

1982 BILL 241

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 241

SMALL BUSINESS DEVELOPMENT CORPORATION ACT

MR. ZAOZIRNY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 241
Mr. Zaozirny

BILL 241

1982

SMALL BUSINESS DEVELOPMENT CORPORATION ACT

(Assented to _____ *, 1982)*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “Minister” means the Minister charged with the administration of this Act.
- (b) “permanent resident” means a permanent resident as defined in the *Immigration Act* (Canada).
- (c) “registered development corporation” means a corporation that has been registered pursuant to this Act.
- (d) “small business” means a business or company that
 - (i) is an individual who is a permanent resident or a corporation 50% of the equity of which is controlled by individuals who are permanent residents,
 - (ii) has not more than 100 full-time employees,
 - (iii) has 75% or more of its employees employed principally in Alberta,
 - (iv) has the majority of its business in the field of manufacturing, processing or tourism as defined in the regulations, or in any other business activity as may be prescribed by the regulations,
 - (v) deals on an arms-length basis within the meaning of the

Income Tax Act (Canada) with the registered development corporation proposing to invest in it, and

(vi) meets any further conditions that may be prescribed by the regulations.

Regulations

2 The procedures by which a corporation may become a registered development corporation pursuant to this Act shall be in accordance with the regulations.

Record of corporations

3 The Minister shall cause to be maintained a record of all registered development corporations and make the list available for the inspection by any person during normal business hours.

Suspension of registrations

4 Where the Minister is of the opinion that the number of registered development corporations will take up the amount of money payable by grant pursuant to this Act that has been appropriated by the Legislature, he may suspend further registration of corporations that would qualify to receive a grant for such time as he deems appropriate.

Registration qualification

5 No company may be registered as a registered development corporation pursuant to this Act unless:

(a) it has fully paid equity capital of not less than \$25 000 and not more than \$5 000 000;

(b) 50% of its equity is controlled by individuals who are permanent residents either directly or through the medium of 1 or more other companies; and

(c) it complies with the regulations.

Capital requirements

6(1) Prior to the end of its first year of registration under this Act, a registered development corporation shall have equity capital of at least \$250 000 and at least 40% of its equity shall be invested in small business.

(2) Prior to the end of its second year of registration under this Act, a registered development corporation shall have invested at least 70% of its equity capital in small business.

(3) At all times after the end of its second year of registration under this Act, a registered development corporation shall maintain at least 70% of its equity capital invested in small business.

(4) After the end of the first year of its registration under this Act, a registered development corporation shall at all times maintain equity capital of at least \$250 000 but not exceeding \$5 000 000.

Capital in trust

7(1) Every registered development corporation shall place in a trust fund an amount equal to 30% of all amounts received by it as equity capital and the trust fund shall be held by the corporation or by a trustee on behalf of the corporation in trust for the corporation and

for the Crown jointly to be dealt with in accordance with subsection (2).

(2) Subject to subsection (3), while any amount is held in trust under subsection (1), the Minister shall permit payment from the fund of an amount equal to $\frac{3}{7}$ of the purchase price paid by the registered development corporation to acquire any investment in a small business.

(3) Interest on the trust fund shall accrue to the benefit of the registered development corporation.

(4) Where the registration of a registered development corporation is revoked, the amount remaining in the trust fund established under subsection (1) is immediately payable to the Crown.

Grants **8** Any person who is normally a resident of Alberta and who is the beneficial and registered owner of equity shares in a registered development corporation may apply to the Minister for a grant and the Minister may pay a grant equal to 30% for any amount actually paid by the person to a registered development corporation for equity shares issued to him by that corporation

Winding-up **9** Where a registered development corporation is to be wound up or dissolved, or where its registration is revoked, or any of its equity shares are purchased or otherwise acquired by the registered development corporation, the registered development corporation shall immediately pay to the Minister an amount of money equal to 30% of the value of the shareholder's equity in the case of winding up or dissolution of the registration or the shareholder's equity repurchased in the case of the acquisition of shares by the company up to the aggregate of the grant made by the Minister in respect to those shares at the time.

Shares endorsed **10** Every share certificate in respect of equity shares issued by a registered development corporation shall conspicuously state upon its face the words "The value of the shares represented by this certificate may be significantly affected by recapture provisions under the *Small Business Development Corporation Act*".

Offences and penalties **11(1)** Every person that makes a statement in any document required by it for the purpose of this Act or the regulations that this is false or misleading in any respect or omits any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on conviction is liable to a fine of not more than \$5000.

(2) No person is guilty of an offence under subsection (1) if he did not know that the statement was false or misleading and in the exercise of reasonable diligence would not have known that the statement was false or misleading.

Regulations **12** The Minister may make regulations for the purpose of carrying out the intent of this Act.

Minister's
decisions

13 Where the Minister makes a decision affecting any person under this Act, he shall, upon the written demand of that person, render his decision in writing and that person may appeal his decision by notice of motion in the Court of Queen's Bench within 90 days of the receipt of the written decision.

Funding

14 The money required for the purposes of this Act shall be such funds as may be provided for those purposes by a separate appropriation by the Legislature.

Coming into force

15 This Act comes into force on a day to be fixed by Proclamation which shall not be earlier than the effective date of the appropriation referred to in section 14.