

FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 37

An Act respecting assistance for tourist development

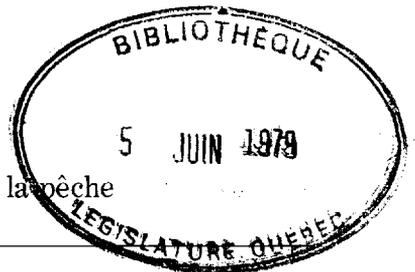
First reading

Second reading

Third reading

M. YVES L. DUHAIME

Ministre du tourisme, de la chasse et de la pêche



L'ÉDITEUR OFFICIEL DU QUÉBEC

1979

Bill 37

An Act respecting assistance for tourist development

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

DIVISION I

DEFINITIONS

1. In this act and the regulations, unless the context indicates otherwise,

“business” means a business contemplated in section 3;

“Minister” means the Ministre du tourisme, de la chasse et de la pêche;

“lender” means a savings and credit union governed by the Savings and Credit Unions Act (Revised Statutes, 1964, chapter 293), a bank governed by the Bank Act (Statutes of Canada) or the Québec Savings Banks Act (Statutes of Canada) or any other institution designated by regulation which grants a loan that may be guaranteed under this act;

“regulation” means a regulation made under this act by the Government;

“Corporation” means the Société de développement industriel du Québec.

DIVISION II

OBJECTIVES AND FINANCIAL ASSISTANCE

2. The purpose of financial assistance provided by this act is to increase revenues from tourism in Québec by improving the product and enhancing its specific cultural content.

3. Financial assistance may be granted for purposes contemplated in section 5 to any business whose main function, in accordance with the criteria established by regulation, is the providing of tourist services for consumption in Québec.

The tourist services contemplated in the first paragraph are services provided to persons travelling outside of their usual surroundings, where such travel is undertaken as a recreational, consumer activity.

4. Financial assistance is granted according to the order of priority established by regulation to businesses situated at, or within or along, resorts, centres of attraction, zones, tours, tourist routes and stopover towns, as defined by regulation.

5. Financial assistance may be granted to a business for

(a) the purchase, construction, improvement or expansion of the business and the purchase of the land required for the operation of that business;

(b) the purchase of machinery, tools and equipment for operating the business and their installation;

(c) the acquisition or operation of a patent and the acquisition or operation of a concession or franchise;

(d) the improvement or consolidation of the financial structure of the business; or

(e) the acquisition of property or shares in a similar business, the amalgamation with one or more similar businesses or the grouping together of the whole or a part of their resources or interests, in accordance with the methods determined by regulation, where that acquisition, amalgamation or grouping together has an incidence on tourism.

6. Financial assistance may be in the form of

(a) a guarantee of repayment of the whole or a part of a financial commitment;

(b) a loan to a business that could not otherwise obtain a loan;

(c) the assumption of part of the borrowing costs of a business.

7. Loans granted under this act shall be granted at the current market rate, except in the cases provided for by regulation, where the applicable rate of interest will be fixed in the regulation.

DIVISION III

GRANTS OF FINANCIAL ASSISTANCE

8. Every person who wishes to receive financial assistance must apply therefor to the Minister in the form prescribed by regulation; such application must be accompanied with the documents and contain the information prescribed by regulation.

9. The Minister shall study the application and determine whether or not the business fulfils the conditions prescribed by this act and the regulations.

If the business fulfils the conditions prescribed by this act and the regulations, the Minister shall so notify the applicant and transmit the application to the Corporation.

If the conditions are not fulfilled, the Minister shall notify the applicant that his application has been refused.

10. The Corporation shall ascertain that the business applying for financial assistance has financial prospects sufficient to meet its commitments and that its administrators have the competence required to achieve its objects, and shall determine the financial assistance it intends to grant to it.

11. However, financial assistance contemplated in paragraph *c* of section 6 is granted only on the decision of the Minister with the prior authorization of the Government and upon the conditions determined by it.

The Minister may also, on the conditions he determines, grant that assistance without that authorization in the cases provided for by regulation.

The Corporation is bound by the authorization of the Government or the decision of the Minister, whichever is applicable.

12. The Corporation must advise the applicant immediately that financial assistance has been granted to him and, if such is the case, of the conditions determined by the Government or the Minister, as the case may be.

DIVISION IV

MISCELLANEOUS PROVISIONS

13. The Corporation or the Minister, as the case may be, may at any time verify the accuracy of the information supplied in accordance with this act by a business applying for financial assistance.

14. When a person obtains financial assistance by false declarations or fraud or uses any part of a loan guaranteed or granted by the Corporation for purposes other than those for which it should be used, or is otherwise in default, the Corporation may, of its own initiative or at the request of the Minister, declare such person forfeited of the benefit of the term granted and take any other civil recourse vested in it by law and the contractual documents.

15. Any person who makes a false declaration or commits or attempts to commit a fraud, for the purpose of taking advantage of the benefits of this act, is guilty of an offence and liable to a fine of not less than five hundred dollars nor more than the amount of the financial assistance granted.

Any other offence against this act or the regulations renders the offender liable to a fine of not less than five hundred dollars nor more than two thousand dollars.

Proceedings instituted under this section are governed by the Summary Convictions Act (Revised Statutes, 1964, chapter 35).

DIVISION V

FONDS D'ASSURANCE-PRÊTS TOURISTIQUES

16. A fund called the "Fonds d'assurance-prêts touristiques" is established to ensure the repayment of loans made or guaranteed by the Corporation to a business and the repayment of the interest and expenses prescribed by the regulations.

17. The fund 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.

18. The fund may repay

(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 following realization on the security; or

(b) the amount, computed in the manner provided by regulation, of the net loss sustained following the sale of property acquired by way of a giving in payment; and

(c) the uncollected interest accrued, to the date of authorization of repayment, on any amount contemplated in paragraph *a* or *b* and, if the document evidencing the loan so stipulates, on any unpaid amount of interest and on any sum disbursed for the preservation, protection and recovery of the debt, at the rate stipulated in the said document.

The Corporation may, with respect to a loan granted by a lender other than the Corporation, refuse or cancel the right to the insurance contemplated in section 16, when such lender fails to comply with the provisions of this division and the regulations made under paragraphs *j*, *o* and *p* of section 37.

19. In the cases and in accordance with the rates, terms and conditions determined by regulation, an insurance charge is payable to the fund by the business that obtains a loan made or guaranteed by the Corporation out of the proceeds of the loan, on its disbursement.

20. The fund has the rights and privileges of a mandatory of the Government.

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

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

21. The fund is administered by a board of directors composed of the directors of the Corporation. Each member of such board shall remain in office in that capacity for such period as he remains a director of the Corporation.

The board of directors may establish an executive committee and delegate a part of its powers thereto.

22. The chairman and the vice-chairman of the Corporation are respectively the chairman and the vice-chairman of the board of directors of the fund.

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.

23. The fund has its head office at the same place as the Corporation.

24. Sections 29, 30 and 31 of the Québec Industrial Development Assistance Act (1971, chapter 64) apply *mutatis mutandis* to this act.

25. The personnel of the fund is appointed and remunerated in accordance with the Civil Service Act (1978, chapter 15).

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

27. Where a lender other than the Corporation sustains a loss with respect to a loan, he may, provided that he complies with the conditions prescribed by regulation, file a claim for the repayment contemplated in section 16 and the fund must make payment thereof.

The Corporation is subrogated in the rights of a lender paid by the fund in this manner.

28. Where the Corporation sustains a loss, with respect to a loan which it has granted or for which it has been subrogated in conformity with section 27, or following the disposition of property having secured a loan granted by a lender other than the Corporation, of which the Corporation acquired ownership either at a sheriff's sale or directly from the said lender, the fund shall, at the request of the Corporation, repay to the Corporation the amount of the losses and expenses contemplated in section 16.

The fund is not subrogated in the rights of the Corporation.

29. The sums recovered by the Corporation relating to a loan for which the fund has paid a claim made in conformity with sections 27 and 28 must be paid into the fund with the exception of any amount withdrawn from that fund and used to protect any debt in respect of which it has been subrogated.

Where a lender acquires, by a giving in payment, property securing a loan, any amount by which the net revenue earned or deficit incurred by the lender in connection with such property during the time he remains the owner thereof, increased by the sale price of that property 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, must be paid into the fund.

30. The sums paid into the fund under sections 16 to 29 for which it foresees no need on a short term basis for the payment of its obligations resulting from section 27 shall be deposited without delay with the Caisse de dépôt et placement du Québec.

31. The sums necessary for the payment of the obligations of the fund are paid out of its revenues.

If such revenues are insufficient, the Ministre des finances advances to the fund any amount considered necessary to meet its obligations, at such rate of interest, for such time and on such other conditions as the Government determines.

The sums which the *Ministre des finances* may be called upon to advance under the second paragraph are taken out of the consolidated revenue fund.

The Government may authorize the *Ministre des finances* to remit in whole or in part the advances he grants to the fund.

32. The fund, the members of its board of directors and its personnel are not subject to the provisions of the Act respecting insurance (1974, chapter 70).

33. The directors of the Corporation and such of its personnel as may be called upon to provide services to the fund are not entitled to any supplementary remuneration.

34. The fund shall, not later than 31 July each year, make a report to the *Ministre de l'industrie et du commerce* of its activities for its previous fiscal year. Such report shall also contain all the information that the *Ministre de l'industrie et du commerce* may prescribe.

The *Ministre de l'industrie et du commerce* shall table the report of the fund before the *Assemblée nationale* within thirty days of his receiving it. If he receives it while the *Assemblée nationale* is not sitting, he shall table it within thirty days following the opening of the next session or, as the case may be, within fifteen days of resumption.

35. The fund must provide to the *Ministre de l'industrie et du commerce*, at his request and within the delay he fixes, a report of its activities.

36. The books and accounts of the fund shall be audited by the Auditor General each year and also whenever so ordered by the Government. His reports shall accompany the annual report of the fund.

DIVISION VI

REGULATIONS

37. The Government may, by regulation

(a) designate any institution that may grant a loan under this act, in addition to those already so authorized;

(b) determine the conditions under which financial assistance will improve the product and enhance its specific cultural content;

(c) establish the criteria applicable to businesses to determine whether they are eligible for financial assistance, having

regard particularly to the class to which such businesses belong, the tourist services contemplated in section 3 that they provide and the regions in which they are or wish to become established;

(*d*) determine the classes of businesses and the regions, resorts, centres of attraction, zones, tours, tourist routes and stopover towns in respect of which financial assistance is granted by preference or priority and the economic, geographical, cultural and social factors to be used as guidelines in the choice of the businesses to which such financial assistance may be granted;

(*e*) define the word "product" contemplated in section 2 and the words and expressions "resort", "centre of attraction", "zone", "tour", "tourist route" and "stopover town" contemplated in section 4;

(*f*) exclude from the application of this act any class of businesses for the whole or certain parts of the territory and in the cases it determines, if any;

(*g*) determine the methods of grouping together businesses contemplated in paragraph *e* of section 5;

(*h*) determine the conditions upon which part of the cost of the loans contracted by a business may be assumed by the Corporation under paragraph *c* of section 6, the maximum term of such loans, the standards with which they must comply and the classes of financial institutions with which they may be contracted;

(*i*) establish the maximum and minimum amounts which may be given as financial assistance and the terms and conditions of computation and payment of the financial assistance contemplated in section 6;

(*j*) determine the nature and extent of the security and the interest rate which must be required or withheld by a lender or the Corporation, as the case may be;

(*k*) determine the methods which must be used to establish the current market rate of interest contemplated in section 7;

(*l*) determine the cases where the rate of interest granted on loans is lower than the current market rate and the rate of interest then applicable;

(*m*) determine the amount below which financial assistance may be granted by the Minister without the prior authorization of the Government;

(*n*) prescribe the documents, reports and information to be produced or provided and the delay therefor;

(*o*) establish the cases where an insurance charge is payable with respect to a loan and determine the rate and the terms and conditions of payment thereof; and