

FISHING LAKE METIS SETTLEMENT IN THE PROVINCE OF ALBERTA

**ACCOUNT RECEIVABLE'S COLLECTION BYLAW NO.
2005-0156**

**A BYLAW TO AUTHORIZE THE COUNCIL TO IMPOSE
PROVISIONS FOR THE COLLECTION AND ADMINISTRATION
OF SETTLEMENT AND SETTLEMENT ENTITY, ACCOUNT
RECEIVABLE'S.**

WHEREAS The Metis Settlements Act, c M14.3, section 51 & schedule 1, sec. 21 (1)(g) &(h), enables and provides a framework for the administration and collection of settlement accounts receivable.

NOW THEREFORE The member's and council of the Fishing Lake Metis Settlement enact as follows:

PART 1 - CONTEXT

1.1 Definitions

In this bylaw,

"Act" means the Metis Settlements Act;

"Council" means the elected Council of the Fishing Lake Metis Settlement;

"Account Receivable" means all fees, dues, charges or levies, charged in accordance with this bylaw, other Settlement Bylaws, Settlement Policy, General Council Policy and all other debts or monies owed to the Fishing Lake Metis Settlement.

"Account Receivable Clerk" means the person appointed by Council as responsible for the administration of this bylaw;

Financial year means the financial year of the Settlement Fund as defined in section 153 of the Act;

and terms defined in the Act, or regulations made under it, settlement bylaw have the same meaning when used in this bylaw, unless the context makes such an interpretation unreasonable. Any inconsistencies in definition between settlement bylaws, the definition in this bylaw, when applicable to this bylaw shall apply.

1.2 Footnotes

The Footnotes in this bylaw are part of the bylaw and are included for interpretation.

1.3 Delegation

Words in this bylaw that direct or empower the Settlement Council to do something also apply to anyone the Council has appointed to act on behalf of it in the matter.

PART 2 - COLLECTION ADMINISTRATION

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2.1 Interpretation

In this Part, a reference to a debt or receivable of any kind includes penalties, interest and costs.

2.2 Appointment of a Settlement Accounts Receivable Clerk

- (1) The Settlement Council may appoint a Settlement Accounts Receivable Clerk.¹
- (1) The Settlement Accounts Receivable Clerk is responsible for the administration of all matters having to do with this bylaw, including;
 - (a) notices;
 - (b) preparation of bills;
 - (c) issuing receipts and certificates;
 - (d) reviewing and referring requests for a review of a receivable if a Settlement Receivable Review Panel has been appointed under section 2.6 of this bylaw;
 - (e) reporting to Settlement Council;
 - (f) collection.

2.3 When Payment Due

¹ This Clerk may be a person who occupies another office, such as Settlement Finance or Administration. The Settlement may give the receivable's person any name it chooses.

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- (1) Receivables are due and payable at the times specified in the payment arrangements.
- (2) The filing of an appeal or request for review of a receivable does not affect the requirement that the receivable be paid in full, and if it is not paid in full the settlement may proceed with enforcement.
- (3) When a person is entitle to a refund as a result of an appeal or request for review, the settlement must pay the person interest on the amount of the refund at the rate specified in the Judicature Act..

2.4 Collection of Receivables

- (1) If a receivable has not been paid 30 days after the date it is due, a notice of arrears must be mailed to the debtor.
- (2) The notice of arrears will state that if the receivable is not paid within 30 days of the date of mailing of the notice, collection procedures may be taken.
- (3) If the Settlement Council has established a Settlement Receivables Review Panel under section 2.6 of this bylaw and the receivable in question is eligible for review by a Panel, the notice of arrears must state that if the person claims to be unable to pay the receivable, the person may request, within the time period specified in the notice, a review of the receivable by the panel.
- (4) If by the end of the 30 day period provided for in (2)
 - (a) the receivable is not paid, and
 - (b) Settlement Council has not approved relief measures
 - (c) Settlement Council may direct the Settlement Accounts Receivable to take collection procedures.
- (5) The collection procedure that Settlement Council may direct are one or more of the following;

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- (a) suspending provision of a service, assistance or thing until the receivable in respect of it is paid;
 - (b) withholding any sum payable by the settlement to a person, or person owned company/business and applying it to the receivable;
 - (c) distress of goods and chattels of the debtor owing the receivable wherever they may be found;
 - (d) a court action for debt;
 - (e) action under a General Council Policy.²
- (6) Where a collection procedure fails to result in payment of the receivable, the settlement council may direct the Accounts Receivable Clerk to take another procedure, unless in the view of the settlement council it would be impractical to do so.
- (7) The settlement council may grant any relief measure respecting the collection of a receivable before or after collection proceedings have started and whether or not the matter has been considered by a review panel.
- (8) The settlement council may delegate to the settlement Accounts Receivable Clerk the authority to
- (a) take certain collection procedure in respect of certain kinds of receivables, or
 - (b) consider and grant certain or any relief measures respecting collections.

2.5 Collection by Third Parties

²For example, the Land Policy provides that a settlement council can withhold applications for land interests or conversions to Metis Title if the applicant has overdue debts to the settlement.

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The settlement council may sell or assign to any person the right, title and in any account receivable or indebtedness relating to debts owed.

2.6 Settlement Accounts Receivable Review Panel

- (7) The settlement council may appoint a Settlement Accounts Receivable Review Panel from amongst resident settlement members or existing staff member's to hear requests for a review of an accounts receivable account and report to council with recommendation.
- (8) If a Panel has been appointed under 1)
 - (1) the settlement council may specify one or more types of receivables or classes of receivables as eligible for review by a Panel and
 - (2) a person may request a review by the Panel of any eligible account receivable as it applies to that person but only if
 - (a) the request is made within the time period specified in the notice of arrears provided for in section 2.4 (2), and
 - (b) the person authorizes release of any information relevant to the review from employers, government agencies and other sources.
- (9) Requests for review by a Panel are received by the settlement Accounts Receivable Clerk and may be made in any form. A Panel's review and consideration of requests will be carried out in an informal manner.
- (10) Within 15 days of receiving a request, a Panel will report in confidence to settlement council with a recommendation that may include one or a combination of the following relief measures;
 - (a) suspension of collection procedures for a period of time;
 - (b) payment of the arrears over a period of time;

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- (c) payment of the arrears in goods or labor;
 - (d) provide exemptions of the charges in whole or in part, due to special circumstances, such as age, income level, medical state.
- (5) After considering the report and recommendation of the Panel, a settlement council may approve any relief measure whether or not recommended by the Panel or may direct that collection procedure be taken.
- (6) If a person fails to comply with an arrangement for payment called for in a relief measure, settlement council may direct collection procedure under subsection 2.4 (d), 10 days after the default has occurred.

PART 3 - GENERAL

3.1 Offences and Penalties

A person commits an offence who

- (1) although able to do so, fails or refuses to give information required to be given by this bylaw, or intentionally gives false information;
- (2) intentionally makes a false record of any kind;
- (3) intentionally does or omits to do something which results in an accounts receivable not being charged/imposed on a person.

and is liable on summary conviction to a fine not exceeding \$2,500.00 and in default of payment to imprisonment for not more than 6 months.

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3.2 Proof of Documents and Service

- (1) A copy of any register or other record, or part of it, by which the settlement records the names of persons liable for a debt and the service, assistance or thing in respect of which a fee/charge/repayment is imposed, and any notice required to be given of the debt shall be certified as a true copy by the settlement Accounts Receivable Clerk, the Settlement Administrator or other officer of the settlement is evidence of the existence and validity of the register or other record or notice.
- (2) A statutory declaration by the settlement account receivable clerk, the settlement administrator or other officer of a settlement is sufficient evidence that a notice was served or mailed on the date stated in the declaration.

3.3 Validity of actions despite errors

- (1) Nothing done under this bylaw is invalidated, nor is the liability of anyone to pay a debt affected by
 - (a) an error or omission in any register or other record by which a settlement records the names of a person liable and the service, assistance or thing in respect of which a charge/fee/repayment is imposed, or in a notice required to be given of the receivable;
 - (b) an error or omission in any other notice;
 - (c) a failure to give or receive a notice, or
 - (d) a failure to do something within the required time.
- (2) Subsection (1) is not to be interpreted in such a way as to deny to anyone a reasonable opportunity to request a review of an account receivable by a review panel if one has been appointed.

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3.4 Protection of Officials

The Settlement Accounts Receivable Clerk, members of a review panel, members of settlement council, and settlement staff are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty, or function under this bylaw .

3.5 Limitation of Actions

No action or other proceedings for the return of money paid to a settlement, whether under protest or otherwise, on account of a demand for a debt, may be commenced after 10 days have passed since the payment was made , and the payment is deemed to have been made voluntarily.

3.6 Appeals

Any person directly affected by an action contrary to this bylaw may, regarding unfairness in how the receivable processed or applied to a person, within 30 days of the action and no later, refer the matter to the Metis Settlements Appeal Tribunal and if the Tribunal determines that the action contravenes this bylaw it may direct remedial action as provided for in the Act.

3.7 Effective Date

This bylaw comes into effect the day after it is given third reading.

READ a first time this 6th day of December, 2005 at a Council meeting in Fishing Lake Metis Settlement Office at which 3 Council members were present and voted as follows;

3 for 0 against

READ a second time this 6th day of December, 2005 at a Council meeting in Fishing Lake Metis Settlement Office at which 3 Council members were present and voted as follows;

3 for 0 against

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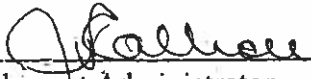
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APPROVED at a Public Secret Ballot Vote on 13th day of April, 2006 in Fishing Lake Metis Settlement at which 60 members cast ballots and voted as follows;

46 for 12 against

READ a third time this 18th day of April 2006 at a Council meeting in Fishing Lake Metis Settlement Office at which 4 (four) Council members were present and voted as follows;

3 for 0 against



Settlement Administrator
Jeannette Calliou

(SEALED)



Settlement Chairperson