

1988, chapter 3

AN ACT TO AMEND THE ACT RESPECTING FARM-LOAN INSURANCE AND FORESTRY-LOAN INSURANCE

Bill 49

Introduced by Mr Michel Pagé, Minister of Agriculture, Fisheries and Food

Introduced 16 June 1987

Passage in principle 15 December 1987

Passage 31 March 1988

Assented to 31 March 1988

Coming into force: on the date fixed by the Government

— 11 August 1988: ss. 1 to 14

G.O., 1988, Part 2, p. 3148

Act amended:

Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q., chapter A-29.1)





CHAPTER 3

An Act to amend the Act respecting farm-loan insurance and forestry-loan insurance

[Assented to 31 March 1988]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. A-29.1,
s. 1, am.

1. Section 1 of the Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q., chapter A-29.1) is amended by replacing paragraphs *b* and *c* by the following paragraphs:

“Office”

“(b) “**Office**” means the Office du crédit agricole du Québec;

“farm loan”

“(c) “**farm loan**” means a loan, line of credit or special loan granted under the Act respecting farm financing (1987, chapter 86), a loan granted from 1 August 1978 under an Act replaced thereby (Act to promote farm improvement (R.S.Q., chapter A-18), Farm Credit Act (R.S.Q., chapter C-75), Act to promote long term farm credit by private institutions (R.S.Q., chapter C-75.1), Act to promote credit to farm producers (R.S.Q., chapter C-77), Act to promote special credit to agricultural producers during critical periods (R.S.Q., chapter C-79)), or a loan or special loan assumed after 11 August 1988;”.

c. A-29.1,
s. 4, am.

2. Section 4 of the said Act is amended by inserting the words “this Act or the regulations thereunder or with” after the word “with” in the fourth line of the third paragraph and by striking out the word “with” at the end of the fourth line.

c. A-29.1,
s. 5, am.

3. Section 5 of the said Act is amended by adding the following paragraph:

Payment to
Fonds

“An insurance charge computed in accordance with the rates fixed by regulation is payable to the Fonds on the terms and conditions, at the payment intervals and in the cases prescribed by regulation in respect of

(1) any forest loan granted under the Act to promote forest credit by private institutions or assumed following a written application for a loan received by the Office from 11 August 1988;

(2) any farm loan.”

c. A-29.1,
ss. 5.1-5.3,
added

4. The said Act is amended by inserting, after section 5, the following sections:

Payment
out of
proceeds

“**5.1** The insurance charge contemplated in the second paragraph of section 5 is payable out of the proceeds of the loan in the cases determined by regulation.

Rates of
insurance
charge

“**5.2** The rates of the insurance charge contemplated in the second paragraph of section 5 must be revised at least once every four years following an actuarial analysis of the losses refunded by the Fonds and taking account of market fluctuations, having regard to prevailing conditions and to the type of production engaged in by the persons who obtain a farm loan or a forest loan or by the persons who assume payment of the loan.

Excess
sums

“**5.3** Where the actuarial analysis establishes that the amount of the capital of the Fonds derived from sums collected under the second paragraph of section 5 and under section 19 as well as from any income from such sums exceeds the amount necessary to enable the Fonds to fully discharge its obligations from 1 April 1992, the Government may, by regulation,

(1) provide, to the extent and on the terms and conditions prescribed in the regulation, for an apportionment of all or part of the excess in favour of each person who is the debtor of a loan contemplated in the second paragraph of section 5 and obtained or assumed by such person, and for which he has already paid an insurance charge contemplated in the said paragraph;

(2) reduce the rates of the insurance charge contemplated in the second paragraph of section 5;

(3) provide for both an apportionment of the excess as in paragraph 1 and a reduction of rates as in paragraph 2.”

c. A-29.1,
s. 6, am.

5. Section 6 of the said Act is amended by replacing the second paragraph by the following paragraph:

Assets

“The amounts paid into the Fonds under sections 5, 19, 23.2, 23.3 and 23.4 and the revenues they produce form part of the assets of the Fonds.”

c. A-29.1,
s. 7,
replaced

Board of
directors

6. Section 7 of the said Act is replaced by the following section:

“**7.** The Fonds is administered by a board of directors composed of all the members of the Office. Each member of the board remains so throughout his term as a member of the Office.”

c. A-29.1,
s. 17.1,
added

7. The said Act is amended by inserting, after section 17, the following section:

Provisional
claim

“**17.1** Where a lender proves to the Office that it may not be possible for over a year to realize on the security for a loan in respect of which losses or expenses have been or may be incurred, he may, before filing a claim under section 17, file a provisional claim with the Office for repayment by the Fonds of those losses and expenses.

Payment

The Fonds must pay the claim so far as the Office recommends after examining it and assessing its merits.

Adjustments
upon final
claim

The payment is made subject to the lender's right to file a final claim for the full amount of unpaid losses and expenses and subject to the right of the Fonds to require the lender to remit any overpayment by the Fonds, as soon as the actual amount of such losses and expenses is determined, with interest on the overpayment at the rate fixed in the deed or document evidencing the loan and adjustable as provided therein, where such is the case.

Allocation
of amount

The amount paid to a lender in accordance with the third paragraph shall be allocated by the lender in the manner indicated by the Office.

Subrogation

Notwithstanding any legislative provision inconsistent herewith and subject to section 19, where the Fonds makes a payment pursuant to the first paragraph, the Office is subrogated by operation of law to the rights of the lender to whom the payment is made, up to the amount thereof.”

c. A-29.1,
s. 18, am.

8. Section 18 of the said Act is amended by inserting the word and figure “or 17.1” after the figure “17” in the third line of the first paragraph.

c. A-29.1,
s. 19, am.

9. Section 19 of the said Act is amended

(1) by inserting the word “17.1” after the figure “17” in the third line of the first paragraph;

(2) by inserting the words and figure “or the fifth paragraph of section 17.1” after the figure “17” in the sixth line of the second paragraph.

c. A-29.1,
ss. 20-23,
repealed

10. Sections 20 to 23 of the said Act are repealed.

c. A-29.1,
ss. 23.1-
23.6, added

11. The said Act is amended by inserting, after section 23, the following sections:

Authoriza-
tion to
borrow

“23.1 For the purposes of this Act, the Fonds may, with the prior authorization of the Government, borrow sums of money by notes, bonds or other securities in such amounts, at such rates of interest and on such other conditions as may be fixed by the Government.

Conversion
of endow-
ment

“23.2 The endowment of ten million dollars established in favour of the Fonds by section 20 of chapter 49 of the statutes of 1978 shall be converted by the Minister of Finance into an advance of an equivalent amount in principal, at the rates of interest for the term and on the other terms and conditions fixed by the Government.

Powers of
Government

“23.3 The Government may, on such conditions as it may determine,

(a) guarantee payment in principal and interest of any sums borrowed by the Fonds for the purposes prescribed in this Act and the execution of any obligation of the Fonds;

(b) authorize the Minister of Finance to advance to the Fonds any amount deemed necessary for the carrying out of this Act, at such rate of interest, for such period of time and on such conditions as are determined by the Government.

Consolida-
ted revenue
fund

The sums that the Government may be called upon to pay in virtue of the guarantees or to advance to the Fonds are taken out of the consolidated revenue fund.

Funding
until 1992

“23.4 Until 1 April 1992, the sums necessary for the payment of the obligations of the Fonds pursuant to section 4 shall be paid out of the net income from the sum of ten million dollars contemplated in section 23.2 and, where such income is insufficient, the Minister of Finance, at the request of the Fonds, may pay to it, out of the consolidated revenue fund, the sums required to make up the payment of those obligations.

Deposit of
sums

“23.5 Subject to the second paragraph, the sums forming part of the capital of the Fonds, the income therefrom and the sums paid into the Fonds under sections 5 and 19 shall be deposited with the Caisse de dépôt et placement du Québec.

Allocation
of sums
after 1992

From 1 April 1992, the sums collected by the Fonds under sections 5 and 19 and the income from such sums and from the capital of the Fonds shall be allocated as follows and in the following order of priority:

- (a) to the payment of obligations of the Fonds under section 4;
- (b) to the payment of interest on sums borrowed by the Fonds under section 23.1;
- (c) to the repayment when due of the principal of the sums borrowed under section 23.1;
- (d) to the payment of interest owing on advances made by the Minister of Finance under sections 23.2 and 23.3;
- (e) to the repayment when due of advances made by the Minister of Finance under sections 23.2 and 23.3, or, if there is no fixed due date, at the intervals fixed by the Minister of Finance.

Payment
out of
capital

Where the sums and income mentioned in the second paragraph are insufficient for full discharge of the payments thereunder, these shall be made, in the same order, out of the capital of the Fonds.

Deposit of
sums

“23.6 Subject to section 23.5, the sums collected by the Fonds from 1 April 1992 under sections 5 and 19 for which it foresees no need on a short term basis for the payments under section 23.5 shall be deposited without delay with the Caisse de dépôt et placement du Québec.”

c. A-29.1,
s. 24, am.

12. Section 24 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraphs:

“(a) establishing the cases in which an insurance charge is payable in connection with a loan and determining the rate, terms and conditions and payment intervals;

“(a.1) establishing the cases in which the insurance charge contemplated in the second paragraph of section 5 is payable out of the proceeds of the loan;

“(a.2) providing for the apportionment contemplated in section 5.3 and prescribing to what extent and on what terms and conditions the apportionment is made, providing for the reduction of the rates of the insurance charge contemplated in the second paragraph of section 5, or providing for both the apportionment and the reduction;”;

(2) by inserting the word and figure “or 17.1” after the figure “17” in the fifth line of subparagraph *b* of the first paragraph.

c. A-29.1,
s. 25.1,
added

13. The said Act is amended by inserting, after section 25, the following section:

Subrogation
under
a. 1155 of
Civil Code

“**25.1** Notwithstanding any legislative provision inconsistent herewith, a lender contemplated in paragraph 1 of section 5 and any other person designated by the Government under section 6 of the Act respecting farm financing who is subrogated to the rights of another lender in accordance with article 1155 of the Civil Code in respect of a loan granted under that Act is entitled to the insurance described in the first paragraph of section 4, but the powers of the Office under the third paragraph of that section, where the original lender fails to observe the provisions of the Act by virtue of which the loan was granted, or the regulations thereunder, are not hereby restricted.

Assignment,
sale or
transfer

The first paragraph, adapted as required, also applies in the case of an assignment, sale or transfer contemplated in section 60 of the Act respecting farm financing or section 52 of the Act to promote forest credit by private institutions, made in accordance with such section 60 or 52, as the case may be.”

Coming into
force

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