



PLEASE NOTE

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For more information concerning the history of this Act, please see the [Table of Public Acts](#).

This document is *not* the official version of the statute printed pursuant to the authority of the [Queen's Printer Act](#) R.S.P.E.I. 1988, Cap. Q-1.

This Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted when determining the authoritative statement of the law.

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CHAPTER L-8.2
LENDING AGENCY ACT

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|---|--------------------------------------|
| 1. In this Act | Definitions |
| (a) “Agency” means the P. E. I. Lending Agency; | Agency |
| (b) “board” means the board of directors of the Agency; | board |
| (c) “member” means a member of the board; | member |
| (d) “Minister” means the Minister of the Crown designated by the Lieutenant Governor in Council to administer this Act; | Minister |
| (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; | security agreement |
| (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. 1998,c.4.s.1. | security interest |
| 2. There is established a Crown Corporation to be called the P. E. I. Lending Agency. 1998,c.4.s.2. | Agency established |
| 3. The Agency has the same general powers as conferred upon companies incorporated under the <i>Companies Act</i> R.S.P.E.I. 1988, Cap. C-14 except where such powers are inconsistent with this Act. 1998,c.4.s.3. | Powers under
<i>Companies Act</i> |
| 4. (1) The affairs of the Agency shall be conducted by a board of directors consisting of | Board of directors |
| (a) The Deputy Provincial Treasurer; | |
| (b) The Deputy Minister of Development and Technology; | |
| (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: agriculture, fisheries, and tourism. | |
| (2) The Lieutenant Governor in Council shall | Appointments;
chairperson |
| (a) appoint the six private sector members of the board of directors required by clause (1)(c); and | |
| (b) designate one of the private sector members of the board to be 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. 1998,c.4.s.4; 2000,c.5,s.3.
Bylaws, policies, and guidelines	<p>5. 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</p> <ul style="list-style-type: none"> (a) the functions of all agents, officers and employees of the Agency; and (b) the conduct of the affairs of the Agency not otherwise provided for by this Act. 1998,c.4.s.5.
Chief Executive Officer	6. (1) The Lieutenant Governor in Council shall appoint a Chief Executive Officer of the Agency who shall coordinate its activities and be responsible for the overall administration of the affairs of the Agency in accordance with this Act.
Member of the board	(2) The Chief Executive Officer shall act as secretary and treasurer of the Agency.
Remuneration	(3) The Chief Executive Officer shall be paid out of the funds of the Agency such remuneration as may be determined by the Lieutenant Governor in Council. 1998,c.4.s.6.
Objects of the Agency	<p>7. The objects of the Agency are</p> <ul style="list-style-type: none"> (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 and to enterprises not eligible for private sector financing;

- (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;
- (f) to provide such financial counselling assistance as may be required to borrowers from the Agency to ensure repayment terms are fulfilled. 1998,c.4.s.7.

8. Subject to this Act and the regulations, the Agency may

Powers of Agency

- (a) grant loans and credit out of the funds of the Agency;
- (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 Agency, 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 Agency, or any debt or liability to the Agency, 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 Agency, or any debt or liability to the Agency, 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 Agency 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. 1998,c.4.s.8.

Eligible businesses	<p>9. (1) Any firm or individual who</p> <ul style="list-style-type: none"> (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 <p>may apply to the Agency for credit or a capital loan from the Agency.</p>
Grant of credit	<p>(2) Where the Agency, 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 Agency may lend to the applicant any amount as the Agency considers advisable up to the amount for which application was made and according to the interest rate policy as prescribed by the regulations.</p>
Terms of repayment	<p>(3) Any credit or loan advanced shall be repaid by the borrower at such time and under such repayment terms as directed by the Agency.</p>
Capital loans	<p>(4) A capital loan shall be used for the acquisition of land, buildings, machinery, equipment and other expenditures deemed by the Agency to be of a capital nature, including recapitalization. 1998,c.4.s.9.</p>
Staffing, etc.	<p>10. (1) The Agency may</p> <ul style="list-style-type: none"> (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 <p>as necessary to carry out the functions and objects of the Agency.</p>
Appointment of auditors	<p>(2) The Agency may appoint auditors to prepare audited and unaudited financial statements and annual reports.</p>
<i>Civil Service Act</i> not applicable	<p>(3) The <i>Civil Service Act</i> R.S.P.E.I. 1988, Cap. C-8 shall not apply to any person employed by the Agency. 1998,c.4.s.10.</p>
Exemption from liability	<p>11. 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. 1998,c.4.s.11.</p>
Disclosure of pecuniary interest	<p>12. 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. 1998,c.4.s.12.</p>

- 13.** 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 Agency;
 - (b) fixing the total amount of indebtedness that may be granted out of the funds of the Agency to any category of persons or to any sector of economic activity established by the board or by the regulations;
 - (c) defining 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 agency;
 - (e) fixing any maximum terms for loans, and any procedure for dealing with unpaid or delinquent loans;
 - (f) setting a maximum amount that the Agency 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.
- 1998,c.4.s.13; 1999,c.34,s.1.

Regulations

TRANSITIONAL AND CONSEQUENTIAL AMENDMENTS

- 14.** (1) In this section and in section 15 “existing division” means Enterprise P.E.I., Lending Services.
- (2) On the date this Act comes into force
- (a) the Agency assumes the exclusive responsibility for the loans, credit, and security agreements of the existing division;
 - (b) the Agency 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 Agency;
 - (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 Agency;
 - (e) those contracts and agreements entered into by the existing division related to the provision of loans and credit are assumed by the Agency and may be enforced by and against the Agency as if it had been a party thereto instead of the existing division;

Transitional

(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 Agency;

(g) all employees of the existing division become employees of the Agency without a break in service;

(h) the Agency shall be substituted for the existing division in all contracts for supplies and services entered into by the existing division; and

(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 Agency;

(j) for accounting purposes, the transactions of the existing division from April 1, 1998 until the date this Act comes into force shall be included in the operations of the Agency for the fiscal year ending March 31, 1999. 1998,c.4.s.14.

Consequential
amendments

15. Consequential amendments. 1998,c.4.s.15.