



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 48

(1996, chapter 44)

An Act to amend the Act respecting the Société générale de financement du Québec

Introduced 17 October 1996

Passage in principle 23 October 1996

Passage 19 November 1996

Assented to 21 November 1996

**Québec Official Publisher
1996**

EXPLANATORY NOTES

This bill amends the Act respecting the Société générale de financement du Québec mainly to redefine the objects of the company and to increase its authorized capital.

In addition, the bill revises the rules governing the financial guarantees that the Government may grant to the company, and provides for the company's obligation to establish an annual operational plan and a five-year development plan.

Finally, the bill introduces new rules in relation to the administration of the company, in particular, in respect of conflicts of interest and the protection of directors, and repeals certain outdated provisions.

Bill 48

AN ACT TO AMEND THE ACT RESPECTING THE SOCIÉTÉ GÉNÉRALE DE FINANCEMENT DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 3 of the Act respecting the Société générale de financement du Québec (R.S.Q., chapter S-17) is amended by replacing the words “corporate seat” in the first paragraph by the words “head office”.

2. Section 4 of the said Act is replaced by the following section :

“**4.** The object of the company is to carry out, in cooperation with partners and in accordance with accepted requirements of profitability, economic development projects, in particular, in the industrial sector, in conformity with the economic development policy of the Government.”

3. Sections 4.1 and 4.2 of the said Act are repealed.

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

“**6.** The authorized capital of the company is \$850,000,000.
It is divided into 85,000,000 common shares of a par value of \$10 each.”

5. Section 7 of the said Act is amended by replacing the words “be reserved for Her Majesty in the right of Québec” by the words “form part of the domain of the State and be allotted to the Minister of Finance”.

6. Sections 8 to 8.5 of the said Act are replaced by the following sections :

“**8.** The Minister of Finance shall subscribe and pay to the company, at the latter’s request, out of the consolidated revenue fund, not more than 50,250,000 common shares. The subscription application must be consistent with the company’s financial needs as stated in its annual operational plan referred to in section 15.1.

Before filing a subscription application with the Minister, the company shall send to the Minister a thirty-day advance notice indicating the number of shares for which the subscription application is filed and setting forth the reasons for the application.

“8.1. Following a reduction in the share capital of the company and a corresponding reimbursement of capital to the Minister of Finance pursuant to the Act respecting the reduction of the share capital of legal persons established in the public interest and of their subsidiaries (1994, chapter 45), the Minister shall also be authorized to subscribe, with the authorization of the Government and subject to the conditions it determines, shares of the company the value of which shall not exceed the amount of the reimbursement. The shares shall be paid out of the consolidated revenue fund. The certificates shall be issued after the shares are fully paid.”

7. Section 10 of the said Act is replaced by the following section :

“10. The shares of the company which form part of the domain of the State shall be allotted to the Minister of Finance who shall exercise all the rights attached to the shares; subsection 3 of section 196 of the Companies Act (chapter C-38) does not apply to proxies appointed by the Minister of Finance.”

8. Sections 10.1 and 10.2 of the said Act are repealed.

9. Section 12 of the said Act is replaced by the following section :

“12. The Government may, on the conditions it determines,

(a) authorize the Minister of Finance to advance to the company any amount considered necessary for the carrying out of the company’s objects ;

(b) secure the payment in capital and interest of any loan of the company and guarantee the performance of any of its obligations ;

(c) make any commitment in respect of the carrying out or financing of a project.

The sums required for the purposes of this section shall be taken out of the consolidated revenue fund.”

10. Sections 12.1 and 12.2 of the said Act are repealed.

11. The said Act is amended by inserting, after section 14, the following sections :

“14.1. The minutes of the meetings of the board of directors approved by the board and certified by the chairman of the board or by any other person authorized to do so by the company are authentic. The same applies to documents and copies emanating from the company and forming part of its records provided they are thus certified.

“14.2. Any member of the board of directors, other than a member who exercises full-time functions within the company or any of its subsidiaries,

who has a direct or indirect interest in an enterprise which places his personal interest in conflict with that of the company or any of its subsidiaries shall, on pain of forfeiture of office, file a written disclosure with the company, and must abstain from voting on any decision bearing upon the enterprise and avoid influencing the decision relating to it. The board member must also withdraw from the meeting while the matter is discussed or voted on.

No member of the board of directors who exercises full-time functions within the company or any of its subsidiaries and no employee of the company shall, 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 company or any of its subsidiaries. However, forfeiture is not incurred if such an interest devolves to them by succession or gift, provided they renounce or dispose of it with diligence.

“14.3. The company shall take up the defence of its directors prosecuted by a third person for an act done in the exercise of their functions and shall pay damages, if any, resulting from that act, unless they have committed a grievous offence or a personal offence separable from the exercise of their functions.

However, in a penal or criminal proceeding, the company shall assume the payment of the expenses of its directors only if they had reasonable grounds to believe that their conduct was in conformity with the law, or if they have been freed or acquitted.

“14.4. The company shall assume the expenses of its directors if, having prosecuted them for an act done in the exercise of their functions, it loses its case and the court so decides.

If the company wins its case only in part, the court may determine the amount of the expenses it shall assume.

“14.5. The company shall assume the obligations imposed by sections 14.3 and 14.4 in respect of any person who acted at its request as director for a legal person of which it is a shareholder or creditor.”

12. Section 15 of the said Act is amended by striking out the fourth paragraph.

13. Section 15.1 of the said Act is replaced by the following section:

“15.1. The company shall establish a five-year development plan to be submitted to the Government for approval and an annual operational plan to be submitted to the Minister of Industry, Trade, Science and Technology for approval. In addition, the company shall submit the financial content of its operational plan to the Minister of Finance for approval.

The Government shall determine the form and content of the five-year development plan and the time at which it must be submitted. In the case of the annual operational plan, the form, content and time shall be determined by

the Minister of Industry, Trade, Science and Technology, in cooperation with the Minister of Finance.”

14. Section 18 of the said Act is replaced by the following section :

“**18.** Sections 142, 159 to 162, 179, 184, 188 and 189 of the Companies Act do not apply to the company.”

15. This Act comes into force on 21 November 1996, except the provisions of section 6, where it enacts section 8.1, which will come into force on the date to be fixed by the Government.