



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

FINANCE PEI ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to June 28, 2019. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca



FINANCE PEI ACT

Table of Contents

Section	Page
1. In this Act.....	5
2. Corporation established.....	5
3. Powers under <i>Companies Act</i>	5
4. Board of directors.....	5
5. Bylaws, policies, and guidelines	6
6. Chief Executive Officer	6
7. Objects of the Corporation	7
8. Powers of Corporation	7
9. Eligible businesses	8
10. Staffing, etc.	8
11. Exemption from liability	8
12. Disclosure of pecuniary interest	9
13. Regulations	9
TRANSITIONAL AND CONSEQUENTIAL AMENDMENTS	9
14. Transitional	9
CONSEQUENTIAL AMENDMENTS	10
15. Consequential amendments.....	10
REPEAL AND COMMENCEMENT	10
17. 10	



FINANCE PEI ACT

CHAPTER F-8.1

1. In this Act

- (a) “**board**” means the board of directors of the Corporation;
- (b) “**Corporation**” means Finance PEI;
- (c) “**member**” means a member of the board;
- (d) “**Minister**” means the Minister of the Crown designated by the Lieutenant Governor in Council to administer this Act;
- (e) “**security agreement**” means an agreement that creates or provides for a security interest, and includes a document evidencing a security agreement when the context permits;
- (f) “**security interest**” means an interest in real or personal property, a document of title, an instrument, a security, a chattel paper, an intangible or money that secures payment or performance of an obligation. *2012, c.14, s.1.*

2. Corporation established

There is established a Crown Corporation to be called Finance PEI. *2012, c.14, s.2.*

3. Powers under *Companies Act*

The Corporation has the same general powers as conferred upon companies incorporated under the *Companies Act* R.S.P.E.I. 1988, Cap. C-14, except where such powers are inconsistent with this Act. *2012, c.14, s.3.*

4. Board of directors

- (1) The affairs of the Corporation shall be conducted by a board of directors consisting of
 - (a) the Deputy Minister of Economic Growth, Tourism and Culture;
 - (b) one person appointed by the Lieutenant Governor in Council under clause (2)(a); and
 - (c) six representatives of the private sector, broadly representing the Prince Edward Island business community and including at least one representative from each of the following sectors:
 - (i) agriculture,
 - (ii) fisheries, and
 - (iii) tourism.

Appointments, chairperson

- (2) The Lieutenant Governor in Council shall
- (a) appoint the Deputy Minister of Finance or another member of that Department as a member of the board of directors as required by clause (1)(b);
 - (b) appoint the six private sector members of the board of directors as required by clause (1)(c); and
 - (c) designate one of the members of the board as the chairperson of the board.

Vice-chairperson

- (3) The board may designate one member to be vice-chairperson of the board.

Term of office

- (4) The term of office of members of the board shall be as specified by the Lieutenant Governor in Council in the instrument of appointment.

Vacancy

- (5) In the event of a vacancy among the representatives of the private sector, a replacement shall be appointed by the Lieutenant Governor in Council and the term of office of the replacement will be the unexpired portion of the term of the person being replaced.

Reappointment

- (6) Private sector members of the board may be reappointed.

Remuneration and expenses

- (7) Members of the board are entitled to receive such remuneration and compensation for expenses as the Lieutenant Governor in Council may determine. *2012, c.14, s.4; 2015, c.28, s.3; 2019, c.1, s.3.*

5. Bylaws, policies, and guidelines

With the advice and consent of the Minister, the board may make bylaws, internal policies, and guidelines, not inconsistent with this Act and the regulations, for its internal organization and operation, including bylaws, internal policies, and guidelines respecting

- (a) the functions of all agents, officers and employees of the Corporation; and
- (b) the conduct of the affairs of the Corporation not otherwise provided for by this Act. *2012, c.14, s.5.*

6. Chief Executive Officer

- (1) The Lieutenant Governor in Council shall appoint a Chief Executive Officer of the Corporation who shall coordinate its activities and be responsible for the overall administration of the affairs of the Corporation in accordance with this Act.

Member of the board

- (2) The Chief Executive Officer shall be a non-voting member of the board and shall act as secretary and treasurer of the Corporation.

Remuneration

- (3) The Chief Executive Officer shall be paid out of the funds of the Corporation such remuneration as may be determined by the Lieutenant Governor in Council. *2012, c.14, s.6.*

7. Objects of the Corporation

The objects of the Corporation are

- (a) to provide leadership in the support and implementation of the government's economic development strategy;
- (b) to operate as a responsible, professional lender providing prudent and necessary financing assistance to firms and individuals pursuing the economic development objectives of government;
- (c) to provide loans and credit assistance to Prince Edward Island enterprises to maintain or expand economic development activity on Prince Edward Island;
- (d) to provide loans and credit assistance to sectors of the Prince Edward Island economy identified by the government as being of strategic importance for economic development;
- (e) to assist in the planning and implementation of economic development projects sponsored by the government; and
- (f) to provide such financial counselling assistance as may be required to borrowers from the Corporation to ensure repayment terms are fulfilled. *2012, c.14, s.7.*

8. Powers of Corporation

Subject to this Act and the regulations, the Corporation may

- (a) grant loans and credit out of the funds of the Corporation;
- (b) borrow, and receive, by way of grant or loan, money from the government and give as security therefor bills of exchange, promissory notes and other negotiable instruments and securities;
- (c) borrow, and receive, by way of grant or loan, money from the Government of Canada and give as security therefor bills of exchange, promissory notes and other negotiable instruments and securities;
- (d) borrow money by way of loan, bank overdraft or otherwise, for the purposes of the Corporation, from any bank chartered pursuant to the *Bank Act (Canada)* and give as security therefor, bills of exchange, promissory notes and other negotiable instruments and securities;
- (e) acquire, deal in, discount, and lend money and make advances upon the security of, and take security for, any loan or advance made by the Corporation, or any debt or liability to the Corporation, bills of exchange, promissory notes and other negotiable instruments and securities;
- (f) lend money and make advances upon the security of, and take as security for, any loan or advance made by the Corporation, or any debt or liability to the Corporation, on real or personal, immovable or movable property;
- (g) guarantee the payment of a debt or obligation;
- (h) make direct equity investments;
- (i) acquire, take and hold by lease, donation, mortgage or otherwise, real and personal property;
- (j) sell, convey, lease, mortgage or otherwise dispose of real or personal property or any part thereof and for such purposes execute any agreement, deed, lease, mortgage, pledge, lien or conveyance and authorize appropriate members or officials of the Corporation to sign the required documents or conveyances;
- (k) do any other thing and exercise any other power required to carry out the provisions and intent of this Act;

- (l) construct factories and buildings for sale, lease or rent;
- (m) make improvements to land and buildings;
- (n) attach covenants on any land sold, leased or conveyed by the Corporation; and
- (o) convey any of its real property to any department or corporation of the Government.
2012, c.14, s.8.

9. Eligible businesses

- (1) Any firm or individual who
 - (a) is engaged in job and wealth creation in any of the various business sectors on Prince Edward Island; and
 - (b) is pursuing the economic development objectives of this Act and the regulations,may apply to the Corporation for credit or a capital loan from the Corporation.

Grant of credit

- (2) Where the Corporation, on receipt of an application pursuant to subsection (1), is satisfied that the applicant meets the standards and other requirements of the Act and the regulations for granting credit or a capital loan, the Corporation may lend to the applicant any amount as the Corporation considers advisable up to the amount for which application was made and according to the interest rate policy as prescribed by the regulations.

Terms of repayment

- (3) Any credit or loan advanced shall be repaid by the borrower at such time and under such repayment terms as directed by the Corporation.

Capital loans

- (4) A capital loan shall be used for the acquisition of land, buildings, machinery, equipment and other expenditures deemed by the Corporation to be of a capital nature, including recapitalization. *2012, c.14, s.9.*

10. Staffing, etc.

- (1) The Corporation may
 - (a) employ administrative, accounting, clerical and professional staff;
 - (b) contract for the services of any persons or organizations; and
 - (c) engage consultants and professional specialists,as necessary to carry out the functions and objects of the Corporation.

Appointment of auditors

- (2) The Corporation may appoint auditors to prepare audited and unaudited financial statements and annual reports.

Civil Service Act not applicable

- (3) The *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8 shall not apply to any person employed by the Corporation. *2012, c.14, s.10.*

11. Exemption from liability

The members of the board, the Chief Executive Officer and any person acting under their instructions or pursuant to the authority of this Act or the regulations are not personally liable

for any loss or damage suffered by any person by reason of any act done by any of them in good faith in the exercise of their functions. *2012, c.14, s.11.*

12. Disclosure of pecuniary interest

Where a member of the board has any pecuniary interest in or is affected by any matter before the board, the member shall declare the interest before the matter is considered by the board, absent himself or herself from board deliberations on the issue, and refrain from voting on that matter. *2012, c.14, s.12.*

13. Regulations

The Lieutenant Governor in Council may make regulations

- (a) fixing minimum security to be provided by approved borrowers in return for loans and credits out of the funds of the Corporation;
- (b) fixing the total amount of indebtedness that may be granted out of the funds of the Corporation to any category of persons or to any sector of economic activity established by the board or by the regulations;
- (c) defining strategic sectors, small business and other sectors of economic activity for the purposes of this Act;
- (d) fixing and defining businesses, classes of businesses, and sectors of economic activity ineligible to borrow from the Corporation;
- (e) fixing any maximum terms for loans, and any procedure for dealing with unpaid or delinquent loans;
- (f) setting a maximum amount that the Corporation may advance to any one applicant or persons affiliated with the applicant and providing that any advance in excess of that amount may be made only with the approval of the Lieutenant Governor in Council;
- (g) fixing the dates on or before which the board shall submit its annual report and its audited financial statements to the Minister responsible; and
- (h) authorizing the board to do any things not otherwise provided for in this Act as the Lieutenant Governor in Council considers necessary and advisable to carry out the intent of this Act. *2012, c.14, s.13.*

TRANSITIONAL AND CONSEQUENTIAL AMENDMENTS

14. Transitional

- (1) In this section and in section 15 “**existing division**” means any or all of Innovation PEI Lending Services, Innovation PEI Strategic Initiatives and Properties and P.E.I. Lending Agency as the context requires.

Idem

- (2) On the date this section comes into force
 - (a) the Corporation assumes the exclusive responsibility for the loans, credit, and security agreements of the existing division;
 - (b) the Corporation becomes the successor to the existing division;
 - (c) all interests in real estate and personal property vested in the existing division and secured by a security agreement shall be vested in the Corporation;

- (c.1) all real property owned by the existing division becomes the property of the Corporation;
- (d) those assets and liabilities of the existing division related to the provision of loans and credit are transferred to and become the property of the Corporation;
- (e) those contracts and agreements entered into by the existing division related to the provision of loans and credit are assumed by the Corporation and may be enforced by and against the Corporation as if it had been a party thereto instead of the existing division;
- (f) all legal proceedings and rights of action by or against the existing division related to loans, credits and security agreements may be brought or continued by or against the Corporation;
- (g) all employees of the existing division become employees of the Corporation without a break in service;
- (h) the Corporation shall be substituted for the existing division in all contracts for supplies and services entered into by the existing division;
- (i) references in any enactment or document to the existing division related to the provision of loans or credit shall be construed as references to the Corporation; and
- (j) for accounting purposes, the transactions of the existing division from April 1, 2012, until the date this Act comes into force shall be included in the operations of the Corporation for the fiscal year ending March 31, 2013. *2012, c.14, s.14.*

CONSEQUENTIAL AMENDMENTS

15. Consequential amendments

Sections 15 and 16 make consequential amendments to other Acts. The amendments have been incorporated into these Acts.

REPEAL AND COMMENCEMENT

17. Lending Agency Act

The *Lending Agency Act* R.S.P.E.I. 1988, Cap. L-8.2 is repealed.