

AN ACT TO AMEND IN CERTAIN RESPECTS ACT NUMBERED EIGHTY-TWO, KNOWN AS THE MUNICIPAL CODE.

Act No. 1791, October 12, 1907

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By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. Subsection (l) of section eighteen of Act Numbered Eighty-two, as amended, is hereby further amended to read as follows:

"(l) He shall appoint, by and with the consent of the majority of all the members of the council, the municipal secretary and all and employees by the municipal treasurer and employees who may be provided for by law s:dent. in1 by ordinance, with the exception of the municipal treasurer and the employees of his office, and at any time, for cause, he may suspend any such officer or employee thus appointed for a period not exceeding ten days, which suspension may be continued for a longer period by the council; and by and with the consent of a majority of all the members of the council he may discharge any such officer or employee.

"The municipal treasurer shall be appointed by the provincial treas-treasurer, subject to the approval of the provincial board, and may be removed from office by the provincial board or the Governor-General for cause. The position of municipal treasurer shall be classified and subject to all the provisions of the Civil Service Act and rules.

"The municipal treasurer shall appoint such clerks and other employees as are necessary to aid him in the discharge of his duties when the number and salaries thereof arc determined in the manner provided by this Act. In case it shall appear that the number or salaries authorized by the municipal council are manifestly inadequate, it shall be within the power of the provincial board, on application, to increase the number of clerks or employees or the salaries fixed by the municipal council therefor. The municipal treasurer for cause, suspend from office without salary for not to exceed thirty days any employee thus appointed or, with the approval of the provincial treasurer, remove him from office.

SEC. 2. Subsection (aa) of section thirty-nine of said Act is hereby amended to read as follows:

"(aa) Establish and maintain municipal pounds and fix the fees for poundage; regulate, restrict, or prohibit the running at large of domestic animals and dogs unlicensed, and provide for the distraining, impounding, and sale of the same for the penalty incurred and the cost of the proceedings; also impose penalties upon the owners of said animals for the violation of any ordinance in relation thereto; Provided, That large cattle within the meaning of Act Numbered Eleven hundred and forty-seven shall be disposed of in accordance with that Act."

SEC. 3. Subsection (k) of section forty of said Act is hereby amended to read as follows:

"(k) To license, public carriages, carts, and hearses kept for hire; and regulate cafes, restaurants, hotels, inns, and lodging houses; to license and regulate or to prohibit public dancing schools, public dance halls, and horse races; to license without taxing and to regulate public billiard tables, theatrical performances, and circuses."

SEC. 4. Subsection (l) of section forty of said Act is hereby amended so as to read as follows:

(l) 1. To provide, when no American public-school teacher is assigned to the municipality or when no public school of secondary instruction is maintained therein, for the expenditure from the school funds established in accordance with subsection (b) of section forty-three of this Act, or from any other municipal funds not otherwise appropriated, of not more than forty pesos per month during the school year, to be used in equal parts toward the support of two residents of the municipality while receiving training for positions as public-school teachers in the municipality at any public secondary school established under the Department of Public Instruction. The persons thus supported shall be one young man and one young woman, whose respective ages shall not be less than fifteen nor more than twenty-five years, and whose parents are not able to pay their expenses while attending schools of secondary instruction. They shall be appointed by the president, by and with the consent of the majority of all the members of the council, subject to confirmation, after one month's attendance, by the principal of the school in which they are appointed to receive instruction.

"2. To provide, further, for the expenditure from general municipal funds or, with the approval of the Secretary of Public Instruction, from the municipal school funds established in accordance with subsection (b) of section forty-three of this Act and section one hundred and fifty of Act Numbered Eleven hundred and eighty-nine, as amended, of not to exceed forty pesos per month during the school year for each person appointed, as hereinafter provided, to receive in the Philippine Normal School, the Philippine School of Arts and Trades, the Philippine School of Agriculture, or any other Insular school, special training for the teaching of the academic branches, domestic science, agriculture, or arts and trades: Provided, That the total number of students appointed shall not exceed four from any one municipality. These students shall be appointed by the municipal president, by and with the consent of the majority of all the members of the council, from a list of eligibles certified to the president by the division superintendent of schools, and by him recommended for such appointment.

Only those who have satisfactorily completed and been graduated from the prescribed intermediate course of instruction and are not less than seventeen nor more than thirty years of age shall be eligible for appointment as special municipal students in the Philippine Normal School or in the Philippine School of Agriculture; and only those who have satisfactorily completed the first year of the prescribed intermediate course of instruction and are not less than seventeen nor more than thirty years of age shall be eligible for appointment, as special municipal students in the Philippine School of Arts and Trades.

"Each student appointed in accordance herewith shall be required by the municipal president to sign an agreement to the effect that, upon the termination of his studies pursued according to the terms of his appointment and agreement, he will return to the municipality appointing and maintaining him as a special student and accept an appointment either as a municipal or as an Insular teacher in said municipality, and faithfully perform the duties relative thereto for such salary as may be fixed by competent authority, for a period of time equal to that spent by him in study at the expense of (he municipality from which he is appointed."

SEC. 5. Section forty-one of said Act is hereby amended to read as follows:

"SEC. 41. Whenever the council is desirous of securing a legal opinion upon questions arising in relation to the constitution or attributes of the municipal government, it shall frame the questions in writing and submit them to the provincial fiscal for decision. Each act, resolution, and ordinance of the council shall be numbered consecutively throughout the calendar year; each executive order shall also be consecutively numbered. The municipal secretary shall, within thirty-six hours after any session of the council or the issuance of an executive order, forward a correct copy of each act, resolution, and ordinance passed thereat, and of every executive only properly numbered, to the provincial board. The board shall promptly pass upon the legality of the same, entering its action the minutes and advising the proper municipal secretary of such action. The secretary shall thereupon notify the council, that body shall note the receipt of notification upon its the provincial board shall approve all acts, ordinances, resolutions and orders which are within the powers conferred upon council or president making the same and declare null and void as are not within said powers.

If the board shall be in doubt the legality of any such act, ordinance, resolution, or order it declare the same suspended and refer the question to the fiscal us opinion. Such opinion shall be given promptly, and upon receipt the board shall take action thereon in accordance with and immediately advise the municipal secretary thereof. The municipal secretary shall also, within the thirty-six hours aforesaid, forward to the provincial treasurer a copy of each act, resolution, or ordinance authorizing or necessitating the collection of municipal revenues. After the same have been passed upon by the provincials ordinances, resolutions, and orders shall be filed by the provincial governor, who shall keep a complete file of the any arranged in consecutive order by municipalities which shall be open for public inspection, and in municipal secretary neglects or omits to forward any such dately demand a copy. Repeated negligence in forwarding ads. resolutions, or ordinances shall be cause for suspension and removal. Any attempt to enforce such act, ordinance, resolution, or executive order, after the disapproval or suspension thereof, shall be brought to the attention of the municipal council, and shall be sufficient ground for the dismissal of the officer or officers attempting to enforce the same. Should the council or the president: be dissatisfied with the decision of the provincial board, an appeal may be taken by it or him to the Governor-General, who shall decide the same question which was presented to the provincial hoard and either affirm or reverse the decision of the provincial hoard. If the decision of the provincial board is affirmed, the act, ordinance, resolution, or executive order involved shall be null and void. If, however, he shall reverse the decision of the provincial hoard, then and in that case notice of his decision shall be given to the provincial board and to the council of the municipality appealing, and upon receipt of notice by the appellant, the act, ordinance, resolution, or executive order shall be revived and come into force Pending the decision on appeal from a decision of the provincial board annulling any act, ordinance, resolution, or executive order, the same shall have no force and effect. Nothing in this section shall lie construed to deprive any judicial tribunal of power to hold void for want of statutory authority any act, ordinance, or resolution of a municipal council or executive order of a municipal president the validity of which shall be involved in any cause arising before such tribunal, without respect to the decision of the executive authorities."

SEC. 6. Subsection (e) of section forty-three of said Act is hereby amended to read as follows:

"(c) Rents and profits from all property belonging to the municipality, tolls from ferries, municipal stables, markets, slaughterhouses, public bath houses, pounds, and cemeteries belonging to the municipality."

SEC. 7. Subsection (h) of section forty-three of said Act is hereby amended to read as follows:

"(h) Licenses for horse races; for selling at retail in quantities of not more than five gallons of any intoxicating, malt, vinous, mixed, or fermented liquors; for the keeping of dogs; for public carriages, carts, or hearses kept for hire; and for cafes, restaurants, hotels, inns, and lodging houses, public dancing schools, and dance halls; in accordance with the provisions of section thirty-nine, subsection (u), and section forty, subsections (i), (j), and (k)."

SEC. 8. Subsection (f) of section forty-seven of said Act is hereby amended to read as follows:

"(f) Such report, when approved, shall be attested by the president and municipal secretary and forwarded to the provincial treasurer for approval. If the provincial treasurer shall, upon consideration, find that the taxes levied are lawful and will produce the estimated revenue, and that the actual expenditures provided for in the report will not exceed in the aggregate the estimate thereof, then he shall approve the same and shall forward one of the copies of the report, with his approval indorsed thereon, to the president to serve as a guide to the municipality in the administration of its salaries and pcsi- finances: Provided, That the salaries and positions of permanent officials and employees from January first of each year to the date of the receipt by the president of the estimate for that year, duly approved, shall be as fixed in the approved estimate for the preceding year, and no other: And provided further, That if the provincial treasurer shall question the legality or advisability of any item or items of expenditure in the animal estimate he shall be authorized in his discretion in disapprove the said item or items, but shall approve those items concerning which there is no question. In the event that he

shall disapprove any item or items of expenditure on the estimate he shall immediately submit to the municipal council a statement in writing giving his reasons for such disapproval. If the municipal council is dissatisfied with the action of the board the provincial treasurer an estimate containing only the items disapproved may be submitted to the provincial board with a statement of the reasons for their approval; and the provincial board shall thereupon decide the case, and its decision shall be final. In the event that the appeal is sustained as to one or more items the provincial treasurer shall forthwith approve the estimate as to them; but if it is denied, the item or items in question shall stand disapproved."

SEC. 9. Subsection (y) of section forty-seven of said Act is hereby amended to read as follows:

"(g) Expenses not provided for in the annual estimate can be incurred and paid only after the approval of an additional estimate therefor in the manner provided in the preceding section."

SEC. 10. Section sixty-one of said Act is hereby amended to read as follows:

"SEC. 61. The board of tax appeals shall hear all appeals duly transmitted to it in accordance with section fifty-eight, and shall decide the same within fifteen days after receipt thereof. It shall have authority to cause to be amended the certificate of valuation on each declaration of the property in respect to which the complaint is made. By order signed by the members of the board, or a majority thereof, and transmitted to the provincial treasurer, who shall amend the tax-list declaration in conformity with said order. Said board shall also meet in December of each year for such number of board-meetings as may be necessary and shall—

"(a) Act on the recommendations of the municipal boards of assessors made in accordance with subsections (d), (e), (f), and (j) of section sixty-three hereof, as amended, and by order direct the provincial treasurer to change the records to conform to its action.

"(b) Revise and correct, with the approval of the Executive Secretary first had, any and all erroneous or unjust assessments and valuations for taxation, and make a correct and just assessment, and state the true valuation in Philippine currency, in each case where it decides that the assessment stated in the certificate on the declaration is erroneous or unjust. The certificates on the declarations when so corrected shall be as lawful and valid for all purposes as though the assessment had been made within the time herein prescribed. Such reassessment and revaluation shall be made on due notice to the individual concerned and to the municipal council of the municipality in which the real property to be reassessed or revalued is situated, and the representatives of the municipal council and all other persons interested shall be entitled to be heard by the board of tax appeals before any reassessment or revaluation is made. Any interested person, or official, dissatisfied with the action of the provincial board of tax appeals may appeal to the Executive Secretary, whose decision shall be final. The Executive Secretary may also, by direction of the Governor-General, make such revision or revaluation as in his opinion the circumstances justify."

SEC. 11. Section sixty-three of said Act is hereby amended to read as follows:

"SEC. 63. The board of assessors shall meet in November of each year, after ten days' notice posted at the main entrance of the municipal building and in a public and conspicuous place in each barrio, for such number of days as may be necessary and shall—

"(a) Assess the value of all improvements placed upon real property during the preceding year.

"(b) Reduce the assessment against any taxpayer whose improvements, already assessed, have been destroyed during the preceding year.

"(c) Declare, or have declared, and assess the value of real property which has not theretofore been declared.

"(d) Recommend to the provincial board of tax appeals the reduction in value of any real property already assessed which shall have suffered a permanent loss of value by reason of storm, flood, or other casualty during the preceding year.

"(e) Recommend to the provincial board, of tax appeals, in case more than one declaration has been made of the same property the cancellation, with the approval of the declarants, of all declarations but the one properly

made: Provided, That if any declarant shall object to the cancelation of his declaration such declaration shall not be canceled, but shall have the facts noted on its margin, and similar notation shall also be made on the margin of the duplicate declaration.

"(f) Recommend to the provincial board of tax appeals, in the case of real property properly declared which has changed ownership, the cancelation of the declaration in the name of the original owner and the substitution therefor of a new declaration in the name of the new owner: Provided, That no such change shall be made except upon the written consent of both parties concerned, or their legal representatives.

"(g) Recommend to the provincial board of tax appeals the removal from the taxable list of such property included therein as is exempt by law."

SEC. 12. Subsection (b) of section sixty-five of said Act is hereby amended to read as follows:

"(b) All licenses and privilege taxes shall terminate on the thirty-first of December of each year, and anyone beginning a business or exercising a privilege upon which a tax is levied by the council after the thirty-first of December shall be required, before beginning such business or exercising such privilege, to pay the license or tax for the quarters of the year which remain, to and including the thirty-first of December following. But all licenses and privilege taxes may be paid in quarterly installments without penalty during the first ten days of the quarter, at the election of the licensee: Provided, That the provisions of this subsection shall not be effective until July first, nineteen hundred and eight, and that the licenses and privilege taxes due for the month of June, nineteen hundred and eight, shall lie payable, without penalty, during the first ten days of the following July."

SEC. 13. Section sixty-five of said Act is hereby further amended by adding a new subsection to be designated (d) and to read as follows:

"(d) The cart and sledge tax imposed by subsection (j) of section forty-three hereof shall be due and payable in one annual payment on or before, the tenth day of January of each year for that calendar year: Provided, That new carts or sledges which shall be acquired during the calendar year shall be liable for the whole year's tax, but shall be exempt from the payment of the delinquent penalty for that year: And provided, further, That the proportionate part of the tax for the period from June first to December thirty-first, nineteen hundred and eight, shall be paid in one installment, and if paid during the first ten days in June the penalty shall attach."

SEC. 14. Section sixty-nine of said Act is hereby amended to read as follows:

"SEC. 69. No taxes, imposts, or other revenues of the municipality shall be leased or farmed except as provided in Act Numbered Sixteen hundred and thirty-four. All imposts, taxes, revenues, fines, penalties, rents, debts due the municipality, license and privilege fees, and money or funds payable to the municipality for any reason or from any source whatsoever shall be collected and received by the provincial treasurer or his authorized deputies: Provided, That when the municipal treasurer is also a deputy of the provincial treasurer all such collections shall be made by him as such deputy: And provided further, That when the municipal treasurer is not a deputy of the provincial treasurer he may as such municipal treasurer make such collections as are in this Act specifically provided."

SEC. 15. Section seventy-four of said Act is hereby amended to read as follows:

"SEC. 74. The Governor-General shall, by executive order, upon recommendation of the provincial board, fix a term of three months in each year within which land taxes due the municipalities of the province shall be payable. Such executive order shall be issued before the thirty-first day of December of each year and at least three months before the beginning of the term during which such taxes shall be collected: Provided, That in case no action is taken by the provincial board and by the Governor-General the date fixed for the preceding year shall be held to be the date upon which the taxes shall be collected "for the ensuing year. After such term is so fixed the provincial treasurer shall select a period of not less than one nor more than three weeks during such term, within which said taxes shall be payable at the office of the provincial treasurer in the

municipality, and such treasurer, or his deputy, shall attend and in present at said office during the usual office hours of each week during such period, exclusive of legal holidays, to receive payment of such taxes. The provincial treasurer shall fix the time of collection in the municipality with a view to economy in the administration and discharge of his duties and the convenience of the taxpayers of the municipality: Provided, That in municipalities in which the municipal treasurer is a deputy of the provincial treasurer the collection period for each year shall cover the entire three months ending the day before the tax becomes delinquent. Notice of the date during which said taxes may be paid in each municipality shall lie posted by the provincial treasurer at the main entrance of the provincial building and of all municipal buildings and in a public and conspicuous place in each barrio. Failure to pay the said taxes within the period specified shall subject the delinquent taxpayer to a penalty of twenty per centum of the amount of the original tax due, if paid within the first six months of delinquency, and a penalty of forty per centum of the original tax the if paid thereafter, to be collected at the same time and in the same manner as the original tax, and the notice shall so state. The penalty shall be accounted for by the collecting officer in the same manner as the tax."

SEC. 16. Section seventy-five of said Act is hereby amended to read as follows :

"SEC. 75. Fifteen days after the tax shall become delinquent the provincial treasurer, or his deputy, shall prepare and sign a certified copy of the records of his office, showing the persons delinquent in payment of their taxes and the amounts of tax and penalty by due from each of them. He may proceed at once to efficient amount of the personal property of each delinquent. Her due advertisement by notice stating the time, place, and the sale, posted for ten days at the main entrance of the pal building and at a public and conspicuous place in the where the property was seized, unless redeemed as hereinafter provided, for sell at public auction, either at the main entrance of the municipal building or at the place where such property is seized, in his discretion, so much of the same as shall satisfy the tax penalty, and costs of the seizure and sale, to the highest bidder. The certified copy of the provincial treasurer's record of delinquents shall be the warrant for his proceedings, and the purchaser at such sale shall acquire an indefeasible title to the property sold.

"As soon as possible after the sale the provincial treasurer, or his deputy, shall make return of his proceedings and spread it upon his records. Any surplus resulting from the sale, over and above the tax, penalty, and costs, shall be returned to the delinquent taxpayer."

SEC. 17. Section seventy-seven of said Act is hereby amended to read as follows:

"SEC. 77. Taxes and penalties assessed against realty shall be a lien thereon, which shall be superior to all other liens, mortgages, or incumbrances of any kind whatsoever; shall be enforceable against the property whether in the possession of the delinquent or any subsequent owner, and which can only be removed by the payment of the taxes, penalties, and costs. Said lien shall attach to the real property from the first day of January of the year in which the taxes were due."

SEC. 18. Section seventy-eight of said Act is hereby amended to read as follows:

"SEC. 78. Each person delinquent in the payment of real property taxes, and all persons known to have liens thereon or to be tenants thereon, shall immediately be notified of the delinquency by the provincial treasurer by a notice deposited in the post-office, postage prepaid, and addressed to him at his last-known place of residence, or to the municipality and barrio in which his delinquent property is situated. Such notice shall clearly state the amount of taxes due and the penalty which will be added if payment is made within six months from delinquency and the penalty which will be added if payment is made thereafter, together with a statement that at the expiration of one year from the date of delinquency, unless the tax and penalties be sooner paid or the tax shall have been judicially set aside, the delinquent real property will be forfeited and sacheat to the Government of the Philippine Islands, and that he will be dispossessed of such property and all occupants and tenants thereon will be ejected, and thereafter the full title thereto will be and remain in the said Government."

SEC. 19. Section seventy-nine of said Act is hereby amended to read as follows:

"SEC. 79. After the expiration of one year from the date the delinquency began, the provincial treasurer, or his deputy, shall issue to the municipal president his certificate describing the parcel of land upon which said taxes are delinquent, stating the date upon which and the persons to whom the notice required by the preceding section was sent and the amount of the taxes, penalties, and costs due thereon, and requiring him to eject therefrom all tenants or occupants thereof. Such president shall immediately cause the tenants or occupants thereof to be ejected and kept therefrom by the municipal police, and to that end may employ such force as redemption period, may be necessary. Within ninety days after ejectment the owner or his legal representative or any person having a lien on said property or a lease thereof may satisfy said taxes, penalties, and costs and redeem said property by paying the amount thereof then due, and such payment shall constitute a lien upon the property and such person shall be entitled to recover from the original owner the amount so paid by him, or he may retain the same from any rent due or owing from him to such person for the real property on which such taxes were paid. Such redemption shall operate to relieve said property from the lien of said tax and to divest the Government of its title to the same. In case such redemption be not made within the time above specified the Government of the Philippine Islands shall have an absolute, indefeasible title to said real property. Upon the expiration of the said ninety days, if redemption be not made, the provincial treasurer shall immediately notify the Director of Lands of the forfeiture and furnish him with a description of the property, and said Director of Lands shall have full control and custody thereof to lease or sell the same or any portion thereof in the same manner as other public lands are leased or sold : Provided, That the original owner, or his legal representative, shall have the right to repurchase the entire amount sale of his said real property, at any time before a sale or contract of sale has been made by the Director of Lands to a third party, by paying therefor the whole sum due thereon at the time of ejectment together with a penalty of ten per centum. The gross proceeds of such sale shall be divided equally between the Bureau of Lands and the governments of the province and municipality in which the real property is situated. All deeds, certificates, blanks, and forms, except those pertaining to accounting, shall be prescribed by the Executive Secretary."

SEC. 20. Section eighty-five of said Act is hereby amended to read as follows :

"SEC. 85. No court shall entertain any suit assailing the validity of a forfeiture under this Act until the taxpayer shall have paid into court the amount due thereon, together with the penalties and costs. If he fail in his action he may elect to receive back his deposit or to treat it as a payment of taxes, penalties, and costs as of the date of deposit and to have possession of the land restored to him."

SEC. 21. Subsection (g) of section twenty-two, and sections forty-eight, eighty-one, eighty-two, and eighty-six of said Act are hereby repealed.

SEC. 22. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 23. This Act shall take effect on its passage, except sections twelve and thirteen, which shall take effect as therein provided.

Enacted, October 12, 1907.

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