



BILL NO. 191

Government Bill

*1st Session, 59th General Assembly
Nova Scotia
54 Elizabeth II, 2005*

**An Act to Amend Chapter 23
of the Revised Statutes, 1989,
the Assessment Act, Chapter 18
of the Acts of 1998, the Municipal Government Act,
and Certain Related Statutes**

CHAPTER 9
ACTS OF 2005

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 19, 2005**

The Honourable Barry Barnet
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 23
of the Revised Statutes, 1989,
the Assessment Act, Chapter 18
of the Acts of 1998, the Municipal Government Act,
and Certain Related Statutes**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Municipal Law Amendment (2005) Act*.

PART I

ASSESSMENT ACT

2 Subsection 2(1) of Chapter 23 of the Revised Statutes, 1989, the *Assessment Act*, as amended by Chapter 19 of the Acts of 1990, Chapter 18 of the Acts of 1998, Chapter 9 of the Acts of 2000 and Chapter 15 of the Acts of 2002, is further amended by

(a) adding immediately after clause (b) the following clause:

(ba) “camping establishment” means a camping establishment licensed under the *Tourist Accommodations Act*, but does not include any part of premises licensed under the *Liquor Control Act* as a cabaret, tavern, beverage room or lounge;

(b) adding immediately after clause (t) the following clauses:

(ta) “restaurant” does not include any part of premises licensed under the *Liquor Control Act* as a cabaret, tavern, beverage room or lounge;

(tb) “roofed accommodation” means a roofed accommodation licensed under the *Tourist Accommodations Act*, but does not include any part of premises licensed under the *Liquor Control Act* as a cabaret, tavern, beverage room or lounge;

(tc) “seasonal tourist business” means a business that is open during some part of the taxation year but that is closed for at least four consecutive months in the taxation year and is

- (i) a restaurant,
- (ii) a roofed accommodation, or
- (iii) a camping establishment;

and

(c) relettering clause (ta) as (td).

3 (1) Subsection 11(1) of Chapter 23 is amended by adding immediately after clause (b) the following clause:

(ba) property occupied or used for the purpose of

- (i) a service station,
- (ii) a restaurant,
- (iii) a roofed accommodation,
- (iv) a camping establishment,
- (v) a motor vehicle dealer licensed under the *Motor Vehicle Act*;

(2) Subsection 11(4) of Chapter 23 is amended by

- (a) striking out clause (a);**
- (b) adding “before the first day of April, 2013,” immediately before “in” in the first line of clause (b);**
- (c) adding “before the first day of April, 2010,” immediately before “in” in the first line of clause (c);**
- (d) striking out “fifty per cent” in the first line of clause (c) and substituting the following:**
 - (i) effective the first day of April, 2006, forty per cent,
 - (ii) effective the first day of April, 2007, thirty per cent,
 - (iii) effective the first day of April, 2008, twenty per cent, and
 - (iv) effective the first day of April, 2009, ten per cent,

and

- (e) striking out “clauses (a) and” in the last line of clause (c) and substituting “clause”.**

(3) Section 11 of Chapter 23 is further amended by adding immediately after subsection (7) the following subsection:

(7A) Where a person carries on more than one of the kinds of businesses referred to in subsection (4) as that subsection existed immediately before the first day of April, 2006, on the same premises, that person shall be assessed in accordance with subsection (7).

4 Chapter 23 is further amended by adding immediately after Section 14 the following Section:

14A (1) In this Section, “relative” means a father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse.

(2) Subject to subsection (3), every person who is the assessed owner of commercial property that contains a seasonal tourist business shall, by the first day of September in each year, give notice in writing to the Director in accordance with subsection (4).

(3) The assessed owner, or the assessed owner’s relative, must

(a) own at least fifty per cent of the seasonal tourist business or, in the case of a corporation, hold at least fifty per cent of the voting shares; and

(b) operate the seasonal tourist business.

(4) The notice must

(a) request that the property or a portion of the property be identified as being occupied by a seasonal tourist business;

(b) set out the dates in the taxation year that the seasonal tourist business intends to open and close; and

(c) provide the civic address of the seasonal tourist business and the square footage of the property that is occupied by the seasonal tourist business.

(5) Subject to subsection (6), the Director shall decide

(a) whether the seasonal tourist business is owned and operated by a person referred to in subsection (3);

(b) whether the property or a portion of the property is to be identified on the assessment roll as being occupied by a seasonal tourist business; and

(c) the proportion of the total square footage of the property that is occupied by the seasonal tourist business.

(6) Where the assessed owner of property that contains a seasonal tourist business operates, or the assessed owner's relative operates, more than one business on the same premises as the seasonal tourist business, the property that contains the seasonal tourist business shall be identified as though the premises are occupied or used by the kind of business that is the main business, but that property shall not be identified as though the premises are occupied or used by a seasonal tourist business unless all of the businesses on the premises are closed for at least four consecutive months in the taxation year.

(7) The Director shall provide notice, in writing, to the assessed owner of the property of the Director's decision under subsection (5).

(8) Notice in subsection (7) may be provided to the assessed property owner by personal service or by mailing it with pre-paid postage.

(9) A decision of the Director made under this Section may be appealed in accordance with Sections 62 and 63.

5 Section 25 of Chapter 23, as amended by Chapter 10 of the Acts of 2004, is further amended by relettering clause (ba) as clause (bb) and adding immediately after clause (b) the following clause:

(ba) the assessed value of any part of the property that is identified as being occupied by a seasonal tourist business in accordance with Section 14A;

PART II

MUNICIPAL GOVERNMENT ACT

6 Clause 65(a) of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, as amended by Chapter 9 of the Acts of 2003, is further amended by

- (a) adding “, community, fraternal, recreational, religious, sporting” immediately after “cultural” in the second line of subclause (v); and
- (b) adding immediately after subclause (v) the following subclause:
 - (va) a day care licensed under the *Day Care Act*,

7 Subsection 71(6) of Chapter 18 is amended by adding “, including an effective date retroactive to the beginning of the current fiscal year” immediately after “date” in the third line.

8 Section 71A of Chapter 18 is amended by adding “(1)” immediately after the Section number and adding the following subsection:

- (2) A by-law made pursuant to this Section may have an effective date retroactive to the beginning of the current fiscal year.

9 Section 72 of Chapter 18 is amended by adding immediately after subsection (6) the following subsection:

- (6A) Notwithstanding clause (6)(a), the tax rate for the part of commercial property that is identified on the assessment roll as being occupied by a seasonal tourist business shall be 75% of the commercial tax rate.

10 Section 75 of Chapter 18 is amended by adding immediately after subsection (6) the following subsection:

- (7) The area rate referred to in this Section may be different on commercial property and business occupancy assessments than on residential and resource property.

11 Chapter 18 is further amended by adding immediately after Section 78 the following Section:

78A (1) Notwithstanding any provision in a lease, licence or permit for commercial property that is in existence at the time of the coming into force of this Section, where that lease, licence or permit does not include a provision enabling the owner of the property to increase the rent or require an annual deposit in relation to any increase in property tax payable by the owner, that lease, licence or permit is deemed to include such a clause.

(2) Where a deposit is required or the rent is increased under subsection (1), the owner shall give the tenant notice in writing not later than ninety days before the deposit is required or the rent is increased.

- (3) Notice under subsection (2) may be provided by
 - (a) giving it to the tenant personally;
 - (b) giving it to an agent or employee of a tenant on the premises;
 - (c) posting it in a conspicuous place in some part of the premises;
 or
 - (d) sending it to the tenant by registered mail, in which case notice is deemed to have been given on the third day after the date of mailing.

12 Section 80 of Chapter 18, as amended by Chapter 35 of the Acts of 2001, is further amended by adding immediately after subsection (3) the following subsection:

- (4) The rate referred to in subsection (1) may be different for commercial property and business occupancy assessments than for residential and resource property.

13 Section 85 of Chapter 18 is amended by adding immediately after subsection (4) the following subsection:

- (5) The area rate referred to in subsection (4) may be different for commercial property and business occupancy assessments than for residential and resource property.

14 Subsection 439(3) of Chapter 18 is repealed and the following subsections substituted:

- (3) Subject to subsection (3A), the village commission shall authorize the levying and collecting of
 - (a) a commercial tax rate of so much on the dollar of the assessed value of taxable commercial property and business occupancy assessments; and
 - (b) a residential tax rate of so much on the dollar of the assessed value of taxable residential property and resource property.
- (3A) The commercial tax rate shall not exceed one and a half times the residential tax rate.
- (3B) The tax rates referred to in subsection (3) shall be those that the village commission deems sufficient to raise the amount of money required to defray the estimated requirements of the village.

15 Section 530 of Chapter 18 is further amended by adding immediately after subsection (4) the following subsection:

- (4A) The area rate referred to in subsections (2) and (4) may be different for commercial property and business occupancy assessments than for residential and resource property.

PART III

MUNICIPAL GRANTS ACT

16 Subsection 14(1) of Chapter 302 of the Revised Statutes, 1989, the *Municipal Grants Act*, is repealed and the following subsection substituted:

(1) The uniform assessment of a municipality is equal to the taxable assessment of the municipality less twenty-five per cent of the taxable assessment of commercial properties identified on the assessment roll as being occupied by a seasonal tourist business plus the capitalized value of payments made to the municipality in lieu of taxes and payments made to the municipality by a utility with respect to taxes, but does not include

(a) the building, pump stations, deep-well pumps, main transmission lines, meters and associated plant and equipment of a municipal water utility; or

(b) the assessed value of property of a named registered Canadian charitable organization or non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or a day care licensed under the *Day Care Act*, if

(i) the property is exempt by municipal by-law to the extent and under the conditions set out in the by-law, and

(ii) the by-law referred to in subclause (i) is provided to the Minister by the first day of September of the year to which the by-law relates, or such later date as the Minister permits.

PART IV

RURAL FIRE DISTRICT ACT

17 Section 46 of Chapter 406 of the Revised Statutes, 1989, the *Rural Fire District Act*, is amended by adding immediately after subsection (2) the following subsection:

(2A) The area rate referred to in subsection (2) may be different for commercial property and business occupancy assessments than for residential and resource property, but the area rate for commercial property and business occupancy assessments may not exceed one and a half times the area rate for residential and resource property.

18 Section 55A of Chapter 406, as enacted by Chapter 32 of the Acts of 1992, is amended by adding immediately after subsection (5) the following subsection:

(6) The area rate referred to in subsection (5) may be different for commercial property and business occupancy assessments than for residential and resource property but the area rate for commercial property and business occupancy assessments may not exceed one and a half times the area rate for residential and resource property.

PART V

VITAL STATISTICS ACT

19 Subsection 54(2) of Chapter 494 of the Revised Statutes, 1989, the *Vital Statistics Act*, as enacted by Chapter 29 of the Acts of 2000 and amended by Chapter 31 of the Acts of 2001 and Chapter 10 of the Acts of 2004, is further amended by adding immediately after clause (ab) the following clause:

(ac) a spouse under Section 14A of the *Assessment Act*;

PART VI

EFFECTIVE DATE

20 This Act has effect on and after April 1, 2006, upon the Governor in Council so ordering and declaring by proclamation.
