

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

**NISGA'A REAL PROPERTY TAX
ENFORCEMENT ACT**

**UNOFFICIAL VERSION
CURRENT TO SEPTEMBER 29, 2016**

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

TABLE OF CONTENTS

| | |
|--|-----------|
| PART 1 – DEFINITIONS AND INTERPRETATION | 3 |
| 1. Definitions | 3 |
| PART 2 – ADMINISTRATION | 6 |
| 2. Collector | 6 |
| PART 3 – RECOVERY OF TAXES AND FEES..... | 7 |
| 3. Recovery of taxes and fees – general..... | 7 |
| 4. Creation of lien and charge | 7 |
| 5. Liability of taxable owner..... | 8 |
| 6. Notice of unpaid taxes | 8 |
| 7. Power to accept real property in place of taxes..... | 11 |
| PART 4 – ATTACHMENT..... | 12 |
| 8. Attachment | 12 |
| PART 5 – ANNUAL TAX SALE..... | 14 |
| 9. Annual tax sale..... | 14 |
| 10. Notice of tax sale | 14 |
| 11. Nisga'a Nation and Nisga'a Villages may bid at tax sale | 14 |
| 12. Upset price and conduct of tax sale | 15 |
| 13. Collector to provide certificate of sale..... | 16 |
| 14. Resale of property purchased by Nisga'a Nation at tax sale..... | 16 |
| 15. Notice of tax sale must be filed in land title office | 18 |
| 16. Owners must be given notice of tax sale and redemption period..... | 18 |
| 17. Assessment and taxes during redemption period | 19 |
| 18. Application of surplus from tax sale | 19 |
| 19. Redemption by owner..... | 20 |
| 20. Redemption payments by instalments..... | 21 |
| 21. Notice of redemption must be filed in land title office | 22 |
| 22. Registration of purchaser | 23 |
| 23. Effect of tax sale on rights of owner..... | 24 |
| 24. Action by owner to have tax sale set aside | 25 |
| 25. Order by Executive setting tax sale aside | 26 |
| 26. Restrictions on legal actions in relation to tax sale..... | 27 |
| PART 6 – CANCELLATION..... | 29 |
| 27. Cancellation or termination of cancellable interest..... | 29 |
| PART 7 – FORFEITURE | 32 |
| 28. Forfeiture for unpaid taxes..... | 32 |
| PART 8 – MISCELLANEOUS..... | 35 |
| 29. Notices | 35 |
| 30. Regulations | 35 |
| 31. Commencement | 36 |

NISGA’A REAL PROPERTY TAX ENFORCEMENT ACT

PART 1 – DEFINITIONS AND INTERPRETATION

Definitions

1. (1) In this Act:

“**cancellable interest**” means a lease, licence, permit, easement or other instrument relating to a property,

- (a) the holder of which is liable to pay taxes in respect of the property, and
- (b) which, under the terms of the instrument or a Nisga’a Lisims enactment, may be cancelled or otherwise terminated by the Nisga’a Nation or a Nisga’a Village if the holder does not pay the taxes in respect of the property;

“**collector**” means

- (a) the person appointed by the Executive under section 2(1), or
- (b) any other person to whom any duty or function of the collector is assigned under section 2(2);

“**eligible bid**” means, in relation to a tax-sale interest, a bid by an eligible bidder;

“**eligible bidder**” means,

- (a) in relation to a tax-sale interest consisting of the estate in fee simple to a parcel, any person,
- (b) in relation to a tax-sale interest consisting of a Nisga’a Nation entitlement to a parcel, an eligible recipient or the particular Nisga’a Village as those terms are defined in the *Nisga’a Nation Entitlement Act*, or
- (c) in relation to a tax-sale interest consisting of a Nisga’a Village entitlement to a parcel, an eligible recipient or the particular Nisga’a Village as those terms are defined in the *Nisga’a Village Entitlement Act*;

“**forfeitable interest**” means

- (a) a right to use or occupy a property, or
- (b) an interest in a property

other than a tax-sale interest, and includes a cancellable interest;

“Nisga’a Village land administrator” means, in relation to a cancellable interest that may be cancelled by a Nisga’a Village,

- (a) the Chief Administrator of the applicable Nisga’a Village Government, or
- (b) if the Chief Administrator has not been authorized by the Nisga’a Village Government to exercise the right of the Nisga’a Village to cancel the cancellable interest if the holder of the interest does not pay the taxes imposed on the holder under the *Nisga’a Real Property Tax Act* in respect of the property to which the interest relates, the Nisga’a Village Government;

“registrar” means the Registrar appointed under the *Nisga’a Land Title Act*;

“tax sale” means the annual tax sale referred to in section 9(1);

“tax-sale interest” means, in relation to a property,

- (a) the estate in fee simple to the property, if the registered owner of the estate in fee simple is not exempt from taxation in respect of the property under the Nisga’a Treaty, the Nisga’a Nation Taxation Agreement or the *Nisga’a Real Property Tax Act*, or
- (b) a registered Nisga’a entitlement to the property, if the registered holder of the Nisga’a entitlement is not exempt from taxation in respect of the property under the Nisga’a Treaty, the Nisga’a Nation Taxation Agreement or the *Nisga’a Real Property Tax Act*;

“taxable interest” means, in relation to a property,

- (a) a tax-sale interest in the property registered in the Nisga’a land title office, if any, or
- (b) if a tax-sale interest in the property is not registered in the Nisga’a land title office, the interest in the property held by the taxable owner of the property;

“upset price” means, in relation to a tax-sale interest offered for sale at a tax sale, the total of the following amounts:

- (a) the amount of the delinquent taxes and taxes in arrear in respect of the property to which the tax-sale interest relates, including interest accrued to the first day of the tax sale;

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

- (b) the amount of the taxes imposed in respect of the property that remain unpaid and are due and owing for the taxation year in which the tax sale is conducted;
 - (c) 5% of the amounts referred to in paragraphs (a) and (b);
 - (d) the amount of the fees prescribed under sections 15(1)(b) and 21(1)(b).
- (2) Unless the context otherwise requires, a word or expression that is
- (a) used but not defined in this Act, and
 - (b) defined in the *Nisga'a Real Property Tax Act*
- has the same meaning in this Act as in the *Nisga'a Real Property Tax Act*.

PART 2 – ADMINISTRATION

Collector

2. (1) The Executive must appoint a person as the collector of taxes for the Nisga'a Nation under this Act.
- (2) The Chief Executive Officer, after consulting with the Chief Financial Officer, may assign any of the duties or functions of the collector to any officer, employee, contractor or agent of the Nisga'a Nation.

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

PART 3 – RECOVERY OF TAXES AND FEES**Recovery of taxes and fees – general**

3. (1) Taxes and fees owed to the Nisga'a Nation under the *Nisga'a Real Property Tax Act* or this Act are a debt due to the Nisga'a Nation recoverable in any court of competent jurisdiction or by any other method authorized under this Act or another Nisga'a Lisims enactment or otherwise available at law or in equity.
- (2) Unless otherwise provided, the use of one method of recovery of a debt referred to in subsection (1) does not prevent recovery of the debt by one or more other methods.

Creation of lien and charge

4. (1) Taxes and fees due and payable in respect of a property under the *Nisga'a Real Property Tax Act* or this Act, and a judgment of a court on a debt due as referred to in section 3, are a special lien and charge in favour of the Nisga'a Nation on the taxable interest in the property, regardless of whether the owner or holder of the interest acquires the interest before or after the taxes become due and payable or the judgment is issued.
- (2) A lien and charge referred to in subsection (1)
- (a) has priority over every other claim, lien, charge, privilege or encumbrance of any person on the interest in property referred to in that subsection, and
 - (b) does not require registration to preserve it.
- (3) A lien and charge referred to in subsection (1) and its priority under subsection (2) are not lost or impaired by
- (a) any neglect, omission or error of the collector or any person acting for the collector,
 - (b) taking or failing to take proceedings to recover taxes or fees, or
 - (c) tender or acceptance of partial payment of taxes or fees.
- (4) Despite subsection (1), if the taxable interest in a property is a lease or licence with a term of one year or less,
- (a) any taxes that were due and payable in respect of the property prior to the taxable owner's acquisition of the taxable interest, and

- (b) any judgment of a court on a debt due, as referred to in section 3, in respect of any taxes referred to in paragraph (a) of this subsection

are not a special lien and charge in favour of the Nisga'a Nation on the taxable interest.

Liability of taxable owner

5. (1) A person who, in any taxation year, is a taxable owner of property, is liable to the Nisga'a Nation for
- (a) all taxes imposed in respect of the property during the year, and
 - (b) all unpaid taxes imposed in respect of the property in any previous year.
- (2) The liability referred to in subsection (1) is a debt owed to the Nisga'a Nation, and a copy of the tax notice mailed to the taxable owner under section 19 of the *Nisga'a Real Property Tax Act* or a statement of the outstanding taxes mailed to the taxable owner under section 31 of the *Nisga'a Real Property Tax Act* that refers to the taxes payable by the taxable owner, certified as a true copy by the Chief Financial Officer, is evidence of the taxable owner's debt for the taxes.
- (3) The liability referred to in subsection (1) must not be enforced by action against a person whose name appears on an assessment roll only as a personal representative or trustee of an estate, except to the extent and value of the assets of the estate that have come into that person's hands.
- (4) Despite subsection (1)(b), a taxable owner of property whose interest in the property is a lease or licence with a term of one year or less is not liable to the Nisga'a Nation for unpaid taxes imposed in respect of the property in a year prior to the year in which the taxable owner acquired their interest in the property.

Notice of unpaid taxes

6. (1) If
- (a) all or part of the taxes imposed in respect of a property remain unpaid after the date on which those taxes become due and payable, and
 - (b) either
 - (i) a tax-sale interest in the property is registered in the Nisga'a land title office, or
 - (ii) a forfeitable interest in the property, held by the taxable owner of the property, is registered in the Nisga'a land title office,

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

the collector

- (c) may file a notice of unpaid taxes in respect of the property in the prescribed form in the Nisga'a land title office, and
 - (d) on filing a notice under paragraph (c), must serve a copy of the notice on the registered owner or holder of the tax-sale interest or the forfeitable interest, as the case may be, and on any other person registered in the Nisga'a land title office as the owner of the estate in fee simple to or the holder of a charge in respect of the property.
- (2) On the filing of a notice of unpaid taxes in respect of a property under subsection (1)(c), the registrar
- (a) must endorse in the register of the Nisga'a land title office a notation of the unpaid taxes, and
 - (b) must not, while the notice remains uncanceled,
 - (i) accept for deposit, filing or registration any other instrument affecting the tax-sale interest or the forfeitable interest in the property, as the case may be, other than
 - (A) a court order,
 - (B) a certificate of pending litigation, or
 - (C) a prescribed instrument, or
 - (ii) allow any change in the boundaries of the land affecting the tax-sale interest or the forfeitable interest,

except in accordance with this Act.
- (3) If after the collector files a notice of unpaid taxes in respect of a property under subsection (1)(c)
- (a) the registered owner or holder of the tax-sale interest or the forfeitable interest in the property referred to in subsection (1)(b), as the case may be,
 - (b) any other person registered in the Nisga'a land title office as the owner of the estate in fee simple to or the holder of a charge in respect of the property, or
 - (c) another person on behalf of a person referred to in paragraph (a) or (b)
- pays to the collector the amount of

- (d) the taxes imposed in respect of the property that remain unpaid and are due and owing as of the date of the payment, and
- (e) the prescribed fee,

the collector must file a notice of payment of taxes in respect of the property in the prescribed form in the Nisga'a land title office.

- (4) Subsection (3) does not apply in the case of a tax-sale interest in a property referred to in subsection (1)(b)(i) if the tax-sale interest is sold at a tax sale after the collector files a notice of unpaid taxes in respect of the property under subsection (1)(c).
- (5) If after the collector files a notice of unpaid taxes in respect of a property under subsection (1)(c),
 - (a) the collector files a notice of payment of taxes in respect of the property under subsection (3),
 - (b) in the case of a tax-sale interest in the property referred to in subsection (1)(b)(i), the collector
 - (i) applies for registration of the Nisga'a Nation as the owner or holder of the tax-sale interest under section 7(2),
 - (ii) files a notice of the redemption of the tax-sale interest under section 21(1)(a), or
 - (iii) files a notice of the failure to redeem the tax-sale interest under section 22(1)(a)(i), or
 - (c) in the case of a forfeitable interest in the property referred to in subsection (1)(b)(ii),
 - (i) the Director of Lands and Resources or a Nisga'a Village land administrator files a notice of cancellation or termination of the interest under section 27(5)(b)(i)(A), or
 - (ii) the collector files a notice of forfeiture and termination of the interest under section 28(4)(a)(i),

the registrar must

- (d) cancel the notice of unpaid taxes, and
- (e) cancel the notation endorsed in the register in respect of the notice of unpaid taxes under subsection (2)(a).

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

Power to accept real property in place of taxes

7. (1) The collector may, with the approval of the Executive, accept, in place of all unpaid taxes, fees and other monies due and owing to the Nisga'a Nation under the *Nisga'a Real Property Tax Act* or this Act in respect of a property the title to which is registered in the Nisga'a land title office, an absolute conveyance of a taxable interest in the property by the registered owner or holder of the interest if the interest is otherwise unencumbered.
- (2) Delivery of a conveyance accepted under subsection (1) must be made to the Nisga'a Nation and, after receipt, the collector must promptly apply for registration of the Nisga'a Nation as the owner or holder of the interest conveyed.
- (3) Registration of the Nisga'a Nation as the owner or holder of an interest in a property on an application made by the collector under subsection (2) is deemed to be in payment of and discharges all taxes, fees and other monies due and owing under the *Nisga'a Real Property Tax Act* or this Act in respect of the property at the date of the conveyance.
- (4) Subsections (1) to (3) do not apply to a tax-sale interest if the tax-sale interest is sold at a tax sale.

PART 4 – ATTACHMENT**Attachment**

8. (1) If the collector knows or suspects that the Nisga'a Nation or a Nisga'a Village
- (a) is about to make a payment to a taxable owner, or
 - (b) is or is about to become indebted or liable to a taxable owner,
- the collector, with the consent of the Chief Executive Officer, may demand that the Nisga'a Nation or the Nisga'a Village pay to the collector all or part of the money that would otherwise be paid or payable to the taxable owner on account of any liability of the taxable owner under the *Nisga'a Real Property Tax Act* or this Act.
- (2) The collector may serve a demand under this section
- (a) on the Nisga'a Nation by delivering the demand to the Chief Financial Officer, or
 - (b) on a Nisga'a Village by delivering the demand to the Chief Administrator of the Nisga'a Village Government.
- (3) If under this section the collector demands that the Nisga'a Nation or a Nisga'a Village pay to the collector, on account of the liability of a taxable owner under the *Nisga'a Real Property Tax Act* or this Act, money that would otherwise be paid or payable to the taxable owner as periodic payments, the demand
- (a) applies to all of those periodic payments until the liability under the *Nisga'a Real Property Tax Act* or this Act is satisfied, and
 - (b) operates to require payment to the collector out of each periodic payment of the amount stipulated by the collector in the demand.
- (4) A demand under this section continues in effect until
- (a) the demand is satisfied, or
 - (b) 90 days after the demand is served,
- whichever is earlier.
- (5) Despite subsection (4), if a demand is made in respect of a periodic payment referred to in subsection (3), the demand continues in effect until it is satisfied unless no periodic payment is made or is liable to be made within 90 days after

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

the demand is served, in which case the demand ceases to have effect on the expiration of that period.

- (6) The receipt of the collector for money paid to the collector in compliance with a demand under this section is, to the extent of the payment, a good and sufficient discharge of any obligation, debt or liability of the Nisga'a Nation or the Nisga'a Village, as the case may be, to the taxable owner to whom the money would otherwise have been paid or payable.
- (7) Money paid by the Nisga'a Nation or a Nisga'a Village to the collector in compliance with a demand under subsection (1) or (3) is deemed to have been
 - (a) paid by the Nisga'a Nation or the Nisga'a Village, as the case may be, to the taxable owner to whom the money would otherwise have been paid or payable, and
 - (b) paid by the taxable owner to the collector on account of any liability of the taxable owner under the *Nisga'a Real Property Tax Act* or this Act.
- (8) Subsections (1) to (7) do not apply in respect of the liability of a taxable owner under the *Nisga'a Real Property Tax Act* or this Act if a tax-sale interest of the taxable owner is sold at a tax sale to satisfy that liability.
- (9) The Executive may prescribe categories of payment, indebtedness or liability to which subsection (1) does not apply.
- (10) No action may be brought against the collector, the Chief Executive Officer, the Chief Financial Officer, the Chief Administrator of a Nisga'a Village Government, the Nisga'a Nation or a Nisga'a Village in respect of the payment of money under this section or any loss or damage sustained by reason of any such payment of money.

PART 5 – ANNUAL TAX SALE**Annual tax sale**

- 9.** (1) At 10:00 a.m. on the first Monday in October in each taxation year, at
- (a) the principal administration offices of Nisga'a Lisims Government, or
 - (b) another place on Nisga'a Lands designated by the collector,
- the collector must conduct the annual tax sale by offering for sale by public auction the tax-sale interest, if any, relating to each property in Nisga'a Lands in respect of which taxes are delinquent.
- (2) Despite subsection (1), if the first Monday in October is a holiday in a particular taxation year, the tax sale in that taxation year must be held on the next Monday that is not a holiday.
- (3) The collector may adjourn a tax sale from the day on which it is commenced to the same hour on the following day, and from day to day until each tax-sale interest offered for sale is disposed of.
- (4) The collector may act as auctioneer at a tax sale.

Notice of tax sale

- 10.** A notice of a tax sale setting out
- (a) the time and place at which the collector anticipates the tax sale will be conducted,
 - (b) each tax-sale interest which the collector anticipates will be offered for sale at the tax sale and the legal description and street address, if any, of the property to which the tax-sale interest relates, and
 - (c) any other prescribed information

must be published prior to the tax sale in accordance with the regulations.

Nisga'a Nation and Nisga'a Villages may bid at tax sale

- 11.** (1) A person authorized by the Executive may bid on behalf of the Nisga'a Nation at a tax sale up to a maximum amount set by the Executive.

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

- (2) A person authorized by a Nisga'a Village Government may bid on behalf of the applicable Nisga'a Village at a tax sale up to a maximum amount set by the Nisga'a Village Government.

Upset price and conduct of tax sale

- 12.** (1) The collector is authorized to receive the upset price of a tax-sale interest for the use of the Nisga'a Nation from the proceeds of the sale of the interest at a tax sale.
- (2) The upset price of a tax-sale interest is the lowest amount for which the interest may be sold at a tax sale.
- (3) If a tax-sale interest offered for sale at a tax sale is a Nisga'a entitlement, an individual may not make a bid for the interest unless the individual is an eligible bidder for the interest and has first provided to the collector, at or in advance of the tax sale,
- (a) a declaration in the prescribed form that the individual is an eligible bidder for the interest, completed and executed to the satisfaction of the collector, and
- (b) any supporting evidence required by the collector in respect of any matter addressed in the declaration referred to in paragraph (a).
- (4) At a tax sale, the eligible bidder for a tax-sale interest offered for sale who makes the highest bid for the interest at or above the upset price of the interest must be declared the purchaser of the interest if that eligible bidder
- (a) immediately
- (i) pays the full amount of that highest bid to the collector, and
- (ii) provides the collector with a signed statement in a form specified by the collector,
- (A) setting out the particulars respecting the eligible bidder required by the collector, and
- (B) authorizing the collector to make an application referred to in section 22(1)(a)(ii) to register the eligible bidder's title to the interest at the appropriate time, or
- (b) is the Nisga'a Nation.
- (5) If a tax-sale interest is offered for sale at a tax sale and an eligible bidder other than the Nisga'a Nation makes the highest bid for the interest at or above the

upset price of the interest but fails to immediately provide the collector with the payment and statement referred to in subsection (4)(a), the collector must promptly again offer the interest for sale at the tax sale on the same conditions as before.

- (6) If at a tax sale there is no eligible bid when a tax-sale interest is offered for sale, or no eligible bid at or above the upset price of the interest,
 - (a) the collector may offer the interest for sale again later at the tax sale on the same conditions as before, and
 - (b) the Nisga'a Nation must be declared the purchaser of the interest at the upset price if
 - (i) the collector does not offer the interest for sale again later at the tax sale under paragraph (a), or
 - (ii) the collector offers the interest for sale again later at the tax sale under paragraph (a) and again there is no eligible bid for the interest or no eligible bid at or above the upset price of the interest.

Collector to provide certificate of sale

- 13. After selling a tax-sale interest to a person other than the Nisga'a Nation at a tax sale, the collector must sign and give to the purchaser a certificate
 - (a) describing the parcel to which the interest relates,
 - (b) stating the sale price, and
 - (c) stating that registration of ownership of the interest will be applied for on the purchaser's behalf at the end of one year from the date of sale unless
 - (i) the interest is redeemed under this Act, or
 - (ii) the sale is set aside by
 - (A) the Supreme Court on an action referred to in section 24, or
 - (B) the Executive under section 25(1)(a).

Resale of property purchased by Nisga'a Nation at tax sale

- 14. (1) If a tax-sale interest is purchased by the Nisga'a Nation under section 12(6)(b), the Executive may authorize the collector to offer the interest for sale to any

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

eligible bidder within nine months after the purchase for not less than the upset price of the interest plus interest accrued from the date of the purchase at the prescribed rate.

- (2) If a tax-sale interest authorized to be offered for sale under subsection (1) is a Nisga'a entitlement, the collector must, before offering the interest for sale to an individual, first obtain from the individual
 - (a) a declaration in the prescribed form that the individual is, in relation to the interest, an eligible bidder, and
 - (b) any supporting evidence required by the collector in respect of any matter addressed in the declaration referred to in paragraph (a).
- (3) If an eligible bidder to whom the collector offers to sell a tax-sale interest in accordance with an authorization under subsection (1)
 - (a) pays the full amount of the sale price to the collector on the terms and conditions specified by the collector, and
 - (b) provides the collector with a signed statement in a form specified by the collector,
 - (i) setting out the particulars respecting the eligible bidder required by the collector, and
 - (ii) authorizing the collector to make an application referred to in section 22(1)(a)(ii) to register the eligible bidder's title to the interest at the appropriate time,

the eligible bidder must be declared the purchaser of the interest.

- (4) After selling a tax-sale interest under this section, the collector must sign and give to the purchaser a certificate
 - (a) describing the parcel to which the interest relates,
 - (b) stating the sale price, and
 - (c) stating that registration of ownership of the interest will be applied for on the purchaser's behalf at the end of one year from the date on which the interest was purchased by the Nisga'a Nation under section 12(6)(b) unless
 - (i) the interest is redeemed under this Act, or
 - (ii) the sale of the interest to the Nisga'a Nation under section 12(6)(b) is set aside by

- (A) the Supreme Court on an action referred to in section 24, or
 - (B) the Executive under section 25(1)(a).
- (5) The sale of a tax-sale interest under this section does not affect the period for or the right of redemption of the interest under this Act.

Notice of tax sale must be filed in land title office

- 15.** (1) Promptly after a tax-sale interest is sold at a tax sale or under section 14, the collector must
- (a) file in the Nisga'a land title office a notice of the sale in the prescribed form, and
 - (b) unless the purchaser of the interest is the Nisga'a Nation or a Nisga'a Village, pay the prescribed fee to the registrar.
- (2) On the filing of a notice of the sale of a tax-sale interest under subsection (1)(a), the registrar
- (a) must make a notation of the sale in the register, and
 - (b) must not, while the notice remains uncanceled,
 - (i) accept for deposit, filing or registration any other instrument affecting the interest, other than
 - (A) a court order,
 - (B) a certificate of pending litigation, or
 - (C) a prescribed instrument, or
 - (ii) allow any change in the boundaries of the property to which the interest relates,
- except in accordance with this Act.

Owners must be given notice of tax sale and redemption period

- 16.** (1) Not later than three months after the sale of a tax-sale interest at a tax sale, the collector must give a written notice of the sale and of the day on which the period allowed under section 19 for redemption of the interest ends to

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

-
- (a) the registered owner or holder of the interest, and
 - (b) any other person registered as the owner of the estate in fee simple to or the holder of a charge in respect of the property to which the interest relates.
- (2) A notice referred to in subsection (1) must be given by
 - (a) personal service on the recipient, or
 - (b) registered mail or courier to the address of the recipient shown in the records of the Nisga'a land title office.
 - (3) No liability or responsibility other than as set out in subsection (1) rests with the collector or the Nisga'a Nation to give notice of the sale of a tax-sale interest at a tax sale or under section 14.

Assessment and taxes during redemption period

- 17. (1) During the period allowed under this Act for redemption of a tax-sale interest sold at a tax sale, the property to which the interest relates must continue to be assessed and taxed in the name of the registered owner or holder of the interest and that person is liable for the accruing taxes.
- (2) The accruing taxes referred to in subsection (1) continue to be a special lien and charge on the tax-sale interest under section 4.
- (3) The purchaser of a tax-sale interest at a tax sale or under section 14 may pay the taxes that become due in respect of the property to which the interest relates during the period allowed under this Act for redemption of the interest, and any such taxes paid by the purchaser must be added to the amount required to be paid to redeem the interest under this Act.

Application of surplus from tax sale

- 18. (1) If a tax-sale interest sold at a tax sale is not redeemed under this Act during the period allowed for redemption, after the expiry of that period money received by the collector at the tax sale above the upset price of the tax-sale interest must be paid without interest to the person who at the time of the tax sale was the registered owner or holder of the tax-sale interest, on written application to the Executive by that person.
- (2) If surplus money referred to in subsection (1) remains unpaid six months after the end of the period referred to in that subsection, in the next month the Chief Financial Officer must publish a notice in accordance with Nisga'a law, stating

- (a) the name of the person to whom the surplus is payable,
 - (b) the date on which the surplus became payable, and
 - (c) the amount of the surplus.
- (3) If surplus money referred to in subsection (1) remains unclaimed three months after the publication of a notice in respect of the surplus under subsection (2), the surplus must be dealt with by the Chief Financial Officer in accordance with the regulations.

Redemption by owner

- 19.** (1) A tax-sale interest sold at a tax sale may be redeemed in accordance with this section by
- (a) the registered owner or holder of the interest,
 - (b) any other person registered as the owner of the estate in fee simple to or the holder of a charge in respect of the property to which the interest relates, or
 - (c) another person on behalf of a person referred to in paragraph (a) or (b).
- (2) The time limit for redeeming a tax-sale interest sold at a tax sale is one year from the day the tax sale began, or a further time allowed by regulation under subsection (5).
- (3) The redemption of a tax-sale interest sold at a tax sale may be made by paying or tendering to the collector the total of the following amounts:
- (a) the upset price of the interest at the time of the tax sale;
 - (b) all costs of which the collector has had notice as of the date of the redemption that have been incurred by the purchaser of the interest at the tax sale or, if the interest was subsequently sold under section 14, the purchaser under that section, in maintenance of the property to which the interest relates or in prevention of waste of the property;
 - (c) all taxes that the purchaser has paid under section 17(3) as of the date of the redemption in respect of the property to which the interest relates;
 - (d) interest to the date of the redemption on
 - (i) the upset price referred to in paragraph (a),

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

- (ii) any amount in excess of the upset price that the purchaser has paid to the collector for the interest,
 - (iii) all costs incurred by the purchaser as referred to in paragraph (b), and
 - (iv) all taxes paid by the purchaser as referred to in paragraph (c),
at the prescribed rate.
- (4) On the redemption of a tax-sale interest under subsection (3),
- (a) if the interest was sold at the tax sale to a person other than the Nisga'a Nation, the purchaser at the tax sale, or
 - (b) if the interest was subsequently sold under section 14, the purchaser under that section,
- is entitled to receive from the Nisga'a Nation
- (c) the purchase price paid by the purchaser for the interest,
 - (d) any costs incurred or taxes paid by the purchaser as referred to in subsection (3)(b) or (c), and
 - (e) interest on the amounts referred to in paragraphs (c) and (d) to the date of redemption at the prescribed rate.
- (5) If the Nisga'a Nation has purchased a tax-sale interest under section 12(6)(b) and the interest has not been subsequently sold under section 14, the Executive may, by regulation, extend by one year only the period otherwise allowed for redemption of the interest under subsection (2).

Redemption payments by instalments

- 20.** (1) This section applies to a tax-sale interest which the Nisga'a Nation has purchased under section 12(6)(b) if
- (a) there are improvements on the property to which the interest relates,
 - (b) the interest has not been subsequently sold under section 14, and
 - (c) the Executive has not enacted a regulation under section 19(5) extending the time for redemption of the interest.

- (2) Despite section 19, a person empowered under that section to redeem a tax-sale interest to which this section applies is entitled to redeem the interest under subsection (3) of this section if the person pays or tenders to the collector, on or before the latest date allowed for redemption under section 19, 50% of the total of
- (a) the upset price of the interest at the tax sale at which the interest was purchased by the Nisga'a Nation,
 - (b) all costs of which the collector has had notice as of the date of the payment under this subsection that have been incurred by the Nisga'a Nation in maintenance of the property to which the interest relates or in prevention of waste of the property,
 - (c) all taxes that the Nisga'a Nation has paid under section 17(3) as of the date of the payment under this subsection in respect of the property to which the interest relates, and
 - (d) interest on the amounts referred to in paragraphs (a) to (c) at the prescribed rate.
- (3) A person who makes a payment under subsection (2) in relation to a tax-sale interest may redeem the interest by paying or tendering to the collector, at any time within 11 months and 21 days from the latest date otherwise allowed for redemption of the interest under section 19,
- (a) the remaining 50% of the total of the amounts referred to in subsection (2)(a) to (d),
 - (b) all costs of which the collector has had notice as of the date of the payment under this subsection that have been incurred by the Nisga'a Nation between the date of the payment under subsection (2) and the date of the payment under this subsection in maintenance of the property to which the interest relates or in prevention of waste of the property,
 - (c) all taxes that the Nisga'a Nation has paid under section 17(3) between the date of the payment under subsection (2) and the date of the payment under this subsection in respect of the property to which the interest relates, and
 - (d) interest on the amounts referred to in paragraphs (a) to (c) at the prescribed rate.

Notice of redemption must be filed in land title office

- 21.** (1) If a tax-sale interest sold at a tax sale is redeemed within the period allowed for redemption under this Act, the collector must promptly

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

- (a) file in the Nisga'a land title office a notice of the redemption in the prescribed form, and
 - (b) pay the prescribed fee to the registrar.
- (2) On the filing of a notice of the redemption of a tax-sale interest under subsection (1)(a), the registrar must
- (a) cancel the notice or notices of the sale of the interest filed under section 15(1)(a), and
 - (b) cancel the notation or notations of the sale of the interest made in the register under section 15(2)(a).

Registration of purchaser

- 22.** (1) If a tax-sale interest sold at a tax sale is not redeemed within the period allowed for redemption under this Act, at the end of that period the collector must
- (a) file in the Nisga'a land title office in the prescribed forms
 - (i) a notice of the failure to redeem the interest, and
 - (ii) an application on behalf of the purchaser at the tax sale or, if the interest was subsequently sold under section 14, the purchaser under that section, for registration as the owner or holder of the interest, and
 - (b) unless the purchaser is the Nisga'a Nation or a Nisga'a Village, pay the prescribed fee to the registrar.
- (2) The filing under subsection (1)(a) of a notice of the failure to redeem a tax-sale interest and an application on behalf of the purchaser for registration as the owner or holder of the interest operates
- (a) as a conveyance of the interest to the purchaser from the registered owner or holder, without proof of the signature of the collector or the purchaser and without an attestation of proof of execution, and
 - (b) as a quit claim in favour of the purchaser of
 - (i) all right, title and interest of the registered owner or holder and every previous owner or holder of the interest, or of those claiming under the registered owner or holder or any previous owner or holder, and

- (ii) all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type relating to the interest, whether or not registered under the *Nisga'a Land Title Act*,

that are subsisting at the time the notice and application are received by the registrar, except
 - (iii) a registered easement or statutory right of way,
 - (iv) a registered restrictive covenant or statutory covenant,
 - (v) the rights specified in section 17(1)(a), (b), (d), (e), (g) and (h) of the *Nisga'a Land Title Act*, and
 - (vi) a lien or charge of the Nisga'a Nation.
- (3) On the filing under subsection (1)(a) of a notice of the failure to redeem a tax-sale interest and an application on behalf of the purchaser for registration as the owner or holder of the interest, the registrar must
 - (a) register the purchaser as the owner or holder of the interest,
 - (b) cancel the registration of any charge registered against the interest except a charge referred to in subsection (2)(b)(iii) to (vi),
 - (c) cancel the notice or notices of the sale of the interest filed under section 15(1)(a), and
 - (d) cancel the notation or notations of the sale of the interest made in the register under section 15(2)(a).

Effect of tax sale on rights of owner

- 23.** (1) When a tax-sale interest is sold at a tax sale, all rights in the interest held by the registered owner or holder of the interest immediately cease to exist, except as follows:
- (a) the interest is subject to redemption as provided in this Act;
 - (b) the right to possession of the property to which the interest relates is not affected during the period allowed under this Act for redemption of the interest, subject, however, to
 - (i) impeachment for waste, and

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

-
- (ii) the right of the purchaser at the tax sale or, if the interest was subsequently sold under section 14, the right of the purchaser under that section, to enter on the property to maintain it in a proper condition and to prevent waste;
 - (c) during the period allowed for redemption, an action may be brought under section 24 to have the tax sale set aside and declared invalid.
- (2) During the period allowed under this Act for redemption of a tax-sale interest sold at a tax sale, subsection (1) does not operate to affect in any way the rights of
- (a) the registered owner or holder of the interest, or
 - (b) any other person registered as the owner of the estate in fee simple to or the holder of a charge in respect of the property to which the interest relates,
- among or as between themselves.

Action by owner to have tax sale set aside

- 24.** (1) Subject to section 26(1),
- (a) the registered owner or holder of a tax-sale interest sold at a tax sale, or
 - (b) any other person registered as the owner of the estate in fee simple to or the holder of a charge in respect of the property to which the interest relates
- may bring an action in the Supreme Court to have the sale set aside and declared invalid.
- (2) An action referred to in subsection (1) may only be brought on one or more of the following grounds:
- (a) the property to which the tax-sale interest relates was not liable to taxation during the years in which the taxes for which the interest was sold were imposed;
 - (b) the taxes for which the interest was sold were fully paid;
 - (c) irregularities existed in connection with the imposition of the taxes for which the interest was sold;
 - (d) the sale was not fairly and openly conducted;

- (e) the collector did not give to the person bringing the action the notice required by section 16(1).
- (3) An action referred to in subsection (1) may not be brought until one month after written notice, stating in detail the grounds of the action, has been given to the Chief Executive Officer by the person bringing the action.
- (4) If on an action referred to in subsection (1) the court sets aside or declares invalid the sale of a tax-sale interest at a tax sale for a reason referred to in subsection (2)(c) or (d), the court may
- (a) provide that the amount of unpaid taxes in respect of the property to which the tax-sale interest relates at the date of the sale, together with interest from that date, is a lien and charge on the tax-sale interest as if the sale had not taken place, in which case that amount is deemed to be delinquent taxes in respect of the property,
 - (b) provide for the immediate payment of those taxes, or
 - (c) otherwise deal with those taxes according to the circumstances.
- (5) During the period allowed under this Act for redemption of a tax-sale interest sold at a tax sale, subsection (1) does not operate to affect in any way the rights of
- (a) the registered owner or holder of the interest, or
 - (b) any other person registered as the owner of the estate in fee simple to or the holder of a charge in respect of the property to which the interest relates,
- among or as between themselves.

Order by Executive setting tax sale aside

- 25.** (1) During the period allowed for redemption of a tax-sale interest sold at a tax sale, if the Executive finds a manifest error in the sale or in the proceedings before the sale, the Executive may order that
- (a) the sale of the interest at the tax sale and any subsequent sale of the interest under section 14 be set aside,
 - (b) the purchaser at the tax sale or, if the interest was subsequently sold under section 14, the purchaser under that section, be entitled to receive from the Nisga'a Nation
 - (i) the purchase price paid by the purchaser for the interest,

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

-
- (ii) all costs of which the collector has had notice as of the date of the order that have been incurred by the purchaser in maintenance of the property to which the interest relates or in prevention of waste of the property,
 - (iii) all taxes that the purchaser has paid under section 17(3) as of the date of the order in respect of the property to which the interest relates, and
 - (iv) interest on the amounts referred to in subparagraphs (i) to (iii) at the prescribed rate, and
- (c) the taxes be dealt with as the circumstances require, either
 - (i) by restoring the taxes as they were before the sale, or
 - (ii) otherwise as directed by the Executive.
- (2) If the Executive makes an order under subsection (1)(a) setting aside a sale or sales of a tax-sale interest, the collector must file a notice of the order in the Nisga'a land title office in the prescribed form.
 - (3) On the filing under subsection (2) of a notice of an Executive order setting aside the sale or sales of a tax-sale interest, the registrar must
 - (a) cancel the notice or notices of the sale of the interest filed under section 15(1)(a), and
 - (b) cancel the notation or notations of the sale of the interest made in the register under section 15(2)(a).

Restrictions on legal actions in relation to tax sale

- 26. (1) After the expiry of the period allowed under this Act for redemption of a tax-sale interest sold at a tax sale, no action may be brought to recover the interest sold or to set aside its sale.
- (2) No action may be brought
 - (a) against the collector or the registrar in respect of the sale or registration of a tax-sale interest under this Act, or
 - (b) against the Nisga'a Nation in respect of any loss or damage sustained by reason of such a sale or registration, except as provided in this section.

- (3) A person who at the time of the sale of a tax-sale interest at a tax sale was
- (a) the registered owner or holder of the interest, or
 - (b) any other person registered as the owner of the estate in fee simple to or the holder of a charge in respect of the property to which the interest relates,

may bring an action to recover indemnity or compensation from the Nisga'a Nation for any loss or damage sustained by the person on account of the sale of the interest if the circumstances referred to in section 24(2)(a), (b) or (e) are found by the Supreme Court to have existed.

- (4) As limits on subsection (3),
- (a) no action may be brought under that subsection to recover indemnity or compensation from the Nisga'a Nation in relation to the sale of a tax-sale interest after the end of one year from the expiry of the period allowed under this Act for redemption of the interest, and
 - (b) there is no right to indemnity or compensation on an action brought under that subsection if it is found by the court that the person claiming indemnity or compensation was aware at the time of the tax sale that the interest was offered for sale, or was aware during the period allowed for redemption that the interest had been sold.

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

PART 6 – CANCELLATION**Cancellation or termination of cancellable interest**

27. (1) No later than five months after the day on which taxes in respect of a property become delinquent, the collector must, if the taxable owner of the property holds a cancellable interest relating to the property, give written notice to the taxable owner that the interest will be cancelled or otherwise terminated if the taxable owner does not pay to the collector
- (a) the taxes imposed in respect of the property that remain unpaid and are due and owing as of the date of the payment,
 - (b) the fee prescribed under this paragraph, and
 - (c) in the case of a property in respect of which the collector has filed a notice of unpaid taxes under section 6(1)(c) prior to giving written notice under this subsection, the amount of the fee prescribed under section 6(3)(e)
- within six months after the day on which the taxes became delinquent.
- (2) A written notice referred to in subsection (1) must be in the prescribed form and must be given by
- (a) personal service on the taxable owner, or
 - (b) registered mail or courier to the address of the taxable owner shown on the assessment roll.
- (3) On giving a written notice referred to in subsection (1) to a taxable owner, the collector must provide a copy of the notice to
- (a) the Director of Lands and Resources, if the cancellable interest held by the taxable owner may be cancelled or otherwise terminated by the Nisga'a Nation, or
 - (b) the applicable Nisga'a Village land administrator, if the interest may be cancelled or otherwise terminated by a Nisga'a Village.
- (4) If the collector gives written notice to the taxable owner of a property under subsection (1) and within six months after the date on which taxes in respect of the property became delinquent the collector has not been paid
- (a) the taxes referred to in subsection (1)(a),
 - (b) the fee referred to in subsection (1)(b), and

- (c) if applicable, the amount of the fee referred to in subsection (1)(c),
the collector must, as soon as practicable, provide written notice of the taxable owner's continuing tax delinquency to
 - (d) the Director of Lands and Resources, if the cancellable interest held by the taxable owner may be cancelled or otherwise terminated by the Nisga'a Nation, or
 - (e) the applicable Nisga'a Village land administrator, if the interest may be cancelled or otherwise terminated by a Nisga'a Village.
- (5) On being provided with notice of a taxable owner's continuing tax delinquency in respect of a property under subsection (4), the Director of Lands and Resources or the Nisga'a Village land administrator, as the case may be, must, as soon as practicable,
 - (a) cancel or otherwise terminate the cancellable interest relating to the property held by the taxable owner, and
 - (b) if
 - (i) the interest is registered,
 - (A) file a notice of the cancellation or termination in the prescribed form in the Nisga'a land title office or the Lisims land registry, as the case may be, and
 - (B) provide a copy of the notice filed under clause (A) to the taxable owner and the collector, or
 - (ii) the interest is not registered, provide a notice of the cancellation or termination in the prescribed form to the taxable owner and the collector.
- (6) On the filing of a notice of cancellation or termination of a cancellable interest in the Nisga'a land title office under subsection (5)(b)(i)(A), the registrar must cancel the registration of the interest.
- (7) On the filing of a notice of cancellation or termination of a cancellable interest in the Lisims land registry under subsection (5)(b)(i)(A), the Director of Lands and Resources must endorse a notation of the cancellation or termination in the records of the registry.
- (8) Subsection (1) does not apply if
 - (a) the cancellable interest held by the taxable owner of a property is a lease or licence with a term of one year or less, and

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

- (b) the taxes that are delinquent in respect of the property were imposed prior to the taxable owner's acquisition of the cancellable interest.
- (9) No action may be brought against the collector, the Director of Lands and Resources, a Nisga'a Village land administrator, the registrar, the Nisga'a Nation or a Nisga'a Village in respect of the cancellation or termination of a cancellable interest, the cancellation of the registration of a cancellable interest, the notation of the cancellation or termination of a cancellable interest, or any loss or damage sustained by reason of any of the foregoing under this section.

PART 7 – FORFEITURE**Forfeiture for unpaid taxes**

- 28.** (1) Despite any other action for the recovery of taxes under this Act, if at the end of November 30 in any taxation year there are delinquent taxes in respect of a property and the taxable owner of the property holds a forfeitable interest relating to the property, on the later of
- (a) December 1 of the taxation year, and
 - (b) the 40th day after the date on which the collector gives notice in accordance with subsection (2) to the taxable owner,
- the interest is absolutely forfeited and terminated.
- (2) A notice referred to in subsection (1)(b) must
- (a) be in the prescribed form,
 - (b) state
 - (i) that the forfeitable interest is subject to forfeiture and termination under this section,
 - (ii) the amount of the taxes imposed in respect of the property that remain unpaid and are due and owing as of the date of the notice,
 - (iii) the fee prescribed under this subparagraph,
 - (iv) in the case of a property in respect of which the collector has filed a notice of unpaid taxes under section 6(1)(c) prior to giving the notice, the amount of the fee prescribed under section 6(3)(e),
 - (v) the right to prevent forfeiture and termination by payment to the collector in accordance with subsection (3), and
 - (vi) the date on which the interest will forfeit and terminate if payment is not made to the collector in accordance with subsection (3), and
 - (c) be given by the collector by means of
 - (i) personal service on the taxable owner, or
 - (ii) registered mail or courier to the address of the taxable owner shown on the assessment roll
- as soon as practicable after October 1 of the taxation year.

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

-
- (3) Forfeiture and termination of a forfeitable interest under subsection (1) may be prevented by the payment to the collector of
- (a) the taxes referred to in subsection (2)(b)(ii),
 - (b) the fee referred to in subsection (2)(b)(iii), and
 - (c) if applicable, the amount of the fee referred to in subsection (2)(b)(iv)
- before the date on which the interest would otherwise be forfeited and terminate under subsection (1).
- (4) On the forfeiture and termination of a forfeitable interest under subsection (1), the collector must
- (a) if the interest is registered,
 - (i) file a notice of the forfeiture and termination of the interest in the prescribed form in the Nisga'a land title office or the Lisims land registry, as the case may be, and
 - (ii) provide a copy of the notice filed under subparagraph (i) to the taxable owner, or
 - (b) if the interest is not registered, provide a notice of the forfeiture and termination of the interest in the prescribed form to the taxable owner.
- (5) On the filing of a notice of forfeiture and termination of a forfeitable interest in the Nisga'a land title office under subsection (4)(a)(i), the registrar must cancel the registration of the interest.
- (6) On the filing of a notice of forfeiture and termination of a forfeitable interest in the Lisims land registry under subsection (4)(a)(i), the Director of Lands and Resources must endorse a notation of the forfeiture and termination of the interest in the records of the registry.
- (7) Subsection (1) does not apply if
- (a) the forfeitable interest held by the taxable owner of a property is a lease or licence with a term of one year or less, and
 - (b) the taxes that are delinquent in respect of the property were imposed prior to the taxable owner's acquisition of the forfeitable interest.
- (8) The Executive may prescribe forfeitable interests to which subsection (1) does not apply.

- (9) No action may be brought against the collector, the registrar, the Director of Lands and Resources or the Nisga'a Nation in respect of the forfeiture and termination of a forfeitable interest, the cancellation of the registration of a forfeitable interest, the notation of the forfeiture and termination of a forfeitable interest, or any loss or damage sustained by reason of any of the foregoing under this section.

NISGA'A REAL PROPERTY TAX ENFORCEMENT ACT

PART 8 – MISCELLANEOUS**Notices**

- 29.** (1) Unless otherwise specified in this Act, a notice permitted or required to be given under this Act may or must be given
- (a) by personally serving the notice on the recipient,
 - (b) by mailing the notice to, or delivering the notice by courier to, the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll or in the records of the Nisga'a land title office or the Lisims land registry, or
 - (c) if the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on property owned by the recipient or in respect of which the recipient holds an interest.
- (2) For the purposes of this Act,
- (a) a notice served personally or delivered by registered mail or courier is deemed received on the day it is served or delivered,
 - (b) a notice given by unregistered mail is deemed received on the fifth day after it is mailed, and
 - (c) a notice given by posting in a conspicuous place on property is deemed received on the day it is posted.

Regulations

- 30.** (1) The Executive may make regulations it considers necessary or advisable for purposes under this Act.
- (2) Without limiting subsection (1) and in addition to any other regulation-making authority of the Executive under this Act, the Executive may prescribe
- (a) forms for the purposes of sections 6(1)(c) and (3), 12(3)(a), 14(2)(a), 15(1)(a), 21(1)(a), 22(1)(a)(i) and (ii), 25(2), 27(2) and (5)(b)(i)(A) and (ii), and 28(2)(a) and (4)(a)(i) and (b),
 - (b) fees for the purposes of sections 6(3)(e), 15(1)(b), 21(1)(b), 22(1)(b), 27(1)(b) and 28(2)(b)(iii),
 - (c) instruments for the purposes of sections 6(2)(b)(i)(C) and 15(2)(b)(i)(C),

- (d) the manners in which money may be paid or tendered to the collector under this Act,
- (e) how money paid or tendered to the collector under this Act is to be dealt with,
- (f) categories of payment, indebtedness or liability to which section 8(1) does not apply,
- (g) information required to be included in, and the timing and manner of publication of, a notice referred to in section 10,
- (h) rates of interest for the purposes of sections 14(1), 19(3)(d) and (4)(e), 20(2)(d) and (3)(d), and 25(1)(b)(iv),
- (i) how surplus money referred to in section 18(3) is to be dealt with,
- (j) extensions of the period allowed for redeeming tax-sale interests in accordance with section 19(5), and
- (k) forfeitable interests to which section 28(1) does not apply.

Commencement

31. This Act comes into force by regulation of the Executive.