will be no interest payable to the Municipality or otherwise in respect of any taxes due or payable as set forth in subsection (a) provided that all payments are made as and when required by this amended agreement;
- c) Municipal property taxes for the Mill Lands payable for the three municipal taxation years from April 1, 2013 until the end of the Term shall be fixed in an annual amount of \$1,300,000.00, payable to the Municipality through semi-annual tax billing by the Municipality in April and September of each year of the Term commencing April 1, 2013;
- d) Municipal property taxation of the Mill Lands by the Municipality for the Term shall be pursuant to this amended agreement and the Act, as amended or repealed and replaced, and not subject to the annual assessments pursuant to the *Assessment Act*;
- e) Any capital assets acquired directly, or by lease, by NPPH, or, if applicable, the General Partner on behalf of the Limited Partnership, during the Term will not be subject to further property taxes during the Term and the disposition of any capital assets shall not reduce the property taxes during the Term.

- 2. [intentionally left blank]
- 3. [intentionally left blank]
- 4. [intentionally left blank]
- 5. [intentionally left blank]

6. This amended agreement is conditional upon the Province of Nova Scotia amending or repealing and replacing the Act to authorize and empower the Municipality as contemplated herein. All parties agree to work in good faith with the Province in relation to the amendment, or repeal and replacement, of the Act

7. The Municipality consents to the assignment of this amended agreement by NPPH to Port Hawkesbury Paper GP Ltd (the “**General Partner**”) in its capacity as general partner for Port Hawkesbury Paper Limited Partnership (the “**Limited Partnership**”). Upon and as a condition of such assignment, the General Partner on behalf of the Limited Partnership shall execute an assumption agreement binding itself to the provisions of this amended agreement. Thereafter, the obligations of the Municipality shall be owed to the Limited Partnership and not to NPPH, and the Limited Partnership shall enjoy all the rights of NPPH under this amended agreement. Except as contemplated by this section, this amended agreement is exclusive to the parties hereto and is not negotiated on behalf of nor intended to benefit any other party, including any other municipality.

Annex 1

Mill Lands

PID

- 1. 75203976 - Richmond County
- 2. 75196998 - Richmond County
- 3. 75107821 - Richmond County
- 4. 75030759 - Richmond County
- 5. 75203992 - Richmond County
- 6. 75196980 - Richmond County
- 7. 75167668 - Richmond County
- 8. 75167676 - Richmond County
- 9. 75167684 - Richmond County

