

NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 27

**An Act respecting the Société de
financement agricole and amending
other legislative provisions**

Introduction

**Introduced by
Mr Yvon Picotte
Minister of Agriculture, Fisheries and Food**

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EXPLANATORY NOTES

This bill establishes the Société de financement agricole. The object of this corporation is to foster the economic development of the bio-food sector in Québec by making financing more accessible to primary level farming businesses.

The bill establishes the rules governing the operation of the corporation and the composition of its board of directors.

It gives the corporation the power to grant financial assistance within the scope of programs established by regulation of the Government and various powers for the administration of the programs.

The bill provides, in addition, that the corporation takes the place of the Office du crédit agricole du Québec and, in that capacity, it acquires the rights and powers and assumes the obligations of the Office.

It also provides that loans granted under the Act respecting farm financing, or under Acts it has replaced, continue to be governed by these Acts.

Finally, the bill includes concordance amendments and transitional provisions.

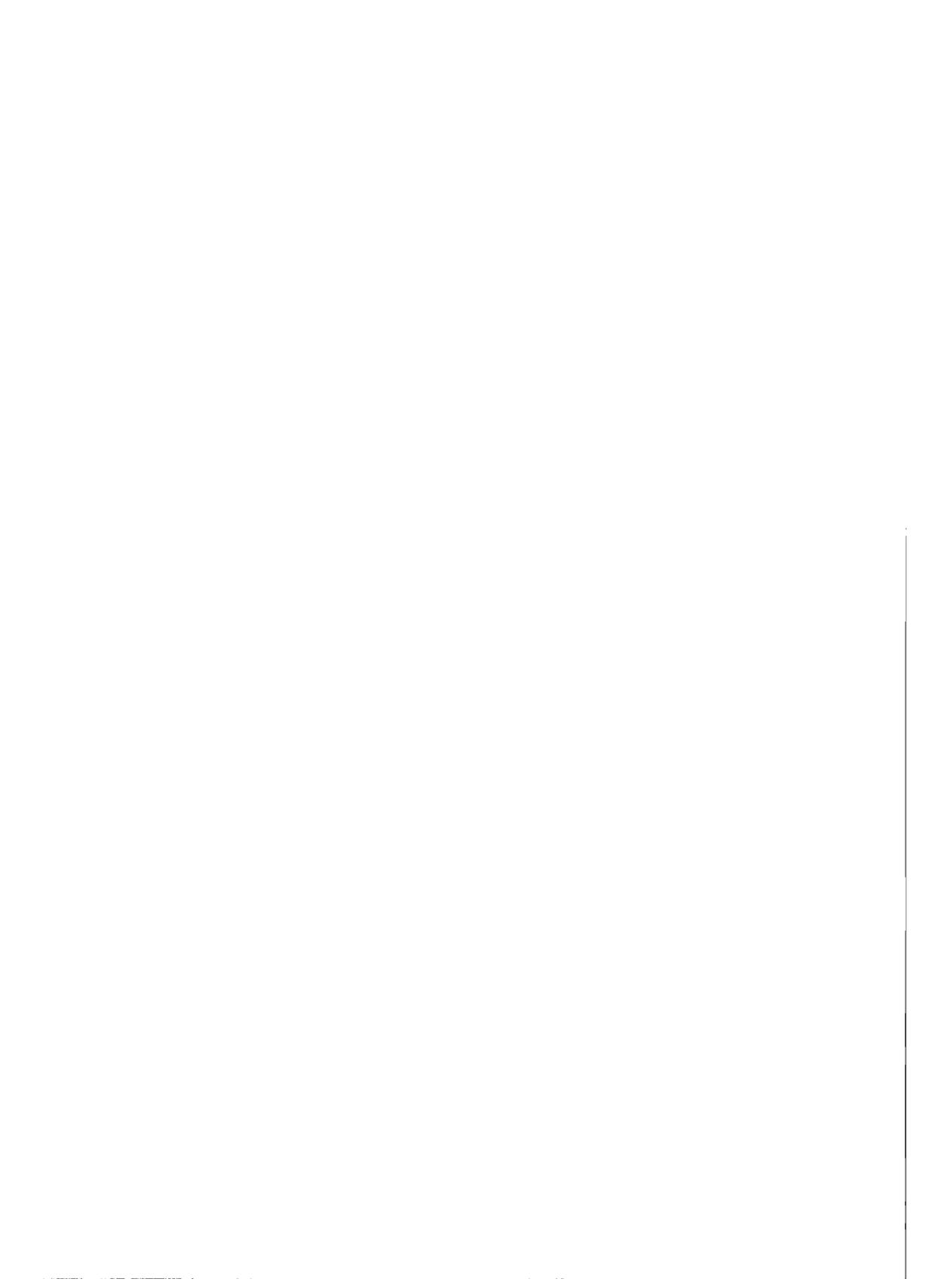
ACTS AMENDED BY THIS BILL:

- Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q., chapter A-29.1);
- Registry Office Act (R.S.Q., chapter B-9);
- Forestry Credit Act (R.S.Q., chapter C-78);
- Act to promote forest credit by private institutions (R.S.Q., chapter C-78.1);

- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- Civil Code.

ACT REPLACED BY THIS BILL:

- Act respecting farm financing (R.S.Q., chapter F-1.2).



Bill 27

An Act respecting the Société de financement agricole and amending other legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT AND ORGANIZATION

1. A corporation is hereby established under the name of “Société de financement agricole”.

2. The corporation is a corporation within the meaning of the Civil Code, and has all the powers of such a corporation in addition to those conferred on it by this Act.

3. The corporation is a mandatary of the Government.

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

The corporation binds only itself when it acts in its own name.

4. The head office of the corporation is in the territory of the Communauté urbaine de Québec at the place determined by the Government. Notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

The corporation shall notify the registrar of each registration division of the publication of the notice. The notice shall have the same effect for each of the immovables hypothecated in favour of the corporation as if it had been given pursuant to the provisions of article

2161*b* of the Civil Code, but the registrar is not required to comply with the prescriptions of article 2161*c* of the Civil Code following such notice.

5. The affairs of the corporation are administered by a board of directors composed of seven members, appointed by the Government.

The Government shall appoint, from among the members, a chairman and vice-chairman of the board of directors who shall act, respectively, as president and vice-president of the corporation.

6. The term of office of the members of the board of directors is of not more than three years with the exception of the chairman and vice-chairman, whose term of office is of not more than five years.

At the expiry of their term, the members remain in office until they are reappointed or replaced.

7. A majority of the members of the board of directors, including the chairman, constitutes a quorum.

If votes are equally divided, the chairman has a casting vote.

8. The president of the corporation is responsible for the administration and management of the corporation and the application of its by-laws and policies.

If the president is absent or is prevented from acting, the vice-president shall perform his duties and exercise his powers.

The president and vice-president hold office on a full-time basis.

9. The Government shall fix the remuneration, social benefits and other conditions of employment of the president and vice-president of the corporation.

The other members of the board of directors are not remunerated except in the cases, on the conditions and to the extent determined by the Government. However, they are entitled to the reimbursement of expenses incurred in performing their duties, on the conditions and to the extent determined by the Government.

10. The president and vice-president may not, on pain of forfeiture of office, have any direct or indirect interest in an enterprise placing their personal interest in conflict with that of the corporation. However, forfeiture is not incurred if such interest devolves to them

by succession or gift, provided they renounce or dispose of it with diligence.

Any other member of the board of directors having an interest in such an enterprise shall, on pain of forfeiture of office, disclose it in writing to the president and abstain from taking part in any debate or decision concerning the enterprise.

11. The secretary and the other employees of the corporation are appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

12. No member of the board of directors or employee of the corporation may be prosecuted by reason of an official act performed in good faith in the exercise of his duties.

CHAPTER II

OBJECT AND POWERS

13. The object of the corporation is to foster the economic development of the bio-food sector in Québec by making financing more accessible to primary level farming businesses.

14. For the attainment of its object, the corporation shall grant financial assistance within the scope of programs established by regulation of the Government. These programs may, in particular, offer the following means:

(1) a loan;

(2) a guarantee of full or partial repayment, with respect to a financial commitment, by the Fonds d'assurance-prêts agricoles et forestiers, established by the Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q., chapter A-29.1);

(3) a subsidy.

The corporation shall also discharge any other function assigned to it by any Act, and shall be responsible for the direction and execution of any program entrusted to it by order of the Government for the purposes determined by the Government.

In that case, in addition to the powers and duties conferred on it by this Act, the corporation also has the powers and duties conferred on it by the other Act or the government order.

15. A financial assistance program established pursuant to sections 14 and 34 may, in particular, foster the establishment of young producers with a view to ensuring the future of primary level farming businesses.

16. The corporation may, in particular,

(1) examine all applications for financial assistance and determine, in accordance with this Act and the programs, the assistance which may be granted to a business and the particular conditions to which the assistance is subject;

(2) subject to paragraph 3 of section 34, and on the conditions it determines, authorize any person to act as lender within the scope of an assistance program;

(3) authorize, on the conditions it determines, a lender to grant a loan;

(4) where a loan is used to consolidate another loan to which a subsidy granted under this Act, the Act respecting farm financing or any Act replaced thereby applies, determine the advantages of that subsidy over the subsidy applicable to the new loan and, where required, transfer such advantages to the new loan;

(5) take, at the expense of the borrower, when the borrower neglects to do so, the measures it judges necessary to ensure the proper maintenance of the property securing a loan or the continued operation of a business;

(6) act as the mandatary of a lender, as plaintiff or defendant, in any judicial proceeding relating to a loan;

(7) act as lender;

(8) acquire, manage, sell, rent or otherwise alienate, in its own name or as mandatary of the lender, any property securing a loan granted under this Act or another Act or connected to a program entrusted to it by the Government;

(9) reimburse a lender for the loans granted to a borrower pursuant to this Act, the Act respecting farm financing or any Act replaced thereby, when the borrower is in default on any such loan.

Where the corporation reimburses a loan under subparagraph 9, it is subrogated in the rights of the lender.

17. For the purposes of this Act, a representative of the corporation may, at any reasonable time or at any time where circumstances so require for the protection of a claim resulting from a loan or to ensure the continued operation of the borrower's business, inspect the property securing the repayment of the claim and, for that purpose, enter or pass on any immovable.

The representative shall, on request, identify himself and produce a certificate of his quality issued by the corporation.

18. The corporation may adopt by-laws relating to the exercise of its functions and powers and to its internal management.

It may, in particular, establish an executive committee and determine the functions and powers thereof.

The by-laws are submitted for the approval of the Government and will come into force on the date of such approval or on any later date that the Government determines. They shall be published in the *Gazette officielle du Québec*.

19. The corporation, in writing and to the extent it indicates, may delegate the exercise of its functions or powers under this Act or any other Act to the executive committee, the chairman, any other member of the board of directors or any employee.

20. The corporation may, according to law, enter into an agreement with a government other than the Government of Québec or one of its departments or with an international organization or an agency of that government or organization with a view to attaining its object.

21. An amount paid as a subsidy within the scope of a financial assistance program under this Act is unseizable.

It is inalienable unless the payment which must be made out of this subsidy has been made.

22. For the purposes of this Act, the corporation may, in addition to the information and documents prescribed by regulation, require a business to disclose any information and produce any document it deems likely to enlighten it as to the advisability of granting or continuing financial assistance to the business.

The business concerned is bound to provide the corporation with any information or document it requires for the purposes of this Act.

23. Every business which obtains financial assistance to which it is not entitled or which uses the proceeds of such assistance for purposes other than those for which it was granted shall forfeit the assistance by operation of law and shall remit the sums received, unless the corporation decides otherwise.

The corporation may, in addition, cancel or suspend all financial assistance if the business to which it was granted no longer meets the conditions for obtaining it or fails to comply with a request of the corporation made pursuant to section 22.

CHAPTER III

DOCUMENTS, ACCOUNTS AND REPORTS

24. No act, document or writing binds the corporation unless it is signed by the chairman, another member of the board of directors, the secretary or a member of its staff but, in this last case, only to the extent determined by by-law or resolution of the corporation or in writing by the chairman.

However, the corporation may, on the conditions it fixes, allow the signature to be replaced by an engraved, lithographed or printed facsimile.

25. The minutes of the sittings of the board of directors, approved by it and certified by the chairman of the board or by any other person authorized to do so by the internal management by-laws of the corporation, are authentic. The documents or copies emanating from the corporation or forming part of its records are authentic if they are certified in the same way.

26. The fiscal year of the corporation ends on 31 March each year.

27. The corporation shall, within three months of the end of its fiscal year, submit its financial statements and the report of its activities for the preceding fiscal year to the Minister; the documents submitted must contain all the information required by the Minister.

The Minister shall table the report and financial statements in the National Assembly within 15 days of receiving them if it is in session or, if it is not sitting, within 15 days of resumption.

28. The books and accounts of the corporation shall be audited each year and whenever the Government so requires by the Auditor

General or, with the approval of the Government, by an auditor appointed by the corporation. The auditor's report must accompany the report of activities and financial statements of the corporation.

CHAPTER IV

FINANCIAL PROVISIONS

[[29. The Government may, on the conditions it determines,

(1) authorize the corporation to borrow sums of money by way of notes, bonds or other securities;

(2) guarantee payment of any sum borrowed by the corporation and any bond thereof;

(3) authorize the Minister of Finance to advance to the corporation any amount deemed necessary to meet its obligations or to perform its duties and exercise its powers;

The sums required for the purposes of subparagraphs 2 and 3 are taken out of the consolidated revenue fund.]]

30. The corporation may secure the execution of obligations arising from its borrowings under subparagraph 1 of the first paragraph of section 29 by the transfer of all or a part of the claims arising from loans which it has granted.

The corporation may, with the written consent of the lender, substitute for any debt so transferred any other debt arising from a loan.

31. The sums received by the corporation are used to meet its obligations and the balance is paid into the consolidated revenue fund at the end of each fiscal year, unless the Government decides otherwise.

32. The corporation may invest, on a short-term basis, the funds put at its disposal under this Act

(1) in securities issued or guaranteed by the government of Canada, of Québec or of another Canadian province;

(2) in securities issued by the municipalities of Québec;

(3) in deposits with a bank or financial institution registered with the Régie de l'assurance-dépôts du Québec, or in certificates, notes

or other short-term securities or instruments issued or guaranteed by a bank or similar institution.

33. The corporation, with the prior authorization of the Government and at the prices and on the conditions determined thereby, may sell all or part of the debts arising from loans it has granted.

The corporation may, with the written consent of the purchaser given at the time of the sale or subsequently, substitute for any debt thus sold any other debt arising from a loan which it has granted.

CHAPTER V

REGULATIONS

34. The Government may, by regulation, prescribe any measure necessary to the application of this Act and, particularly,

(1) establish financial assistance programs designed to further the economic development of primary level farming businesses and determine the conditions, criteria and limits of application thereof;

(2) establish criteria determining the businesses or classes of businesses that may receive financial assistance and varying, in particular, according to the products produced or services offered by the businesses, the regions in which they are located and the persons they comprise together with their ages, occupations, qualifications or their interests in the business;

(3) designate persons who may act as lenders under a financial assistance program;

(4) determine which financial commitment within the scope of a financial assistance program benefits from the right to the insurance provided for in section 4 of the Act respecting farm-loan insurance and forestry-loan insurance and whether this right applies to all or a part of such a commitment and for what period;

(5) determine the cases in which duties or charges are exigible by the corporation and fix the amount thereof.

CHAPTER VI

AMENDING PROVISIONS

35. Section 1 of the Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q., chapter A-29.1) is amended by

inserting the words “a financial commitment or part of a financial commitment which, under an assistance program established under the Act respecting the Société de financement agricole and amending other legislative provisions (1992, chapter *insert here the chapter number of the said Act in the volume of statutes for 1992*), has a right to the insurance provided for in section 4 of this Act,” after the word “means” in the first line of paragraph *c*.

36. Section 4 of the said Act is amended by inserting the words “and unless an assistance program adopted under the Act respecting the Société de financement agricole and amending other legislative provisions provides otherwise,”, after the words “to section 25” in the first line of the first paragraph.

37. Section 18 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“The first and second paragraphs apply, adapted as required, where the corporation sustains a loss after having been subrogated in the rights of a lender in conformity with the second paragraph of section 16 of the Act respecting the Société de financement agricole and amending other legislative provisions.”

38. Section 25.1 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“Any person who is subrogated in the rights of a lender who has granted a loan under an assistance program established under the Act respecting the Société de financement agricole and amending other legislative provisions or to whom the debt resulting from such a loan has been transferred, is entitled to the insurance described in the first paragraph of section 4 to the same extent as the original lender, if the person is himself a lender accredited to make loans under this program. Such subrogation or transfer does not, however, restrict the power granted to the Société by the fourth paragraph of section 4 to cancel or refuse the right to the insurance, when the original lender fails to comply with the provisions of this Act or of the assistance program under which the loan was granted.”

39. Section 37.2 of the Registry Office Act (R.S.Q., chapter B-9), enacted by section 3 of chapter 20 of the statutes of 1991, is amended by inserting the words “granted under the Act respecting the Société de financement agricole and amending other legislative provisions (1992, chapter *insert here the chapter number of the said Act in the volume of statutes for 1992*), a loan” after the words “evidencing a loan” in the first line of paragraph 1.

40. Section 50 of the Act to promote forest credit by private institutions (R.S.Q., chapter C-78.1) is repealed.

41. This Act replaces the Act respecting farm financing (R.S.Q., chapter F-1.2).

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

42. The Société de financement agricole is substituted for the Office du crédit agricole du Québec and, in this capacity, acquires the rights and powers and assumes the obligations thereof.

43. The expression “Office du crédit agricole du Québec” and the word “Office” are replaced respectively, with the necessary adaptations, by the expression “Société de financement agricole” and the word “Société” in the following legislative provisions:

(1) sections 1, 4, 7 to 9, 12, 17 to 19, 24, 25.1 and 27 of the Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q. chapter A-29.1);

(2) sections 1 to 3.1, 6, 7, 9 to 12, 16, 21, 25, 26, 28 to 30, 32, 35, 42, 43, 45 to 48, 51 and 52 of the Forestry Credit Act (R.S.Q. chapter C-78);

(3) sections 2, 8, 10 to 12, 14, 16 to 20, 25 to 28, 33, 35 to 46, 49, 51 to 63 and 67 to 69 of the Act to promote forest credit by private institutions (R.S.Q., chapter C-78.1);

(4) Schedules I and III to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);

(5) article 2081a of the Civil Code.

The same applies to any regulation, order, order in council, agreement, contract or other document, adapted as required, unless the context indicates otherwise.

44. The members and employees of the Office du crédit agricole du Québec who are in office on (*insert here the date of coming into force of this section*) become, respectively, members of the board of directors and employees of the Société de financement agricole.

45. The term of a member of the Office du crédit agricole du Québec in office on (*insert here the date of coming into force of this section*) is continued until its expiration, under the same conditions

46. The appropriations granted to the Office du crédit agricole du Québec are transferred to the Société de financement agricole.

47. The decisions, regulations, by-laws or resolutions adopted by the Office du crédit agricole du Québec remain in force until they are amended, repealed or replaced by decisions, by-laws or resolutions adopted by the Société de financement agricole.

48. The Société de financement agricole is authorized to use any document or means of identification already prepared in the name of the Office du crédit agricole du Québec until it is replaced by documents or means of identification prepared in its new corporate name.

49. Any loan, line of credit, special loan or subsidy granted under the Act respecting farm financing or any Act replaced thereby continues to be governed by such Acts and their regulations.

In the same way, any loan or line of credit under the Act respecting farm financing authorized by the Office du crédit agricole du Québec by means of a certificate issued before (*insert here the date of coming into force of this section*) or authorized by a lender before that date, is granted under this Act, unless the applicant decides otherwise.

50. The Société de financement agricole shall advise the registrar of each registration division that it has been substituted for the Office du crédit agricole du Québec with respect to any loan it has granted. This notice shall have the same effect for each of the immovables hypothecated in favour of the Office as though it had been given pursuant to the provisions of article 2161*b* of the Civil Code. The registrar is not required to comply with the prescriptions of article 2161*c* of the Civil Code following such notice.

51. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

52. The provisions of this Act will come into force on the date or dates fixed by the Government.