

chapter C-78.1

ACT TO PROMOTE FOREST CREDIT BY PRIVATE INSTITUTIONS

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REPEAL SCHEDULE

DIVISION I

DEFINITIONS

1. In this Act, unless the context indicates otherwise,

“**association**” means

(1) a partnership, a cooperative or a legal person with share capital whose main object and principal activity is the productive management of a forest; or

(2) a professional syndicate;

“**bank**” means a bank governed by the Bank Act (R.S.C. 1985, c. B-1) or of the Québec Savings Banks Act (R.S.C. 1970, c. B-4);

“**borrower**” means a person or a group of persons contemplated in section 3 who or which contracts a borrowing or a person or a group of persons who or which assumes the repayment of a loan;

“**borrowing**” means a loan obtained in accordance with this Act;

“**credit union**” means a financial services cooperative governed by the Act respecting financial services cooperatives (chapter C-67.3);

“**forest**” means land covered with timber stands or which, formerly so covered, is not put to any use inconsistent with forestry; the term includes, where such is the case, works or constructions thereon that are or may be used for the productive management or harvesting of forest resources on such land;

“**forestry**” means the body of principles and methods necessary for the conservation, cultivation, improvement and management, and for the harvesting and rational utilization of timber stands and of the material resources contained therein or obtainable therefrom;

“**lender**” means a bank, credit union or other institution designated by regulation which grants a loan;

“**loan**” means a loan granted in accordance with this Act;

“**manager**” means a person entrusted with part of the management of a forest in the domain of the State under a management delegation agreement described in section 17.22 of the Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2);

“**permit holder**” means the holder of a forestry permit for the operation of a sugar bush issued under the Sustainable Forest Development Act (chapter A-18.1);

“**professional syndicate**” means a professional syndicate formed under the Professional Syndicates Act (chapter S-40) which administers a forest products joint plan.

1983, c. 16, s. 1; 1986, c. 108, s. 246; 1987, c. 23, s. 76; 1988, c. 64, s. 587; 1999, c. 40, s. 98; 2000, c. 29, s. 634; 2010, c. 3, s. 284.

DIVISION II

CONDITIONS OF ELIGIBILITY

2. Every applicant must, before contracting a borrowing, obtain, from La Financière agricole du Québec, a certificate the tenor and conditions of which are determined by this Act and by regulation.

1983, c. 16, s. 2; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

3. The following may be applicants:

- (1) a natural person who engages or intends to engage in harvesting operations in a forest;
- (2) an association;
- (3) a group composed of at least two of the persons contemplated in paragraphs 1 and 2 and which

(a) engages in or intends to engage in harvesting operations in a forest of which they have undivided ownership or are co-lessees; or

(b) engages in or intends to engage, jointly, in harvesting operations in several forests each of which is owned or leased individually or jointly by one of such persons, or in respect of which each of them has interests as a permit holder or manager.

1983, c. 16, s. 3.

4. Every applicant must, to obtain a certificate, be resident in Québec.

For the purposes of this Act, “resident in Québec” ,

(1) in the case of a natural person, means domiciled in Québec;

(2) in the case of a legal person with share capital, means

(a) having its head office in Québec;

(b) not directly or indirectly controlled by one or several persons not resident in Québec;

(c) having share capital of which more than 50% in number and value of the issued shares carrying full voting rights are owned by one or several persons resident in Québec;

(3) in the case of a partnership, means

(a) having its principal establishment in Québec;

(b) composed of members more than one-half of whom are persons resident in Québec who own interests representing more than 50% of the aggregate value of the partnership property;

(4) in the case of a cooperative or a professional syndicate, means

(a) having its head office in Québec;

(b) composed of members more than one-half of whom are persons resident in Québec;

(5) in the case of a group of persons contemplated in paragraph 3 of section 3, means composed of persons resident in Québec within the meaning of paragraph 1, 2, 3 or 4.

1983, c. 16, s. 4; 1999, c. 40, s. 98.

5. Every applicant except a permit holder, manager or professional syndicate must, to contract a borrowing, be the owner of a forest or the lessee of a forest under a lease conforming to the standards prescribed by regulation. Where ownership of a forest is based on emphyteusis, the emphyteusis must conform to the standards prescribed by regulation.

The occupant of a forest under a location ticket is deemed to be a lessee for the purposes of this Act and the location ticket is deemed to conform to the standards for a lease prescribed by regulation.

1983, c. 16, s. 5; 1999, c. 40, s. 98.

6. No applicant may process wood otherwise than on a small scale industrial basis determined by regulation nor hold a majority of the ownership interests or control of a plant which processes wood otherwise than on the same industrial basis.

1983, c. 16, s. 6.

7. Where an applicant is an association or a group of persons contemplated in paragraph 3 of section 3, no shareholder or member of the association, nor any person in undivided ownership, co-lessee or joint harvester of several forests, holding a majority of the ownership interests or control of a plant which processes wood otherwise than on a small scale industrial basis determined by regulation may hold,

(1) in the case of a legal person with share capital, more than 20% in number and value of the issued shares with full voting rights of the share capital of the legal person;

(2) in the case of a cooperative, more than 20% of the ordinary shares issued or common shares, as the case may be;

(3) in the case of a partnership or of persons in undivided ownership of a forest, more than 20% of the interests in the partnership or of the ownership interests in the forest;

(4) in the case of co-lessees, more than 20% of the interests in the lease of the forest under lease;

(5) in the case of operators jointly harvesting in several forests, more than 20% of the aggregate value of the forests in which the harvesting is carried on.

In the cases contemplated in the first paragraph, where more than one shareholder or member of an association, more than one person in undivided ownership, more than one co-lessee of a forest or more than one operator jointly harvesting in several forests holds a majority of the ownership interests or control of a plant which processes wood otherwise than on a small scale industrial basis determined by regulation, the percentages contemplated in subparagraphs 1 to 5 of that paragraph apply to all such shareholders, members, persons in undivided ownership, co-lessees or joint operators.

The percentages contemplated in subparagraphs 1 to 5 of the first paragraph and in the second paragraph may be greater than 20% without, however, exceeding 40%, where an applicant referred to in those paragraphs engages or intends to engage mainly in the raising of plants for forestation.

1983, c. 16, s. 7; 1999, c. 40, s. 98.

8. The agency may issue a certificate to an applicant if

(1) he has the financial and moral capacity to repay the loan applied for; and

(2) his borrowing scheme is consistent with forestry principles and suited to the harvesting, development or rational utilization of the forest in respect of which the borrowing is applied for.

1983, c. 16, s. 8; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

DIVISION III

LOANS

9. A lender may grant one or several loans to an applicant for an aggregate amount that in no case may, subject to section 12, exceed \$500,000.

1983, c. 16, s. 9.

9.1. No loan may be granted by a lender, under this Act, following an application received by the lender after 20 June 1996.

1996, c. 14, s. 25.

10. No loan may be granted except in accordance with the certificate issued to the applicant nor unless the titles relating to the property offered as security for repayment of the loan have been verified and accepted by the agency or its mandatary.

1983, c. 16, s. 10; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

11. Subject to section 9, in no case may the part of the loan secured by hypothec exceed 90% of the value, as determined by the agency, of the forest offered as security, and, subject to section 12, in no case may the part of the loan secured exclusively by movable property exceed the lesser of the following amounts:

- (1) \$200,000; and
- (2) an amount equivalent to 90% of the value of the hypothecated property, as determined by the agency.

1983, c. 16, s. 11; 1992, c. 32, s. 43; 1992, c. 57, s. 540; 2000, c. 53, s. 66.

12. In no case may the total amount owing under this Act by a borrower exceed \$500,000 in principal unless the excess amount is the result of debts devolved to him by succession or contracted by him in acquiring property which the agency disposed of under this Act or the Forestry Credit Act (chapter C-78).

The first paragraph applies, with the necessary modifications, to the computation of the amount contemplated in paragraph 1 of section 11.

1983, c. 16, s. 12; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

13. The amounts contemplated in section 12 are established by taking into account.

(1) the balance owing by the borrower on any loan he obtained or of which he assumed payment under this Act or the Forestry Credit Act (chapter C-78) and, where such is the case,

(2) the relative share of the balance owing on any loan granted under the said Acts that he obtained jointly with any other person or for which he assumed payment in the same manner.

1983, c. 16, s. 13.

14. An applicant who has been issued a certificate may borrow for one or several of the following purposes, provided they are related to the forest in respect of which the loan is applied for:

- (1) the purchase of a forest and the consolidation of debts contracted for that purpose;
- (2) forest improvement or planning and the consolidation of debts contracted for such planning;
- (3) the purchase, construction or improvement of buildings or other constructions or works that may form part of a forest, including those of a power transmission line and a drinking water supply system;
- (4) the construction or repair of roads in the forest or access roads to the forest;
- (5) the purchase, establishment, equipping or improvement of a nursery for the raising of plants for forestation;
- (6) the purchase, construction or repair of greenhouses or greenhouse or nursery equipment used for the raising of plants contemplated in paragraph 5;

- (7) the purchase of forest seeds and plants;
- (8) the purchase or repair of forest machinery, equipment or implements;
- (9) the purchase, installation, repair or improvement of material or equipment for a maple sugary;
- (10) protection of the forest against deteriorative agents;

(11) any other purpose which, in the opinion of the agency, may increase the efficiency of forest resource harvesting or promote the productive management or rational utilization of the forest.

Any of the borrowing purposes provided for in this section may, for the purposes of its application, be defined or listed in a regulation.

1983, c. 16, s. 14; 1992, c. 32, s. 43; 2000, c. 53, s. 66; 2010, c. 3, s. 285.

15. A loan is repayable within the term determined in the certificate according to the amortization basis and modalities determined by regulation.

In no case may the term exceed 30 years except in the case of a loan secured by movable hypothec in which case it must not exceed 15 years.

1983, c. 16, s. 15; 1992, c. 57, s. 541.

16. Where the term for the repayment of a loan exceeds five years, the lender may, at the expiry of every five year period included in the term, counting from the date of the deed of loan, demand repayment of the balance then due on the loan, provided 90 days' notice is given to the borrower and to the agency.

Notification of the notice contemplated in the first paragraph must be made by mail in accordance with articles 130 and 131 of the Code of Civil Procedure (chapter C-25.01).

1983, c. 16, s. 16; 1992, c. 32, s. 43; 2000, c. 53, s. 66; I.N. 2016-01-01 (NCCP).

17. Where the borrower is the owner of the forest for which he is granted a loan, the repayment of the loan must, subject to section 20, be secured by a first hypothec on the forest or by a hypothec ranking immediately after any hypothec held on the forest by the agency or a lender.

1983, c. 16, s. 17; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

18. The repayment of a loan must be secured by movable hypothec of the rank stipulated in the certificate on all or part of the borrower's forest machinery and equipment, if

- (1) the borrower is not the owner of a forest;
- (2) the value of the borrower's forest, as determined by the agency, is not sufficient, according to section 11, to secure the repayment of the loan, in which case the movable hypothec must be used to secure that part of the loan which it is impossible to secure by the hypothec contemplated in section 17.

1983, c. 16, s. 18; 1992, c. 32, s. 43; 1992, c. 57, s. 542; 2000, c. 53, s. 66.

19. The agency may, in addition to the securities provided for in sections 17 and 18, require any other immovable or movable security or any other surety as it may determine and that it mentions in the certificate.

1983, c. 16, s. 19; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

20. In the cases provided for by regulation, the agency may, to guarantee the repayment of a loan, require any immovable or movable securities other than those contemplated in section 17 or 18 or any surety it may determine in each case and that must be mentioned in the certificate.

1983, c. 16, s. 20; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

21. In addition to the securities provided for the loan, the certificate may require, in the cases determined by regulation, a transfer in favour of the lender of the borrower's life insurance policy benefits to secure the repayment of the loan in the event of the borrower's death.

1983, c. 16, s. 21.

22. The maximum annual rate of interest on a loan is fixed by regulation and is subsequently adjusted on the dates and according to the norms established by regulation.

1983, c. 16, s. 22.

23. Any payment in principal or interest unpaid on maturity yields, of right and without formal notice, interest at the annual rate established in accordance with section 22 and stipulated in the deed of loan from the date of maturity of the payment.

1983, c. 16, s. 23.

24. The borrower or his successors may repay all or part of the loan in advance.

Any payment made by the borrower or his successors, on maturity or in advance, in accordance with the document evidencing the loan, must be allocated in the manner prescribed in the regulations.

1983, c. 16, s. 24; 1999, c. 40, s. 98.

25. The agency may fix the special accessory or secondary conditions to which each loan is subject; the conditions may pertain, in particular, to the borrower's titles, the deeds of loan, the protection of the security and other similar matters.

The certificate must state the conditions so fixed.

1983, c. 16, s. 25; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

26. The agency may also, in the cases provided for and according to the modalities defined by regulation, require any person applying for a certificate in view of obtaining a loan to submit, before or after his application, a program of financial operations acceptable to the agency, fix the loan supervision fees and determine the obligations the borrower must contract with respect to the program.

1983, c. 16, s. 26; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

27. Where a borrower declares himself unable to meet his obligations on maturity, the lender may agree with him on new conditions for the repayment of the loan, provided that he obtains prior authorization therefor from the agency and that the time granted does not prolong the term of the loan beyond each maximum term provided for in the second paragraph of section 15, where such is the case.

1983, c. 16, s. 27; 1992, c. 32, s. 43; 1999, c. 40, s. 98; 2000, c. 53, s. 66.

28. The lender or the agency, as the case may be, may, as a mandatary of the lender, declare the borrower forfeited of the benefit of the term granted, cancel the loan, claim repayment thereof with interest and, failing such repayment, exercise any recourse provided by law if the borrower

(1) obtained a loan as the result of false declarations or false pretences;

- (2) does not comply with the management plan contemplated in Division IV;
- (3) disposes in whatever manner, without the authorization required under section 43, of all or part of the property offered as security;
- (4) causes or allows abnormal deterioration of the property offered as security, or diminution of the value of the security;
- (5) ceases to meet the requirements to qualify for a loan; or
- (6) uses the proceeds or part of the proceeds of the loan for purposes other than those for which the loan was granted.

The lender or the agency, as the case may be, shall notify the borrower of his or its elected course of action by mere notice notified to the borrower in accordance with articles 130 and 131 of the Code of Civil Procedure (chapter C-25.01).

1983, c. 16, s. 28; 1992, c. 32, s. 43; 2000, c. 53, s. 66; I.N. 2016-01-01 (NCCP).

29. A borrower must, for the term of the loan, meet the conditions of eligibility set down for an applicant in Division II.

1983, c. 16, s. 29.

DIVISION IV

MANAGEMENT PLAN

30. A “management plan” is a document approved by the Minister of Natural Resources and Wildlife, containing the prescriptions designed to ensure the productive management of a forest in accordance with objectives consistent with forestry principles and which must be reviewed periodically, according to the directives of the Minister and subject to his approval.

1983, c. 16, s. 30; 1990, c. 64, s. 24; 1994, c. 13, s. 16; 2003, c. 8, s. 6; 2006, c. 3, s. 35.

31. Every forest for which a loan is granted or serving as security for a loan is subject to a management plan, until full repayment of the loan,

(1) if the loan is obtained for a purpose contemplated in subparagraph 1 of the first paragraph of section 14; or

(2) if the loan is obtained for one or several of the purposes contemplated in subparagraphs 4, 8 and 9 of the first paragraph of section 14 and if the loan, taking into account the balance of any former loan granted for one or several of the same purposes, exceeds the amount fixed by regulation.

1983, c. 16, s. 31.

32. To avail against persons other than the borrower, the management plan must be attested in a declaration mentioning each immovable to which it applies and the name of its owner.

The immovable is described by its cadastral number, if any, mentioning, in the case of an immovable that includes only a part of a lot, that only part of the lot bearing the cadastral number is involved, and there is no obligation to give a more detailed description of the parts of the lot, notwithstanding articles 3032, 3033, 3036 and 3037 of the Civil Code .

If the immovable has no cadastral number, it must be designated by the name of the seigniory or township in which it is situated, the range, if any, the metes and bounds and the name of its owner.

1983, c. 16, s. 32; 1999, c. 40, s. 98.

33. The declaration contemplated in section 32 may be made in a deed of hypothec serving as security for a loan. It may also be made unilaterally by the agency and constitutes *prima facie* proof of the existence of the management plan.

The declaration is subject to the rules respecting registration, and its total or partial cancellation is effected by the deposit of a requisition to that effect by the agency in authentic form or by a private deed.

1983, c. 16, s. 33; 1992, c. 32, s. 43; 1992, c. 57, s. 543; 2000, c. 53, s. 66.

34. In the case of a new loan granted subsequently to the same borrower or the same debtor, the management plan attested in the declaration mentioned in section 32 also applies to the same forest for which the new loan is granted or which serves to secure it. Section 31 applies, with the necessary modifications, in the case of any new loan provided for in this section.

1983, c. 16, s. 34.

35. Notwithstanding section 31, the agency may at any time, with the consent of the Minister, request the cancellation of the registration of the declaration contemplated in section 32 in respect of all or part of the forest governed by a management plan.

The Minister may, in writing, delegate the power prescribed in the first paragraph to such person as he may designate.

1983, c. 16, s. 35; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

36. Every borrower, subsequent owner or occupant of a forest who cuts timber contrary to the management plan governing the forest is guilty of an offence and liable to a fine of not less than \$5 per apparent cubic meter so cut.

1983, c. 16, s. 36; 1990, c. 4, s. 363; 1992, c. 32, s. 43; 1992, c. 61, s. 251.

DIVISION V

POWERS OF THE SOCIÉTÉ

37. In addition to the powers conferred on it by this Act, the agency may

- (1) receive and examine any application for a certificate in view of obtaining a loan;
- (2) appraise, in accordance with the bases fixed by regulation, the property offered as security for a loan applied for and establish the maximum amount of the loan;
- (3) indicate, in each case, the conditions of the loan and the part of the sum lent to be used for one or other of the purposes contemplated in section 14, and fix or prolong, in each case, the period during which a borrowing may be contracted from the date of issue of a certificate;
- (4) examine the titles of ownership of the property serving as security for the loan, revise any report of examination of the titles concerning the immovable securities and verify the charges encumbering the movable securities;
- (5) act as the mandatary of a lender to claim from any debtor in default and, where such is the case, from any surety of the debtor, the sums owing to such lender or that have become payable on a loan, to make or bring, for such purpose, any demand, action or other proceeding or, in such capacity, to act in defence against

any demand, action or other proceeding and to acquire any hypothecated immovable or movable, and administer, sell or lease such immovable or property or otherwise dispose of it by onerous title;

(6) acquire any immovable hypothecated to secure a loan, either at a forced sale or directly from the lender following his acquisition of it at the sale under judicial authority or following a taking in payment, and administer, sell or lease that immovable or otherwise dispose of it by onerous title;

(7) act as lender if a lender refuses to grant all or part of a loan and, for such purpose, exercise all the rights and powers granted to the lender under this Act.

1983, c. 16, s. 37; 1992, c. 32, s. 43; 1992, c. 57, s. 544; 2000, c. 53, s. 66; I.N. 2016-01-01 (NCCP).

DIVISION VI

CONTRIBUTION TO PAYMENT OF INTEREST

38. The agency shall contribute to the payment of the interest on any loan obtained from a lender other than the agency, to the extent, for the term, on the conditions, according to the modalities and on the dates of payment determined by regulation.

The agency is authorized to reduce, to the extent, for the term and on the conditions determined by regulation, the rate of interest applicable to the loans it is authorized to grant under paragraph 7 of section 37.

In no case may contributions to the payment of the interest or reductions in the rate of interest apply to the interest yielded of right under section 23.

1983, c. 16, s. 38; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

39. A lender ceases to be entitled to the contribution or the reduction contemplated in section 38 if,

(1) having failed to comply with the management plan, he does not prove to the agency that his failure was not for reasons beyond his control;

(2) he benefits by the contribution or reduction as a result of false declarations or false pretences; or

(3) he uses the proceeds or part of the proceeds of the loan for purposes other than those for which the loan was obtained.

1983, c. 16, s. 39; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

40. In each of the cases contemplated in section 39, the agency, if it sees fit, may claim any amount paid as a contribution to the payment of interest on the loan or any amount representing the reduction in the rate of interest, and the interest on that amount at the annual rate fixed in accordance with section 22 and specified in the deed of loan, from the date of that payment or reduction. In such a case, the lender does not necessarily forfeit the benefit of a financial commitment repayment guarantee provided for by subparagraph 5.1 of the first paragraph of section 19 of the Act respecting La Financière agricole du Québec (chapter L-0.1).

1983, c. 16, s. 40; 1992, c. 32, s. 43; 2000, c. 53, s. 66; 2011, c. 16, s. 22.

DIVISION VII

PROTECTION OF SECURITIES

41. A representative or an employee designated by the agency or by the lender may, at any reasonable time, or at any time if it is required, in the circumstances, to protect a claim or the property securing a loan or to ensure that the borrower's operation is carried on, inspect the property securing a loan, enter or pass on any immovable, inspect and appraise such immovable and any other movable property.

He may also conduct any investigation he considers necessary for the purposes of the administration of this Act.

The representative or the employee designated by the agency or by the lender shall, on request, identify himself and produce a certificate of his capacity issued by the agency or by the lender.

1983, c. 16, s. 41; 1986, c. 95, s. 127; 1992, c. 32, s. 43; 1999, c. 40, s. 98; 2000, c. 53, s. 66.

42. In case of default of maintenance or in case of deterioration of property securing a loan, the lender may, at the borrower's expense, do any work and repairs and take any step he considers necessary to ensure its maintenance in good condition.

If the lender omits to exercise the powers conferred on him under the first paragraph or does not exercise them to the satisfaction of the agency, the latter is authorized of right to exercise them itself on behalf of the lender and at the expense of the borrower, as if it were acting as the mandatary of the lender, but it must notify the lender as soon as possible.

1983, c. 16, s. 42; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

43. The authorization of the agency, unless it determines otherwise, and that of the lender, must be obtained in order

(1) to validate the voluntary transfer of property securing a loan;

(2) to grant, with or without consideration, total or partial release of a hypothec on the whole or part of property securing a loan;

(3) to discharge a surety securing a loan, with or without consideration.

1983, c. 16, s. 43; 1992, c. 32, s. 43; 1992, c. 57, s. 545; 1999, c. 40, s. 98; 2000, c. 53, s. 66.

44. The authorization of the agency must be obtained in order to validate

(1) the lease for more than one year of an immovable securing a loan or the lease of hypothecated property;

(2) any issue, allotment or transfer, repurchase or repayment of shares of a legal person that is a borrower;

(3) any issue, allotment, transfer or repayment of ordinary or common shares, as the case may be, of a cooperative that is a borrower;

(4) any amendment to the contract constituting a partnership that is a borrower;

(5) any amendment, in the case of a group of persons contemplated in paragraph 3 of section 3 that have become borrowers,

(a) to any contract or title establishing undivided ownership, in the case of persons in undivided ownership of a forest;

(b) to any contract establishing a lease, in the case of co-lessees of a forest; or

(c) to any contract establishing joint harvesting, in the case of persons engaged in the joint harvesting of forest resources.

1983, c. 16, s. 44; 1992, c. 32, s. 43; 1992, c. 57, s. 546; 1999, c. 40, s. 98; 2000, c. 53, s. 66.

45. The authorization of the agency contemplated in sections 43 and 44 is granted by any person designated by the agency.

1983, c. 16, s. 45; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

46. Where a borrower collects a sum of money on or pursuant to the transfer, expropriation or lease for more than one year of an immovable securing a loan owing from such borrower, the said sum, subject to the second paragraph of section 24, must be applied to the repayment in full or in part of the loan, unless otherwise decided by the agency.

1983, c. 16, s. 46; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

47. Where a loan is secured by a movable hypothec, the lender may, in such cases and on such conditions as are determined by regulation and notwithstanding section 43, grant a total or partial release of the movable securities and agree on any alteration in the securities without requiring full or partial repayment of the balance of the loan.

1983, c. 16, s. 47; 1992, c. 57, s. 547.

48. The agency may, in the place and stead of the lender, request from the borrower any information or document it deems necessary to ensure the protection of the securities for a loan or to ascertain whether a borrower is fulfilling the obligations he has contracted under the deed of loan.

1983, c. 16, s. 48; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

49. The borrower must, at the request of the agency, provide the documents and information contemplated in section 48.

1983, c. 16, s. 49; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

DIVISION VIII

REALIZING UPON SECURITY

50. *(Repealed).*

1983, c. 16, s. 50; 1992, c. 32, s. 40.

DIVISION IX

REGULATIONS

51. The Government may, by regulation,

(1) designate any institution entitled to grant a loan, in addition to those already authorized to do so under this Act;

(2) determine the standards to which the lease of a borrower who is the lessee of a forest and the emphyteusis of a borrower who is the emphyteutic lessee of a forest are subject;

(3) determine the tenor of the certificate contemplated in section 2 and the conditions for obtaining it;

(4) fix the amortization basis and the terms and conditions relating to the repayment of loans;

(5) fix the maximum annual rate of interest on loans and the dates and criteria for the readjustment of the rate of interest;

- (6) fix, for the purposes of section 24, the mode of allocation of the payments made under the terms of a deed of loan;
- (7) determine the cases where the transfer of a borrower's life insurance policy benefits may be required;
- (8) define the cases where a loan must be accompanied with a mandatory program of financial operations and the terms and conditions to which such a loan must be subject, particularly with regard to the application for the loan, the supervision fees, the obligations of the borrower and any other accessory conditions;
- (9) fix the general bases of appraisal of property in respect of which a loan is granted or which are offered as security for a loan;
- (10) determine the amount, period, conditions, modalities and the date of payment of the contribution contemplated in section 38;
- (11) determine the extent, period and conditions of reduction of the rate of interest applicable to loans that the agency is authorized to grant under paragraph 7 of section 37;
- (12) determine, for the purposes of section 47, in what cases and on what conditions a lender may grant total or partial release of movable securities or agree on any modification thereto;
- (13) fix the proportion of the cost of appraisal of the property offered as security, payable by the agency and by the borrowers, respectively;
- (14) clarify the expression "to process wood otherwise than on a small scale industrial basis" used in sections 6 and 7;
- (15) specify the purposes of the loans provided for in section 14 and list them;
- (16) determine the cases where repayment of a loan may be secured otherwise than as prescribed in sections 17 and 18;
- (17) fix the maximum amount at which a loan does not necessitate a management plan, in accordance with section 31, for the forest in respect of which the loan is granted or serving as security for the loan;
- (18) prescribe the documents, reports and information to be made or filed under this Act and the time limits for their production;
- (19) prescribe any other measure necessary or advisable for the administration of this Act.

Every regulation made under this Act comes into force 10 days after its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

1983, c. 16, s. 51; 1992, c. 32, s. 43; 1999, c. 40, s. 98; 2000, c. 53, s. 66.

DIVISION X

SALE AND HYPOTHECATION OF CLAIMS

1992, c. 57, s. 548.

52. Subject to all the powers of the agency under this Act, the second paragraph of this section, and to every restriction provided in any Act that is applicable to the lender, the latter may, after obtaining the general and specific authorization to do so from the agency, hypothecate, as security for a loan all or some of the claims arising from loans, or sell to any person all or part of the said claims, provided that the person to whom the hypothec or sale is granted or made gives the lender the mandate of administering the loans that are the

subject of such hypothec or sale and that, to that end, the lender and the agency may continue to exercise, in respect of such loans, all the powers conferred on them by this Act.

Where the sale or the hypothec on a claim arising from a loan is made by a lender to a bank, a savings and credit union or an institution designated by regulation for the granting of loans, the purchaser or assignee may, notwithstanding the first paragraph, with the written consent of the lender and the agency, exercise over the loan all the powers conferred on the original creditor by this Act, including the power to administer the loan.

1983, c. 16, s. 52; 1992, c. 32, s. 43; 1992, c. 57, s. 549; 2000, c. 53, s. 66.

DIVISION XI

FINANCIAL PROVISIONS

53. The agency may, with the prior authorization of the Government, contract borrowings by notes, bonds or other securities for such amounts, at such rates of interest and on such other conditions as may be fixed by the Government.

1983, c. 16, s. 53; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

54. The agency may guarantee execution of the obligations arising from the borrowings contemplated in section 53 by a hypothec on all or some of the claims arising from loans granted under paragraph 7 of section 37 and under sections 2 and 3 of the Forestry Credit Act (chapter C-78).

The agency may, with the written consent of the lender given at the time the borrowing was done or subsequently, substitute for any claim thus hypothecated and any other claim arising from a loan contemplated in the first paragraph.

1983, c. 16, s. 54; 1992, c. 32, s. 43; 1992, c. 57, s. 550; 2000, c. 53, s. 66.

55. Notwithstanding any general law or special Act to the contrary, municipalities, school service centres, school boards and the Comité de gestion de la taxe scolaire de l'île de Montréal may invest the sinking funds for their borrowings in acquiring bonds issued by the agency.

The same applies to the Minister of Finance when he administers the sinking funds.

The bonds of the agency are securities allowable as investments presumed sound under the Civil Code.

1983, c. 16, s. 55; 1987, c. 95, s. 402; 1988, c. 84, s. 578; 1992, c. 32, s. 43; 1996, c. 2, s. 621; 1999, c. 40, s. 98; 2000, c. 53, s. 66; 2002, c. 75, s. 33; 2018, c. 23, s. 754; 2020, c. 1, s. 309.

56. The Government may, on such conditions as it may determine,

(1) guarantee payment of the capital and interest of any borrowing contracted by the agency for the purposes prescribed in this Act and the execution of any obligation of the agency;

(2) authorize the Minister of Finance to advance to the agency any amount deemed necessary for the application of this Act, at such rate of interest, for such period of time and on such other conditions as are determined by the Government;

(3) authorize the Minister of Finance to advance to the agency any amount deemed necessary for the repayment of all or part of the loans contracted under section 53 and of advances made by the Minister under subparagraph 2, at such rate of interest, for such period of time and on such other conditions as are determined by the Government.

The sums that the Government may be called upon to pay in virtue of the guarantees or to advance to the agency are taken out of the Consolidated Revenue Fund.

1983, c. 16, s. 56; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

57. The sums collected by the agency as interest on its loans are allocated first, to the payment of the interest payable on borrowings it has contracted under section 53, and, secondly, to the payment of the interest payable on the advances made by the Minister of Finance under section 56.

The sums collected by the agency as repayment on its loans are allocated as follows and in the following order of priority:

(1) the repayment on the due date of the principal of the borrowings contemplated in section 53;

(2) the establishment, as the case may be, of a sinking fund or other reserves related to borrowings contracted under section 53;

(3) the repayment on the due date of advances made by the Minister of Finance under section 56, or, if there is no determined due date, as often as determined by the Minister of Finance.

1983, c. 16, s. 57; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

58. The agency may deposit the funds at its disposal under this Act, until they are used, in a bank, a deposit institution authorized under the Deposit Institutions and Deposit Protection Act (chapter I-13.2.2), or in securities issued or guaranteed by the Government of Canada or the government of a province of Canada.

The revenues from such investments and any surplus of the working fund established under section 63 are paid into the Consolidated Revenue Fund within ninety days of the end of each fiscal year of the agency.

1983, c. 16, s. 58; 1992, c. 32, s. 43; 2000, c. 53, s. 66; 2002, c. 45, s. 349; 2004, c. 37, s. 90; 2018, c. 23, s. 755.

59. The agency may, with the prior authorization of the Government, and at the price and on the conditions determined by the Government, sell the whole or part of its debt arising from a loan granted under paragraph 7 of section 37.

The agency may, with the written consent of the purchaser given at the time the sale is made or subsequently, substitute for any debt thus sold any other debt arising from a loan granted under paragraph 7 of section 37.

1983, c. 16, s. 59; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

60. The agency is not bound by articles 1641, 1643, 2710, 2712, 2956, 3003, 3004 or 3014 of the Civil Code with regard to the hypothecation of a claim contemplated in section 54 or the sale of a debt contemplated in section 59.

The Government shall, however, fix the conditions respecting the method of notification of such hypothecation or sale.

1983, c. 16, s. 60; 1992, c. 32, s. 43; 1992, c. 57, s. 551; 1999, c. 40, s. 98; 2000, c. 53, s. 66; I.N. 2016-01-01 (NCCP).

61. The proceeds from the borrowings or sales made by the agency under section 53, 56 or 59, as the case may be, must be used to make the loans the agency is authorized to grant under paragraph 7 of section 37 or to repay any borrowing already contracted under section 53 or 56.

1983, c. 16, s. 61; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

62. The Minister of Finance may at the request of the agency pay to it, out of the Consolidated Revenue Fund, the sums required to make up for each fiscal year of the agency, the difference between the amount of

interest payable by the agency on borrowings contracted under sections 53 and 56 and the amount paid as interest by borrowers from or debtors of the agency.

1983, c. 16, s. 62; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

63. The Government may establish a working fund for the agency out of the Consolidated Revenue Fund, not exceeding \$1,000,000, for the outlays necessary for the protection of the loans it grants, and more particularly, but without restricting the generality of the foregoing, for payment of insurance premiums, taxes and assessments, exercise of redemption rights, acquisition, conservation, administration, restoration and resale of the property securing the loans. As soon as they are recovered, the sums so paid out must be returned to such working fund.

1983, c. 16, s. 63; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

64. The sums required for the administration of this Act are taken for the fiscal year 1983-84 out of the Consolidated Revenue Fund and, for subsequent fiscal years, out of the moneys granted annually for that purpose by Parliament.

The first paragraph does not restrict the scope of sections 56, 62 and 63.

1983, c. 16, s. 64.

DIVISION XII

TRANSITIONAL AND FINAL PROVISIONS

65. (*Amendment integrated into c. C-78, ss. 3.1, 13.1*).

1983, c. 16, s. 65.

66. (*Amendment integrated into c. A-29, s. 1*).

1983, c. 16, s. 66.

67. La Financière agricole du Québec is entrusted with the administration of this Act.

1983, c. 16, s. 67; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

68. The books and accounts of the agency relating to the administration of this Act shall be audited annually, and, also, as often as the Government may determine, by the Auditor General.

1983, c. 16, s. 68; 1992, c. 32, s. 43; 2000, c. 53, s. 66.

69. Not later than 30 June each year, the agency must make, to the Minister of Natural Resources and Wildlife, a report of its administration of this Act for the preceding fiscal year. Such report must also contain all the information that may be prescribed by the Minister.

The Minister shall table such report in the National Assembly within 30 days of its receipt if the Assembly is in session or, if it is not sitting, within 30 days of the opening of the next session or of resumption.

The agency must also, from time to time, furnish such information to the Minister as he may require on its activities under this Act.

1983, c. 16, s. 69; 1990, c. 64, s. 24; 1992, c. 32, s. 43; 1994, c. 13, s. 16; 2000, c. 53, s. 66; 2003, c. 8, s. 6; 2006, c. 3, s. 35.

70. The Minister of Natural Resources and Wildlife is responsible for the administration of this Act.

1983, c. 16, s. 70; 1990, c. 64, s. 24; 1994, c. 13, s. 16; 2003, c. 8, s. 6; 2006, c. 3, s. 35.



The functions of the Minister of Natural Resources and Wildlife provided for in this Act are assigned to the Minister of Forests, Wildlife and Parks. Order in Council 692-2020 dated 30 June 2020, (2020) 152 G.O. 2 (French), 3107.

71. *(This section ceased to have effect on 30 June 1989).*

1983, c. 16, s. 71; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

72. *(Omitted).*

1983, c. 16, s. 72.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 16 of the statutes of 1983, in force on 1 July 1984, is repealed, except section 72, effective from the coming into force of chapter C-78.1 of the Revised Statutes.