



## CHAPTER 49

### An Act respecting farm-loan insurance and forestry-loan insurance

[Assented to 8 June 1978]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

#### DIVISION I

#### DEFINITIONS

- Interpretation: **1.** In this act, unless the context indicates a different meaning,
- “Fonds”; (a) “Fonds” means the Fonds d’assurance-prêts agricoles et forestiers established by section 2;
- “Office”; (b) “Office” means the Office du crédit agricole du Québec established under the Farm Credit Act (Revised Statutes, 1964, chapter 108);
- “farm loan”; (c) “farm loan” means a loan granted under the Act to promote long term farm credit by private institutions (1978, chapter 50), the Farm Credit Act, the Farm Improvement Act (Revised Statutes, 1964, chapter 109), the Act to promote credit to farm producers (1972, chapter 38) or the Act to promote special credit to agricultural producers during critical periods (1972, chapter 39);
- “forestry loan”; (d) “forestry loan” means a loan granted under the Forestry Credit Act (1975, chapter 33);
- “lender”; (e) “lender” means any person who grants a farm loan or a forestry loan;
- “regulation”. (f) “regulation” means a regulation made by the Government under this act.

## DIVISION II

## ESTABLISHMENT AND POWERS OF THE FONDS

**2.** A fund called the “Fonds d’assurance-prêts agricoles et forestiers” is established by this act.

**3.** The Fonds is a corporation within the meaning of the Civil Code and has the general powers of such a corporation, and such special powers as are assigned to it by this act.

**4.** Subject to section 25, the Fonds guarantees to a lender the repayment of losses in principal and interest resulting from a farm loan or a forestry loan granted from the coming into force of this act, and of expenses allowable by regulation that are incurred by the lender to protect his securities or to claim or obtain from the debtor in default the sums owing to him or that have become payable on the loan.

For the purposes of this Act, the losses in principal and interest contemplated in the first paragraph include

(a) the unpaid amount in principal of the loan in the absence of security for the latter, or the amount of the net loss in principal sustained by a lender following realization upon his moveable and immoveable securities; or

(b) the amount, computed in the manner provided by regulation, of the net loss in principal sustained by a lender following the disposition by him, by onerous title, of the immoveable having secured a loan, the ownership of which was acquired by the lender by way of a giving in payment; and

(c) the uncollected interest accrued, to the date of authorization of payment of the loss by the Fonds, on any amount contemplated in subparagraph *a* or *b* and, if the borrower has so undertaken under the terms of the document evidencing the loan, on any unpaid amount or payment of interest and on any sum disbursed by the lender for the preservation, protection and recovery of his debt, at the rate stipulated in the said document and, as the case may be, adjustable in the manner provided for therein.

The Office may, with respect to a farm loan or a forestry loan granted by a lender other than the Office, refuse or cancel the right to the insurance contemplated in the first paragraph, when such lender fails to comply with the act under which such loan is granted or with the regulations respecting the said act.

**5.** In the cases and in accordance with the rates, terms and conditions determined by regulation, an insurance charge is payable by the borrower in respect of a loan contemplated in section 4, out of the proceeds of the loan, on its disbursement.

Mandatory  
of Govern-  
ment.

**6.** The Fonds shall have the rights and privileges of a mandatory of the Government.

Assets of  
the Fonds.

The amounts paid into the Fonds under sections 5, 19, 20 and 22 and the revenues they produce form part of the assets of the Fonds.

Public  
domain.

The property of the Fonds forms part of the public domain, but the performance of its obligations may be levied against its property.

Liability.

The Fonds binds none but itself when it acts in its own name.

Board of  
directors.

**7.** The Fonds is administered by a board of directors composed of five members (*régisseurs*) of the Office. Each member of such board shall remain in office in that capacity for such period as he remains a member (*régisseur*) of the Office.

Chairman,  
etc., of the  
Office.

**8.** The chairman, the vice-chairman and the secretary of the Office are respectively the chairman, the vice-chairman and the secretary of the board of directors of the Fonds.

Chairman  
absent, etc.

If the chairman is absent or unable to act, he shall be replaced by the vice-chairman, who shall then exercise his powers and functions.

Head  
office.

**9.** The Fonds has its head office at the same place as the Office.

Meetings.

The board of directors of the Fonds shall hold its meetings at its head office or at any other place it may choose.

Quorum.

Two members constitute a quorum.

Casting  
vote.

In the case of a tie-vote, the chairman or, in the case contemplated in the second paragraph of section 8, the vice-chairman has a casting vote.

Minutes.

**10.** The minutes of the meetings of the board of directors, certified by the secretary or by any person authorized to do so under the terms of a resolution or an internal management by-law, are authentic; the same rule applies to documents and copies emanating from the Fonds or forming part of its records.

Immunity.

**11.** The members of the board of directors and the officers and employees of the Fonds cannot be sued for official acts done in good faith in the exercise of their functions.

Officers,  
etc., of the  
Fonds.

**12.** The officers and employees of the Fonds are appointed and remunerated in accordance with the Civil Service Act (1965, 1st session, chapter 14).

Deputy-head of a department. The chairman of the Office shall exercise in that respect the powers vested by the said act in the deputy-head of a department.

Recourse prohibited. **13.** No extraordinary recourse provided for in articles 834 to 850 of the Code of Civil Procedure may be exercised nor any injunction granted against the Fonds or against the members of its board of directors acting in their official capacity.

Writ, etc., annulled. **14.** Two judges of the Court of Appeal may, upon motion, annul summarily any writ, order or injunction issued or granted contrary to section 13.

Fiscal year. **15.** The fiscal year of the Fonds ends on the last day of March each year.

Agreements. **16.** The Fonds may, in conformity with the law and with the authorization of the Government, make any agreement with any government or body and with any person, association, partnership or corporation, to facilitate the carrying out of this act.

### DIVISION III

#### OPERATION OF THE FONDS

Claim for repayment. **17.** Where a lender other than the Office sustains a loss with respect to a farm loan or a forestry loan, he may, provided that he complies with the conditions prescribed by regulation, file with the Office a claim for repayment by the Fonds of the losses and expenses contemplated in section 4, and the Fonds, upon the recommendation of the Office, shall make payment thereof.

Merits. Before making the recommendation contemplated in the first paragraph, the Office shall examine the said claim and assess its merits.

Payment and subrogation. Notwithstanding any inconsistent legislative provision and subject to section 19, where the Fonds makes a payment in accordance with the first paragraph, the Office is subrogated *pleno jure* in the rights of the lender to whom such payment is made, up to the amount of such payment.

Request for repayment by the Office. **18.** Where the Office sustains a loss, with respect to a farm loan or a forestry loan which it has granted or for which it has been subrogated in the rights of the lender in conformity with section 17, or following the disposition of an immoveable having secured a loan granted by a lender other than the Office, of which the Office acquired ownership either at a sheriff's sale or directly from the said lender, the Fonds shall, at the request of the Office, repay to the Office the amount of the losses and expenses contemplated in section 4.

Subroga-  
tion  
excluded.

Notwithstanding any inconsistent legislative provision and subject to section 19, the repayment contemplated in the first paragraph does not constitute a subrogation in favour of the Fonds.

Sums re-  
covered  
paid into  
the Fonds.

**19.** Subject to the second paragraph, the sums recovered by the Office relating to a loan for which the Fonds has paid a claim made in conformity with sections 17 and 18 must be paid into the Fonds as they are recovered.

Sums with-  
held.

Out of the sums contemplated in the first paragraph, the Office shall withhold the sums it must remit to any working-capital fund, up to such amount as it has drawn on that working-capital fund and has used to protect any debt in respect of which it has been subrogated in the rights of the lender under the third paragraph of section 17.

Immove-  
able  
acquired  
by a giving  
in  
payment.

Where a lender acquires, by a giving in payment, an immoveable securing a loan following the default of the borrower or of the debtor of the lender, any amount by which the net revenue earned or deficit incurred by the lender in connection with such immoveable during the time he remains the owner thereof, increased by the sale price of that immoveable where he disposes of it or, as the case may be, decreased by the said price, whatever the mode of payment, exceeds the total of the sums owing to him on the loan in principal, interest, costs and accessory expenses at the time of the said acquisition, the expenses allowable by regulation and the interest accrued on the said sums and expenses, at a rate not exceeding that fixed for the said loan and adjustable as prescribed in the deed evidencing such loan, must be paid into the Fonds.

#### DIVISION IV

##### FINANCIAL PROVISIONS

Endow-  
ment  
estab-  
lished.

Payment  
by Ministre  
des  
finances.

**20.** An endowment of ten million dollars is established in favour of the Fonds by this act.

The Ministre des finances may pay to the Fonds, out of the consolidated revenue fund, the amount contemplated in the first paragraph, in three annual, equal and consecutive instalments, the first of which is made on the date of the coming into force of this act.

Deposit of  
sums paid  
into the  
Fonds.

**21.** The sums paid into the Fonds under sections 5 and 19 for which it foresees no need on a short term basis for the payment of its obligations resulting from section 4 and those paid into it under section 20 shall be deposited without delay with the Caisse de dépôt et placement du Québec.

Insuffi-  
cient  
revenues.

**22.** The sums necessary for the payment of the obligations of the Fonds pursuant to the first paragraph of section 4 shall be paid out of the revenues deriving from the sums paid to it under sections 5, 19 and 20 and in addition, if such revenues are insufficient, out of any portion of the capital of the Fonds in excess of ten million dollars. Where such revenues are insufficient to make such payment in full and the said excess is inadequate to meet the whole or a part of that insufficiency, the Ministre des Finances, at the request of the Fonds, may pay to it, out of the consolidated revenue fund, the sums required to make up such payment.

Fiscal year  
1978/79.

**23.** Subject to sections 20 and 22, the expenses for the application of this act are paid, for the fiscal year 1978/1979, out of the consolidated revenue fund and for subsequent fiscal years, out of the moneys voted each year by the Legislature for that purpose.

## DIVISION V

### MISCELLANEOUS AND FINAL PROVISIONS

Regula-  
tions.

**24.** The Government may make any regulation

(a) establishing the cases in which an insurance charge is payable in connection with a loan and determine the rate and the terms and conditions of payment;

(b) determining the expenses the repayment of which is guaranteed by section 4 and the mode of computation of the net loss contemplated in the said section and prescribing the conditions with which a lender other than the Office must comply to file with the latter a claim under section 17;

(c) prescribing the documents, reports and information to be filed with the Office or the Fonds and the delay for their production; and

(d) generally prescribing any other measure necessary or advisable for the carrying out and proper operation of this act.

Coming  
into force.

Every regulation made under this act comes into force from its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Presump-  
tion.

**25.** Notwithstanding the fact that the lender gave his approval to the granting of a farm loan or forestry loan before the coming into force of this act, such loan is, for the purposes of this act, deemed to be granted from the said date if the deed of loan, the note or the evidence of indebtedness evidencing the loan or, in the case of a credit opening granted under section 3a of the Act to promote credit to farm producers, the note or the evidence of

indebtedness evidencing the first advance granted to the borrower, is signed on or after the date of the coming into force of this act.

Provisions  
not appli-  
cable.

**26.** For the purposes of this act, the Fonds, the members of its board of directors and its officers and employees are not subject to the Act respecting insurance (1974, chapter 70).

No addi-  
tional  
salary.

**27.** The members (*régisseurs*) and the secretary of the Office and the officers and employees thereof who may be called upon to provide services to the Fonds are not entitled to any additional salary.

Annual  
report.

**28.** Not later than 30 June each year, the Fonds shall submit to the Ministre de l'agriculture a report of its administration of this act for the previous fiscal year. Such report must be detailed and contain all the information required by the Minister.

Tabling.

The Minister shall table such report before the Assemblée nationale if he receives it during a session; if not, or if he receives it after an adjournment, he shall table it within thirty days after the opening of the next session or after resumption.

Informa-  
tion.

Furthermore, the Fonds shall at all times furnish to the Ministre de l'agriculture any information required by him on its activities under this act.

Audit.

The books and accounts of the Fonds for the administration of this act shall be audited by the Vérificateur général.

R.S.,  
c. 109,  
s. 15,  
am.

**29.** Section 15 of the Farm Improvement Act (Revised Statutes, 1964, chapter 109), amended by section 10 of chapter 40 of the statutes of 1965 (1st session), is again amended by replacing the word and figure "section 17" in the last line by the words and figure "the first paragraph of section 17 or, as the case may be, by the guarantee contemplated in the third paragraph of the same section".

Id., tit. of  
Div. V, am.

**30.** The title of Division V of the said act is amended by adding the words "OR GUARANTEE BY THE FONDS D'ASSURANCE-PRÊTS AGRICOLES ET FORESTIERS".

Id., s. 17,  
replaced.

**31.** Section 17 of the said act, replaced by section 11 of chapter 40 of the statutes of 1965 (1st session) and amended by section 11 of chapter 43 of the statutes of 1969 and by section 12 of chapter 35 of the statutes of 1975, is replaced by the following:

Guarantee  
by Govern-  
ment.

**17.** The Government of the Province shall guarantee to the lender the repayment of losses in capital and interest, and the expenses allowable by regulation that are incurred to claim or

obtain the payment thereof, resulting from loans contemplated by this act and sustained by

(a) any bank, up to ten per cent of the total amount of such loans made by such bank;

(b) any credit union not affiliated with a federation, up to ten per cent of the total amount of such loans made by such union;

(c) any credit union affiliated with a federation, up to ten per cent of the total amount of such loans made by credit unions affiliated with such federation.

Applica-  
bility.

The guarantee contemplated in the first paragraph applies only to loans contracted before 1 August 1978.

Guarantee  
by Fonds.

The Fonds d'assurance-prêts agricoles et forestiers established under the Act respecting farm-loan insurance and forestry-loan insurance (1978, chapter 49) guarantees to the lender, in conformity with that act, the repayment of losses in principal and interest resulting from loans contracted from the date mentioned in the second paragraph, and of the expenses allowable by regulation under the said act that are incurred to claim or obtain the payment thereof.

Subroga-  
tion.

Where the Office du crédit agricole du Québec repays, in the name of the Government, a loss resulting from a loan contracted under this act, it is subrogated in the rights of the lender to whom a repayment is so made, up to the amount of such repayment.

Prior  
consent.

The borrower whose default entails the repayment contemplated in the fourth paragraph or, as the case may be, that contemplated in section 17 of the Act respecting farm-loan insurance and forestry-loan insurance, shall not benefit by another loan without the prior consent of the Office."

R.S.,  
c. 109,  
s. 17a, am.

**32.** Section 17a of the said act, enacted by section 12 of chapter 43 of the statutes of 1969, is amended by replacing the words and figure "the government repays a loss under section 17" in the first and second lines by the words and figure "a loss is repaid by the Government under section 17 or, as the case may be, by the Fonds d'assurance-prêts agricoles et forestiers under the Act respecting farm-loan insurance and forestry-loan insurance".

Id., c. 109,  
s. 19, am.

**33.** Section 19 of the said act is amended by replacing the words "guarantees provided for by this act" in the second line by the words and figure "guarantee provided for in the first paragraph of section 17".

1972, c. 38,  
s. 4,  
replaced.

**34.** Section 4 of the Act to promote credit to farm producers (1972, chapter 38), amended by section 4 of chapter 33 of the statutes of 1974, is replaced by the following section:

Guarantee  
by Govern-  
ment.

**4.** The Government of Québec shall guarantee to the lender the repayment of losses in principal and interest resulting from a loan granted for one or several of the purposes provided in section 5, and of expenses allowable by regulation that are incurred to claim or obtain payment thereof.

Applica-  
bility.

The guarantee contemplated in the first paragraph applies only to loans contracted before 1 August 1978.

Guarantee  
by the  
Fonds.

The Fonds d'assurance-prêts agricoles et forestiers established under the Act respecting farm-loan insurance and forestry-loan insurance (1978, chapter 49) guarantees to the lender, in conformity with that act, the repayment of losses in principal and interest resulting from loans contracted from the date mentioned in the second paragraph, and of the expenses allowable by regulation under the said act that are incurred to claim or obtain the payment thereof.

Applica-  
bility to  
several  
loans.

A lender may benefit by the guarantee provided for in the first paragraph or, as the case may be, the guarantee contemplated in the third paragraph for several loans granted to a single borrower, provided the amount owing in principal on such loans never exceeds the maximum amount provided for in section 3a."

1972, c. 38,  
s. 5, am.

**35.** Section 5 of the said act, amended by section 5 of chapter 33 of the statutes of 1974, is again amended by replacing the word and figure "section 4" in the second line by the words and figure "the first paragraph of section 4 or, as the case may be, the guarantee contemplated in the third paragraph of the said section".

Id., s. 13,  
am.

**36.** Section 13 of the said act, amended by section 10 of chapter 33 of the statutes of 1974, is again amended by replacing the words "the right to the guarantee of the government on such new loan" in the fourth and fifth lines by the words and figure " , with respect to such new loan, the right to the guarantee of the Government provided for in the first paragraph of section 4 or, as the case may be, the guarantee contemplated in the third paragraph of the said section".

Id., s. 16,  
am.

**37.** Section 16 of the said act is amended by replacing the words "such repayment" in the second line of the second paragraph by the words and figure "the repayment contemplated in the first paragraph or, as the case may be, that contemplated in section 17 of the Act respecting farm-loan insurance and forestry-loan insurance."

1972, c. 38,  
s. 18, am.

**38.** Section 18 of the said act is amended by replacing the words “guarantees provided for by this act” in the second line by the words and figure “guarantee provided for in the first paragraph of section 4”.

1972, c. 39,  
s. 6,  
replaced.

**39.** Section 6 of the Act to promote special credit to agricultural producers during critical periods (1972, chapter 39) is replaced by the following section:

Guarantee  
by Govern-  
ment.

**“6.** The Government guarantees to the lender repayment of any loss in principal and interest resulting from a loan and the expenses allowable by regulation incurred to obtain payment in principal and interest of such loans.

Applica-  
bility.

The guarantee contemplated in the first paragraph applies only to loans contracted before 1 August 1978.

Guarantee  
by the  
Fonds.

The Fonds d’assurance-prêts agricoles et forestiers established under the Act respecting farm-loan insurance and forestry-loan insurance (1978, chapter 49) guarantees to the lender, in conformity with that act, the repayment of losses in principal and interest resulting from loans contracted from the date mentioned in the second paragraph, and of the expenses allowable by regulation under the said act that are incurred to claim or obtain the payment thereof.

Subroga-  
tion.

The Office is subrogated in the rights of the lender to whom repayment is made under this section up to the amount so repaid.”

1972, c. 59,  
s. 11, am.

**40.** Section 11 of the said act is amended by replacing the word and figure “section 6” in the second line by the words and figure “the first paragraph of section 6 or, as the case may be, from the guarantee contemplated in the third paragraph of the said section”.

Id., s. 13,  
am.

**41.** Section 13 of the said act is amended:

(a) by replacing the words “the right to the guarantee of the Government on that new loan” in the fourth and fifth lines of the first paragraph by the words and figure “, with respect to that new loan, the right to the guarantee of the Government provided for in the first paragraph of section 6 or, as the case may be, to the guarantee contemplated in the third paragraph of the said section”;

(b) by inserting after the word “Government” in the third line of the second paragraph the words “or, as the case may be, to the guarantee contemplated in the said section,”.

- 1972, c. 39,  
s. 19, am. **42.** Section 19 of the said act is amended by inserting after the word “Government” in the second line the words “or, as the case may be, by the Fonds d’assurance-prêts agricoles et forestiers”.
- Id., s. 25,  
am. **43.** Section 25 of the said act is amended by replacing the words “guarantees contemplated in this act” in the second and third lines by the words and figure “guarantee provided for in the first paragraph of section 6”.
- 1975, c. 33,  
s. 27, am. **44.** Section 27 of the Forestry Credit Act (1975, chapter 33) is amended by replacing the word and figure “section 29” in the ninth line by the words and figure “the first paragraph of section 29 or, as the case may be, by the guarantee contemplated in the third paragraph of the said section”.
- Id., s. 28,  
am. **45.** Section 28 of the said act is amended by replacing the word and figure “section 29” in the thirteenth line by the words and figure “the first paragraph of section 29 or, as the case may be, the guarantee contemplated in the third paragraph of the said section”.
- Id., s. 29,  
replaced. **46.** Section 29 of the said act is replaced by the following:
- Guarantee  
by Govern-  
ment. **“29.** The Government of Québec shall guarantee the lender the reimbursement of losses in principal and interest resulting from a loan contracted under section 13, and of the expenses allowable by regulation that are incurred to obtain payment in principal and interest of such loan.
- Applica-  
bility. The guarantee contemplated in the first paragraph applies only to loans contracted before 1 August 1978.
- Guarantee  
by the  
Fonds. The Fonds d’assurance-prêts agricoles et forestiers established under the Act respecting farm-loan insurance and forestry-loan insurance (1978, chapter 49) guarantees to the lender, in conformity with that act, the repayment of losses in principal and interest resulting from loans contracted before the date mentioned in the second paragraph, and of the expenses allowable by regulation under the said act that are incurred to claim or obtain the payment thereof.
- Applica-  
bility to  
several  
loans. A lender may benefit by the guarantee contemplated in the first paragraph or, as the case may be, by the guarantee contemplated in the third paragraph for several loans contracted under this subdivision by the same borrower, provided that the outstanding principal on such loans at no time exceeds the amounts indicated in section 13, subject to the right of the lender to the same guarantee,

whichever applies, for any additional amount representing the balance of a loan of which payment is assumed by the borrower as heir or legatee.

Subrogation.

Where the Office reimburses a loss on behalf of the Government, it is subrogated in the rights of the lender to whom the reimbursement is so made, up to the amount of such reimbursement.”

1975, c. 33,  
s. 49, am.

**47.** Section 49 of the said act is amended by inserting after the word “in” in the second line the words “the first paragraph of”.

Minister  
responsible.

**48.** The Ministre de l’agriculture is entrusted with the carrying out of this act.

Coming  
into force  
(1 August  
1978, G.O.,  
p. 4329).

**49.** This act will come into force on the date to be fixed by proclamation of the Government, except the sections excluded by such proclamation, which will come into force on any later date to be fixed by proclamation of the Government.