

1993 BILL 21

---

First Session, 23rd Legislature, 42 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 21**

**AGRICULTURE FINANCIAL SERVICES ACT**

---

THE MINISTER OF AGRICULTURE,  
FOOD AND RURAL DEVELOPMENT

---

First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

---

## BILL 21

1993

### AGRICULTURE FINANCIAL SERVICES ACT

(Assented to , 1993)

#### Table of Contents

Definitions	1
Part 1	
Administration of the Corporation	
Division 1	
The Agriculture Financial Services Corporation	
Establishment of Corporation	2
Head office	3
Agent of the Crown	4
Meetings	5
By-laws and resolutions	6
Staff	7
Pensions	8
Delegation of authority	9
Corporate powers	10
Fees, charges and commissions	11
Protection from liability	12
Audit	13
Annual report	14
Fiscal year	15
Non-applicability of statutes	16
Regulations	17
Division 2	
Borrowing by and Advances to the Corporation	
Borrowing	18
Advances for general purposes, etc.	19
Advances re crop insurance	20
Advances re revenue insurance	21
Use of advances	22
Repayment	23

**Part 2  
Business of the Corporation**

**Division 1  
Lending and Financial Assistance**

Agricultural development loans	24
Repayment of loans	25
Security for loans	26
Guarantee of loans	27
Maximum loan or guarantee	28
Land acquisitions	29
Terms of agreement for sale	30
Unqualified purchaser	31
Acquisition of interest in Crown land	32
Grants	33
Supervision of operations	34
Cancellation of sale	35
Agreements	36
Regulations	37

**Division 2  
Insurance and Compensation**

Application of Insurance Act	38
Application for insurance	39
Contract of insurance	40
Payment of premium	41
Contracts continuous	42
Hail and crop insurance	43
Termination re lack of participation	44
Restriction to certain areas	45
Liens	46
Agreements	47
Corporation's expenses	48
Penalty for false information, etc.	49
Surplus	50
Cash discounts	51
Damage by wildlife	52
Regulations	53

**Division 3  
Local Opportunity Bonds**

Definitions	54
Issuing of local opportunity bonds	55
Non-assurance of return	56
Application of Securities Act	57
Financial Administration Act re s81	58
Regulations	59

**Part 3**  
**Transitional, Repeal and Commencement**

Transfer of assets	60
Assumption of liabilities, etc.	61
Money owing, etc.	62
Actions	63
Reference to name	64
Application of previous Act	65
Repeal	66
Coming into force	67

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

**Definitions**

**1 In this Act,**

- (a) “agricultural industries” means industries having the qualifications prescribed by the regulations;
- (b) “associated businesses” means businesses carried on in conjunction with agricultural operations;
- (c) “Board” means the Board of Directors of the Corporation;
- (d) “Corporation” means the Agriculture Financial Services Corporation;
- (e) “federal-provincial agreement” means an agreement entered into between the Government of Alberta and the Government of Canada or a province of Canada;
- (f) “insurable crop” means a crop for which the Corporation will provide insurance coverage;
- (g) “insurable person” means a person who
  - (i) has an insurable interest in an insurable crop, or
  - (ii) is otherwise eligible to acquire insurance that is provided for under this Act;
- (h) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (i) “policy” means, with respect to the business of insurance, a policy of insurance issued under this Act to a person pursuant to a contract between the Corporation and that

person under which the Corporation will provide insurance to that person.

## **PART 1**

### **ADMINISTRATION OF THE CORPORATION**

#### **Division 1**

#### **The Agriculture Financial Services Corporation**

Establishment  
of Corporation

**2(1)** There is hereby established a corporation with the name "Agriculture Financial Services Corporation" which shall consist of the members of the Board.

**(2)** The affairs of the Corporation shall be conducted by a Board of Directors which shall consist of not fewer than 3 and not more than 12 members appointed by the Minister, at least  $\frac{1}{3}$  of whom must be engaged in the business of farming.

**(3)** The Minister shall designate one member of the Board as the chair.

**(4)** The members of the Board, other than officers or employees of the Crown or officers or employees of any agency of the Crown, shall be paid such remuneration for their services as is prescribed by the Lieutenant Governor in Council.

**(5)** The Corporation may pay the members of the Board travelling and living expenses while away from their ordinary places of business in the course of their duties as members of the Board at the rate that may be determined by the Corporation.

Head office

**3** The head office of the Corporation shall be situated at a location within Alberta designated by the Lieutenant Governor in Council.

Agent of the  
Crown

**4(1)** The Corporation is for the purposes of this Act an agent of the Crown in right of Alberta, and the powers of the Corporation provided for under this Act may be exercised by the Corporation only as an agent of the Crown.

**(2)** An action or other legal proceeding in respect of a right or obligation acquired or incurred by the Corporation on behalf of the Crown in right of Alberta, whether in the name of the Corporation or in the name of the Crown in right of Alberta, may be brought or taken by or against the Corporation in the name of the Corporation, in any court that would have jurisdiction if the Corporation were not an agent of the Crown.

Meetings

**5(1)** The Board may conduct meetings of the Board for the purposes of carrying out the business and affairs of the Corporation.

**(2)** When the chair is absent from a meeting of the Board, the members that are present at that meeting may elect one of their number to preside at the meeting in the absence of the chair.

**(3)** Notwithstanding subsection (2), the chair may appoint a member of the Board to preside at a meeting of the Board in the absence of the chair.

**(4)** Three members of the Board or such other greater or lesser number of members of the Board as prescribed by a by-law of the Board constitutes a quorum at a meeting of the Board.

**(5)** The affirmative votes of a majority of the members present at any meeting of the Board at which a quorum is present are sufficient to pass a resolution or by-law to bind all the members.

By-laws and  
resolutions

**6(1)** The Board may make by-laws with respect to the following:

- (a) the calling of meetings of the Board;
- (b) the conduct of business at meetings of the Board;
- (c) the duties and conduct of members of the Board;
- (d) the conduct of the business and affairs of the Corporation generally.

**(2)** At its meetings, the Board may exercise any of its powers by resolution except where some other mode of exercising a power is prescribed in this Act.

**(3)** The *Regulations Act* does not apply to a by-law or resolution of the Board.

Staff

**7** The Corporation

- (a) may appoint any employees it considers necessary;
- (b) shall fix the salaries or remuneration of its employees and define their duties;
- (c) shall prescribe the conditions of employment of its employees;
- (d) may provide for pensions and other employment benefits;

- (e) may provide financial or other assistance to its employees for the purposes of relocation, training, education and staff development;
- (f) may prescribe a code of conduct and ethics to be complied with by its employees;
- (g) may obtain the services of agents or persons having technical or professional knowledge required by the Corporation in connection with its business and affairs.

**Pensions**

**8(1)** Notwithstanding the legislation under which the Public Service Management Pension Plan and the Public Service Pension Plan or their successors operate,

- (a) if, immediately before the coming into force of this Act, a person was an employee of the Alberta Agricultural Development Corporation and, immediately prior to January 1, 1991, that person

- (i) was engaged in carrying out the business and affairs of the Alberta Agricultural Development Corporation, and

- (ii) was a participant in the Public Service Management Pension Plan or the Public Service Pension Plan,

that person, while that person continues to be employed by the Corporation, may remain a participant in that pension plan and is entitled to all the rights and benefits and is subject to all the obligations provided for under the Public Service Management Pension Plan or the Public Service Pension Plan, as the case may be, or

- (b) if, immediately before the coming into force of this Act, a person

- (i) was an employee of the Alberta Hail and Crop Insurance Corporation, and

- (ii) was a participant in the Public Service Pension Plan,

that person, while that person continues to be employed by the Corporation, may remain a participant in that pension plan and is entitled to all the rights and benefits and is subject to all the obligations provided for under the Public Service Pension Plan.

- (2) If a person, while employed by the Corporation, participates in a pension plan or a similar arrangement that provides for retirement

benefits and that is not operated pursuant to the *Public Sector Pension Plans Act*, the period of time during which the person is employed by the Corporation and participates in that plan or arrangement is not eligible to be considered as prior service for the purposes of a pension plan operated pursuant to the *Public Sector Pension Plans Act*.

Delegation of  
authority

**9(1) The Board may authorize**

- (a) a committee of one or more of its members to do any act or thing required or permitted to be done by the Board under this Act, or
- (b) any officer, employee or agent of the Corporation to do any act or thing on behalf of the Corporation that is not specifically reserved by this Act or the regulations to be done by the Board or a committee of one or more of the Board's members.

**(2) An authorization given under subsection (1) may be**

- (a) general or applicable to a particular case, and
- (b) conditional or unconditional.

**(3) Notwithstanding that the Board has authorized a committee of the Board or an officer, employee or agent of the Corporation to do an act or thing, the Board may do that act or thing.**

Corporate  
powers

**10(1) For the purposes of lending funds, providing financial assistance, providing insurance, issuing local opportunity bonds and otherwise carrying on the business of the Corporation under this Act, the Corporation has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.**

**(2) With respect to any right, power or privilege exercisable by the Corporation, the Minister may by regulation**

- (a) prohibit the use of the right, power or privilege;
- (b) restrict the use of the right, power or privilege;
- (c) provide that the right, power or privilege be exercised subject to any terms or conditions prescribed in the regulations.



Fees, charges and commissions	<p><b>11</b> Subject to the approval of the Minister, the Corporation may</p> <ul style="list-style-type: none"> <li>(a) set and collect fees or charges with respect to the provision of any service or material, the performance of any function or the doing of anything by the Corporation, and</li> <li>(b) with respect to local opportunity bonds, set or otherwise determine or govern the commissions and fees that may be charged by a person with respect to the provision of any service or material, the performance of any function or the doing of anything under this Act by that person on behalf of the Corporation.</li> </ul>
Protection from liability	<p><b>12</b> The members of the Board and the employees of the Corporation and persons acting under the instructions of any of them or under the authority of this Act or the regulations are not personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done in the exercise or purported exercise of any powers conferred by this Act or the regulations.</p>
Audit	<p><b>13</b> The Auditor General is the auditor of the Corporation.</p>
Annual report	<p><b>14(1)</b> The Corporation shall annually, after the end of its fiscal year, prepare and submit to the Minister a general report summarizing its transactions and affairs during its last fiscal year and showing its revenues and the application of its expenditures during that period, together with an audited balance sheet of its accounts and financial transactions during that period and any other information the Lieutenant Governor in Council may require.</p> <p><b>(2)</b> When the report is received, the Minister shall lay a copy of it before the Legislative Assembly if it is sitting and if it is not, within 15 days after the commencement of the next ensuing session.</p>
Fiscal year	<p><b>15</b> The fiscal year of the Corporation is the period from April 1 to the next following March 31.</p>
Non-applicability of statutes	<p><b>16</b> The following Acts do not apply to the Corporation or with respect to any business of the Corporation carried on under this Act:</p> <ul style="list-style-type: none"> <li>(a) the <i>Consumer Credit Transactions Act</i>;</li> <li>(b) the <i>Financial Consumers Act</i>;</li> </ul>

(c) the *Mortgage Brokers Regulation Act*.

- Regulations      **17** The Lieutenant Governor in Council may make regulations
- (a) governing, subject to Division 2, the borrowing or otherwise raising of money by the Corporation;
  - (b) prescribing the remuneration payable to members of the Corporation;
  - (c) generally, for carrying out the purposes and intent of this Act.

**Division 2**  
**Borrowing by and Advances to the Corporation**

- Borrowing      **18** The Corporation may, with the prior approval of the Lieutenant Governor in Council, borrow or otherwise raise money to achieve the purposes of this Act.

- Advances for  
general  
purposes, etc.      **19** For the purposes of enabling the Corporation
- (a) to meet its obligations with respect to the business of lending funds and providing financial assistance under Division 1 of Part 2,
  - (b) to meet its obligations with respect to the business of hail insurance carried out under Division 2 of Part 2,
  - (c) to meet its obligations with respect to
    - (i) the business of providing insurance other than hail insurance, crop insurance or revenue insurance, or
    - (ii) the provision of compensation programs or plans,that are approved by the Minister to be carried out under Division 2 of Part 2, and
  - (d) to meet its obligations with respect to the issuing of local opportunity bonds under Division 3 of Part 2,

the Lieutenant Governor in Council may, on any terms and conditions that the Lieutenant Governor in Council may prescribe, authorize the Provincial Treasurer to advance to the Corporation from the General Revenue Fund money required by the Corporation for those purposes.

Advances re  
crop insurance

**20(1)** For the purposes of enabling the Corporation to meet its obligations with respect to the business of crop insurance, the Provincial Treasurer, on the requisition of the Minister, may from time to time advance to the Corporation from the General Revenue Fund,

- (a) in the case of premiums and expenses, an amount that is equal to all or part of the amount or estimated amount that a government or another person, other than the Corporation, is or will be liable to pay to the Government of Alberta pursuant to a federal-provincial agreement or other agreement entered into in respect of crop insurance, and
- (b) in the case of indemnities, an amount that is equal to all or part of the amount or estimated amount that will be required from the Government of Alberta or another government or person, other than the Corporation, pursuant to a federal-provincial agreement or other agreement entered into in respect of crop insurance.

**(2)** Notwithstanding subsection (1),

- (a) the aggregate outstanding amount advanced under subsection (1)(a) must not at any one time exceed \$100 000 000, and
- (b) the aggregate outstanding amount advanced under subsection (1)(b) must not at any one time exceed \$200 000 000.

**(3)** The Lieutenant Governor in Council may, on any terms and conditions that the Lieutenant Governor in Council may prescribe, authorize the Provincial Treasurer to advance to the Corporation from the General Revenue Fund money required by the Corporation to enable the Corporation to meet its obligations with respect to the business of crop insurance where,

- (a) in the case of money required in respect of premiums, the aggregate outstanding amount of the advances made under subsection (1)(a) has, at any one time, reached \$100 000 000, and
- (b) in the case of money required in respect of indemnities, the aggregate outstanding amount of the advances made under subsection (1)(b) has, at any one time, reached \$200 000 000.

**21(1)** For the purposes of enabling the Corporation to meet its obligations with respect to the business of revenue insurance, the Provincial Treasurer, on the requisition of the Minister, may from time to time advance to the Corporation from the General Revenue Fund,

- (a) in the case of premiums and expenses, an amount that is equal to all or part of the amount or estimated amount that a government or another person, other than the Corporation, is or will be liable to pay to the Government of Alberta pursuant to a federal-provincial agreement or other agreement entered into in respect of revenue insurance, and
- (b) in the case of indemnities, an amount that is equal to all or part of the amount or estimated amount that will be required from the Government of Alberta or another government or person, other than the Corporation, pursuant to a federal-provincial agreement or other agreement entered into in respect of revenue insurance.

**(2)** Notwithstanding subsection (1),

- (a) the aggregate outstanding amount advanced under subsection (1)(a) must not at any one time exceed \$200 000 000, and
- (b) the aggregate outstanding amount advanced under subsection (1)(b) must not at any one time exceed \$300 000 000.

**(3)** The Lieutenant Governor in Council may, on any terms and conditions that the Lieutenant Governor in Council may prescribe, authorize the Provincial Treasurer to advance to the Corporation from the General Revenue Fund money required by the Corporation to enable the Corporation to meet its obligations with respect to the business of revenue insurance where,

- (a) in the case of money required in respect of premiums, the aggregate outstanding amount of the advances made under subsection (1)(a) has, at any one time, reached \$200 000 000, and
- (b) in the case of money required in respect of indemnities, the aggregate outstanding amount of the advances made under subsection (1)(b) has, at any one time, reached \$300 000 000.

Use of  
advances

**22 Money advanced to the Corporation**

- (a) under section 20 shall not, unless contributions are made pursuant to a federal-provincial agreement or other agreement entered into in respect of crop insurance, or
- (b) under section 21 shall not, unless contributions are made pursuant to a federal-provincial agreement or other agreement entered into in respect of revenue insurance,

be used by the Corporation as contributions by the Government of Alberta or other government or person to the Corporation in respect of premiums payable under contracts of insurance entered into by the Corporation.

Repayment

**23 The total amounts advanced to the Corporation by the Government of Alberta under sections 19, 20 and 21 must be**

- (a) repaid to the Provincial Treasurer on the terms and conditions, and
- (b) secured by any evidence of indebtedness,

that may be agreed on by the Provincial Treasurer and the Corporation.

**PART 2**

**BUSINESS OF THE CORPORATION**

**Division 1**

**Lending and Financial Assistance**

Agricultural  
development  
loans

**24 The Corporation may make loans to primary producers of agricultural products, owners of associated businesses and persons engaged in agricultural industries for any of the following purposes:**

- (a) purchasing land;
- (b) consolidating outstanding liabilities;
- (c) constructing, altering, repairing or extending buildings on land
  - (i) owned or being purchased by the borrower, or
  - (ii) in which the borrower has a leasehold or other estate or interest;

- (d) making permanent improvements designed to increase the productive value of land
  - (i) that is owned or being purchased by the borrower, or
  - (ii) in which the borrower has a leasehold or other estate or interest;
- (e) purchasing agricultural implements or farm machinery;
- (f) purchasing livestock, including game-production animals within the meaning of the *Livestock Industry Diversification Act*;
- (g) maintaining adequate operating capital;
- (h) establishing, developing or maintaining agricultural industries;
- (i) any purpose approved by the Corporation related to the establishment or maintenance of a farm unit or an agricultural business.

Repayment of  
loans

**25(1)** Where the Corporation makes a loan, the Corporation must fix the repayment term for the loan.

**(2)** The repayment term for a loan must not exceed 40 years.

**(3)** Notwithstanding subsections (1) and (2), repayment of principal or any portion of the principal or payment of interest or any portion of the interest may be deferred in accordance with the regulations.

Security for  
loans

**26** The Corporation may take whatever security it requires to protect its investment.

Guarantee of  
loans

**27(1)** The Corporation may guarantee

- (a) the principal amounts or any portion of the principal amounts,
- (b) the interest or any portion of the interest accruing on the principal amounts, or
- (c) the interest or any portion of the interest accruing on the interest,

of loans made to primary producers of agricultural products, owners of associated businesses or persons engaged in agricultural industries for any of the purposes set out in section 24.

(2) The Government shall indemnify the Corporation against loss suffered by the Corporation by reason of its liability under guarantees made under subsection (1).

(3) When the Corporation receives an amount as indemnification under subsection (2), the Government is subrogated to the rights of the Corporation to recover that amount from the borrower.

(4) For the purposes of giving a guarantee under this Act, "loan" includes any loan, mortgage, agreement for sale or other form of financial assistance provided by a lender as defined in the regulations to primary producers of agricultural products, owners of associated businesses or persons engaged in agricultural industries for any of the purposes set out in section 24.

Maximum loan  
or guarantee

**28(1)** The Corporation must not, except with the approval of the Lieutenant Governor in Council,

- (a) make a loan in excess of \$1 000 000,
- (b) execute a guarantee in excess of \$1 000 000, or
- (c) approve a loan or execute a guarantee if the sum of the amount of the loan or guarantee and the then outstanding balance of any other loan or guarantee made or executed by the Corporation to or for the benefit of the same borrower exceeds in the aggregate \$1 000 000.

(2) Notwithstanding subsection (1), the Corporation may increase the amount of an existing loan or guarantee without obtaining the approval of the Lieutenant Governor in Council when

- (a) the balance outstanding of any existing loan or guarantee at the time of approval by the Corporation of any increase is then in excess of \$1 000 000,
- (b) the increase does not exceed 10% of the balance of the loan or guarantee referred to in clause (a), and
- (c) the increase is made once only in respect of any existing loan or guarantee.

(3) Where a loan or guarantee to which this section applies has been made or executed, the Corporation may

- (a) in the case of a loan, convert the loan in whole or in part to a guarantee, or
- (b) in the case of a guarantee, convert the guarantee in whole or in part to a loan,

without obtaining the approval of the Lieutenant Governor in Council if the resulting loan or guarantee or both, as the case may be, do not exceed in total the amount approved by the Lieutenant Governor in Council for the original loan or guarantee under subsection (1) or as provided for under subsection (2).

(4) If a conflict arises between this section and section 74 of the *Financial Administration Act* with respect to the operation of this section, this section prevails.

Land  
acquisitions

**29(1)** The Corporation may acquire, hold or dispose of land for purposes that, in the opinion of the Corporation, generally advance the interests of agriculture.

(2) Notwithstanding subsection (1), the Corporation must not, without the approval of the Lieutenant Governor in Council, acquire, hold or dispose of land for the purposes of withdrawing land from agricultural use.

Terms of  
agreement for  
sale

**30(1)** Notwithstanding section 150 of the *Land Titles Act*, it is an implied term of every agreement for sale or mortgage of land between the Corporation and a purchaser or a borrower under this Act

- (a) that
  - (i) no assignment of the agreement for sale and no further agreement for sale, and
  - (ii) no assumption of the mortgage,

may be made or entered into by the purchaser or the borrower except to or with a person who is approved as a purchaser by the Corporation,

- (b) that
  - (i) on an assignment of the agreement for sale or entry into a further agreement for sale, or
  - (ii) on an assumption of the mortgage



to, by or with a person who is not approved, all instalments under the agreement or mortgage become due and payable,

- (c) that the purchaser or the borrower will pay when due all assessments, taxes and other charges levied against the land and will effect any insurance the Corporation requires, and
- (d) that if any assessments, taxes or charges referred to in clause (c) or any premiums on insurance effected pursuant to clause (c) are not paid when due, the purchaser or the borrower shall be considered to be in default under the agreement for sale or mortgage, and those assessments, taxes, charges or premiums, as the case may be, may be paid by the Corporation and charged to the purchaser with interest at the rate for defaulted payments.

(2) Notwithstanding subsection (1)(a), a purchaser may assign an agreement for sale to a treasury branch, a credit union or a bank as security for a loan.

(3) Subject to this section, section 150 of the *Land Titles Act* applies to matters that come under this section.

(4) Notwithstanding subsection (3), section 150 of the *Land Titles Act* does not apply to matters coming under subsection (1)(a).

Unqualified  
purchaser

**31** Notwithstanding anything in this Act, when

- (a) a purchaser or a borrower wishes to dispose of that person's interest in land that is being purchased under an agreement for sale or that is the subject of a mortgage in favour of the Corporation, or an agreement has been cancelled or surrendered or a quit claim concerning that mortgage has been completed, and
- (b) no person who is qualified to obtain assistance under this Act is interested in acquiring the land for valuable consideration that is acceptable to the Corporation,

the Corporation may

- (c) permit an assignment to or an assumption of the mortgage and the loan it relates to by,
- (d) permit a further agreement for sale by the purchaser with, or a further mortgage by the borrower with, or
- (e) enter into an agreement for sale or a mortgage and loan agreement with,

a person who is not qualified to obtain assistance under this Act, on any terms the Corporation stipulates.

Acquisition of  
interest in  
Crown land

**32(1)** The Corporation may grant assistance for acquisition of an interest in Crown land if, in its opinion, the applicant requires the interest in the land in order to have an economic unit.

(2) Unless the context otherwise requires, a reference in this Act to land is deemed to include a reference to an interest in Crown land that may be acquired pursuant to this section.

(3) The Corporation and the Minister of the Crown administering the interest in the Crown land may enter into any arrangements that they consider necessary to ensure that an interest acquired pursuant to this section is not assigned or surrendered without the Corporation's consent.

Grants

**33** When the Corporation considers it expedient to do so in order to achieve the purposes of this Act, the Corporation may make grants or provide other incentives as prescribed by the Lieutenant Governor in Council to the following:

- (a) primary producers of agricultural products;
- (b) owners of associated businesses or persons engaged in agricultural industries;
- (c) lenders as defined in the regulations who are persons for whom the lending of money is not part of their ordinary business;
- (d) any other person not referred to in clauses (a) to (c) who is involved in agriculture.

Supervision of  
operations

**34** The Corporation may require that a purchaser, borrower or other person whose loan has been guaranteed by the Corporation allow such supervision of that person's operations as the Corporation considers appropriate in the circumstances.

Cancellation of  
sale

**35(1)** If at any time the Minister is satisfied after giving a person a reasonable opportunity to be heard that a purchaser has defaulted in paying any part of the purchase price on the days appointed for the payment of it, the Minister may by order cancel the sale on any terms that the Minister considers just, and on the cancellation the agreement for sale and any interest of the purchaser created by it cease and determine.

(2) A copy of an order under subsection (1) shall be served on the purchaser.

(3) Where a person is aggrieved by a decision of the Minister under subsection (1), that person may, within 15 days of service on the person of a copy of the order, appeal the Minister's decision to the Court of Appeal.

(4) Where a conflict arises between this section and the *Law of Property Act* or any other Act with respect to the operation of this section, this section prevails.

Agreements

**36** The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Alberta, enter into an agreement with a government or other person, pursuant to which the government or other person will make available to the Government of Alberta money to be used for the purposes of this Division.

Regulations

**37** The Lieutenant Governor in Council may with respect to matters governed by this Division make regulations

- (a) governing the qualifications of persons eligible for assistance under this Division;
- (b) prescribing the times and methods of advancing money on loans;
- (c) respecting interest on loans;
- (d) establishing maximum amounts for loans;
- (e) relating to deferred repayment of the principal or any portion of the principal or payment of interest or any portion of the interest of loans;
- (f) governing the proceedings on an application under this Division;
- (g) respecting valuations to be made in respect of loans;
- (h) governing the conditions to be met by applicants for loans or guarantees;
- (i) prescribing the terms and conditions on which guarantees are to be given;

- (j) prescribing the duties and obligations of a person who has obtained a guarantee or loan during the period that the person's indebtedness is outstanding;
- (k) governing the terms and conditions of any broker agreement or agency agreement that the Corporation may enter into with a lender or borrower;
- (l) defining "lender" for the purposes of section 33(c);
- (m) relating to security to be given to the Corporation in consideration of a guarantee;
- (n) governing the giving of grants and the provision of other incentives and the nature and kind of incentives.

## Division 2 Insurance and Compensation

Application of  
Insurance Act

**38** The *Insurance Act* does not apply

- (a) to the Corporation,
- (b) to any of the activities or operations of the Corporation, or
- (c) to the business of insurance carried on by the Corporation pursuant to this Act,

and a contract entered into in respect of insurance provided for under this Act is not a contract of insurance within the meaning of the *Insurance Act*.

Application for  
insurance

**39(1)** Where the Corporation offers insurance under this Act and a person who wishes to acquire that insurance is an insurable person, that person may apply to the Corporation for that insurance if

- (a) in the case where the insurance is to be placed on land, that person has an interest in the land in which the Corporation is offering that insurance, and
- (b) in the case where the insurance is to be placed on a crop, that person has an interest in that crop and the crop is an insurable crop.

**(2)** An application for insurance must

- (a) be on a form that is provided by or is otherwise satisfactory to the Corporation,

(b) be completed in a manner satisfactory to the Corporation and contain the information required by the Corporation, and

(c) if the insurance applied for is to be provided pursuant to a federal-provincial agreement or other agreement, include the information required under that federal-provincial agreement or other agreement.

(3) The Corporation is not bound to accept or approve any application for insurance.

(4) If the Corporation refuses to issue a policy of insurance to a person who has applied for insurance and who has paid money to the Corporation as payment on the premium for the insurance applied for, the Corporation shall refund that money to that person.

**Contract of  
insurance**

**40(1)** Where a person applies to the Corporation for insurance, the Corporation may enter into a contract of insurance with that person by accepting that person's application for the insurance and issuing to that person an insurance policy for the insurance.

(2) Subject to this Division, the insurance policy issued by the Corporation shall set out the provisions governing the terms and conditions under which the insurance is to be provided and, without restricting the generality of the foregoing, the provisions of the policy may set out any one or more of the following:

- (a) the names of the parties to the contract of insurance;
- (b) the insurable crop or other matter that is being insured under the policy;
- (c) the perils that are covered under the policy;
- (d) the insurance coverage with respect to the insurable crop or other matter that is insured;
- (e) the amount payable under the policy;
- (f) the basis for determining whether the insured person has suffered a loss and the amount of the loss against which that person is insured by reference to the stage of the maturity of the crop, the actual yield and the long term average yield;
- (g) the manner of determining the actual yield of the insured crop;

- (h) the manner of calculating the long term average yield for the insurable crop in any area and determining the long term average yield;
- (i) the manner of determining the insurable area under the policy;
- (j) the submission of seeded area reports to the Corporation;
- (k) the proof that may be required in order to establish that a person is an insurable person;
- (l) the terms and conditions of payment of premiums, including final dates for payment of premiums in respect of the policy and the manner in which premiums may be paid or collected;
- (m) prescribing the form in which proof of loss must be given and the information and details to be furnished therewith;
- (n) the method of fixing the date of a loss where the exact date is uncertain;
- (o) the method of settling disputes arising out of the adjustment of losses;
- (p) the cancellation, termination or expiration of the contract of insurance.

Payment of  
premium

**41** Where a person enters into a contract of insurance with the Corporation, that person must pay to the Corporation the premiums owing in respect of that insurance.

Contracts  
continuous

**42(1)** Unless the contract of insurance provides otherwise, a contract of insurance that is entered into by the Corporation is continuous and, subject to payment of the prescribed premium, is deemed to be in force from year to year unless terminated by either party to the contract giving notice in writing to the other party

- (a) in accordance with the terms of the contract of insurance, or
- (b) if provided for in a federal-provincial agreement or other agreement that is applicable to the contract of insurance, in accordance with the federal-provincial agreement or other agreement.

**(2)** If an insurance premium payable in respect of a contract of insurance is not paid

- (a) in accordance with the terms of the contract of insurance, or
- (b) if provided for in a federal-provincial agreement or other agreement that is applicable to the contract of insurance, in accordance with the federal-provincial agreement or other agreement,

the Corporation may, at any time, by written notice to the insured person sent by registered mail to that person at that person's latest address as shown on the records of the Corporation, cancel that contract of insurance.

(3) Where a written notice is sent under subsection (2) cancelling a contract of insurance, that contract of insurance is cancelled on the date provided for in the contract of insurance.

Hail and crop insurance

**43(1)** With respect to hail insurance and crop insurance the following applies:

- (a) a contract of insurance between the Corporation and the applicant for the insurance does not come into force until the Corporation either confirms the acceptance by the Corporation of the application for insurance or confirms that the contract is in force;
- (b) where the Corporation confirms the acceptance of an application for insurance or that a contract of insurance is in force, the insurance is effective on the date specified in the contract of insurance or in the confirmation;
- (c) a claim under a contract of insurance must be made
  - (i) before December 1 in the calendar year within which the loss occurred, or
  - (ii) within such longer period of time as the Corporation may allow;
- (d) where a loss occurs for which a claim may be made under a contract of insurance, no action shall be commenced in respect of the claim at any time after one year from the last day in respect of which a claim could have been made in respect of that contract;
- (e) where a claim is not made within the time prescribed by clause (c) or an action is not commenced within the time referred to in clause (d), the claim is extinguished.

(2) The provisions of subsection (1) are in addition to any other provisions that apply to a contract of insurance under this Act.

Termination re  
lack of  
participation

**44(1)** If provided for

- (a) in a contract of insurance, or
- (b) in a federal-provincial agreement or other agreement that relates to a contract of insurance,

the Corporation may, where the Corporation is not satisfied as to the amount of participation in the program or plan under which the insurance is offered, by written notice to the insured person sent by registered mail to that person at that person's latest address as shown on the records of the Corporation, terminate the contract of insurance.

(2) At the discretion of the Corporation, the lack of participation in a program or plan under which insurance is offered may be applicable to the whole area in respect of which the insurance is offered or to particular areas within that whole area.

(3) If a contract of insurance is terminated under this section, the Corporation shall within 30 days of terminating the contract of insurance refund to the insured person any unearned premiums that relate to that contract of insurance.

Restriction to  
certain areas

**45** Where the Corporation provides insurance under this Act, the Corporation may offer that insurance

- (a) to any insurable persons, or
- (b) only to insurable persons who have insurable crops located on land situated within certain areas as specified by the Corporation.

Liens

**46(1)** From the date that the Corporation provides coverage pursuant to a contract of insurance, the Corporation has a lien for unpaid premiums owing in respect of the contract of insurance, interest on those premiums and charges with respect to the contract of insurance.

(2) The lien is on

- (a) all crops grown by the applicant or in which the applicant has an interest in the year for which the premium is payable and in each of the next ensuing 3 years, and



(b) all amounts payable to the applicant pursuant to any claim for loss or damage under any policy issued by the Corporation.

(3) Subject to the *Crop Liens Priorities Act*, the lien created by this section has, notwithstanding section 113 of the *Employment Standards Code* or section 126 of the *Workers' Compensation Act*, priority over all other liens, encumbrances, claims and demands, and the amount of the lien may be paid by deduction from or offset against the amount payable to the applicant under any policy issued by the Corporation.

(4) Payment of the premium, interest and charges due to the Corporation in respect of a contract of insurance is enforceable by seizure and sale of the crops and of other goods and chattels of the applicant to the same extent and in the same manner, with all necessary modifications, as is provided for by the *Municipal Taxation Act* for the recovery by distress of taxes owing to a municipal district.

(5) The charges chargeable in respect of the seizure and sale are those payable to a sheriff under the *Seizures Act*.

(6) A person who is the grower of or who is entitled to a crop that is subject to a lien under this section and who either on the person's own behalf or by the person's servant or agent directly or indirectly sells, ships or otherwise disposes of any of the crop

(a) without having arranged to satisfy the lien, or

(b) without the consent in writing of the Corporation or of a person authorized by the Corporation to give consent

is guilty of an offence and liable to a fine in an amount not less than the aggregate of all sums owing by that person to the Corporation on the day the offence occurred and not more than that amount plus \$1000.

(7) A person who, knowing that a crop is subject to a lien under this section, buys, sells, receives or disposes of any of that crop and does not apply the proceeds or value of it to satisfy the lien on it is guilty of an offence and liable to a fine of not more than \$1000.

(8) A fine imposed on a person under subsection (6) shall, up to the aggregate of all sums owing by the person to the Corporation on the day the offence occurred, be paid to the Corporation in satisfaction of sums owing to the Corporation on that date, and any balance shall be applied in accordance with the *Provincial Offences Procedure Act*.

Agreements	<p><b>47</b> The Government of Alberta, as represented by the Minister, may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada or any other government or person with respect to insurance or compensation programs.</p>
Corporation's expenses	<p><b>48</b> The Corporation may, for the purposes of this Division, determine the portion of the Corporation's expenses that is attributable to the provision of each type of insurance provided for under this Act.</p>
Penalty for false information, etc.	<p><b>49</b> A person who</p> <ul style="list-style-type: none"> <li>(a) furnishes false information or makes a false statement in an application, declaration or return made or given under this Division or the regulations, or</li> <li>(b) by failing to complete or omitting information from any application, declaration or return, makes the application, declaration or return misleading,</li> </ul> <p>is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.</p>
Surplus	<p><b>50</b> If in a fiscal year a surplus is realized with respect to the business of providing hail insurance, the Corporation may in its discretion dispose of the surplus or any portion of it among the insured persons or classes of insured persons in that or any subsequent fiscal year on such basis as the Corporation determines.</p>
Cash discounts	<p><b>51</b> The Corporation may grant reductions in premiums or give rebates to insured persons or classes of insured persons as the Corporation in its discretion may decide.</p>
Damage by wildlife	<p><b>52</b> Subject to the regulations, the Corporation may make payments for the purposes of providing compensation for loss or damage to crops that is caused by wildlife.</p>
Regulations	<p><b>53</b> The Lieutenant Governor in Council may make regulations,</p> <ul style="list-style-type: none"> <li>(a) with respect to the business of insurance,</li> </ul>

- (i) prescribing the terms, conditions or provisions that are to be included in a policy issued by the Corporation;
  - (ii) prescribing the information that is to be required in respect of an application for insurance;
  - (iii) prescribing the areas in respect of which the Corporation may offer insurance or a type of insurance;
  - (iv) providing for the settlement of disputes arising out of the adjustment of losses;
  - (v) prescribing the maximum insurance liability to be underwritten by the Corporation in any year;
  - (vi) establishing and governing any fund or reinsurance fund for the purposes of this Act or a federal-provincial agreement or other agreement;
  - (vii) continuing and governing any fund or reinsurance fund for the purposes of this Act or a federal-provincial agreement or other agreement;
  - (viii) providing for any matter necessary to carry out the obligations of the Government under a federal-provincial agreement or other agreement;
  - (ix) governing the fixing of a final date in each year for the execution of insurance contracts with the Corporation;
  - (x) providing for any matter necessary to carry out the business of insurance;
- (b) with respect to a program or plan, other than an insurance program or plan, that provides for the payment of compensation for loss or damage to crops or land,
- (i) establishing such a program or plan;
  - (ii) governing the operation of a program or plan established under subclause (i);
  - (iii) governing the compensation that may be provided under a program or plan established under subclause (i);
- (c) with respect to the provision of compensation under section 52 for loss or damage to crops that is caused by wildlife,

- (i) prescribing the loss or damage for which compensation may be paid;
- (ii) governing the making of claims for compensation;
- (iii) governing the payment of compensation.

### Division 3 Local Opportunity Bonds

Definitions	<p><b>54</b> In this Division,</p> <ul style="list-style-type: none"> <li>(a) “Corporation” means the Agriculture Financial Services Corporation and includes any other corporation that is an agent of the Crown in right of Alberta and that is designated by the Lieutenant Governor in Council as a corporation that may issue local opportunity bonds;</li> <li>(b) “eligible business” means a business that pursuant to the regulations qualifies as an eligible business;</li> <li>(c) “local opportunity bond” means a bond issued by the Corporation under this Division.</li> </ul>
Issuing of local opportunity bonds	<p><b>55</b> The Corporation may issue bonds for the purposes of raising capital from the public for an eligible business.</p>
Non-assurance of return	<p><b>56</b> Where the Corporation issues a local opportunity bond, the Corporation shall not assure or undertake to assure that there will be return on the principal amount of the bond but may assure the repayment to the holder of the bond of an amount that is not more than 100% of the principal amount of the bond.</p>
Application of Securities Act	<p><b>57</b> Subject to the regulations made under this Act, the <i>Securities Act</i> does not apply</p> <ul style="list-style-type: none"> <li>(a) to the Corporation,</li> <li>(b) to any of the activities or operations of the Corporation with respect to local opportunity bonds, or</li> <li>(c) to the issuing, selling, purchasing, holding, resale or redemption of local opportunity bonds or to any other matter respecting local opportunity bonds.</li> </ul>

**58** Section 81 of the *Financial Administration Act* does not apply with respect to local opportunity bonds.

**59** The Lieutenant Governor in Council may make regulations

- (a) prescribing the types or classes of business that qualify as an eligible business;
- (b) governing the criteria or conditions to be met by an eligible business in order for a local opportunity bond to be issued in respect of that business;
- (c) prescribing the information and documentation that must be provided to the Corporation in order for a local opportunity bond to be issued in respect of an eligible business;
- (d) prescribing the persons who are eligible to purchase or hold local opportunity bonds;
- (e) prescribing the form and content of documents that describe the business and affairs of an eligible business and that are prepared for the purpose of being reviewed by prospective purchasers or holders of local opportunity bonds to be issued in respect of an eligible business in order to assist the prospective purchasers or holders in making an investment decision as to whether or not to purchase or hold the local opportunity bonds;
- (f) governing the use of documents referred to in clause (e);
- (g) governing the offering for and method of sale of local opportunity bonds;
- (h) governing the resale and transfer of local opportunity bonds;
- (i) governing advertising with respect to local opportunity bonds;
- (j) governing the form and content, or either of them, of financial statements that are to be provided to the Corporation, prospective purchasers, purchasers or holders, as the case may be, of local opportunity bonds by an eligible business in respect of which the bonds were or are to be issued;
- (k) governing audit requirements with respect to financial statements referred to in clause (j);
- (l) governing the form and content of local opportunity bonds;

- (m) governing the form and content of agreements entered into between the Corporation and an eligible business in respect of which local opportunity bonds may be or are issued;
- (n) governing self dealing and conflicts of interest;
- (o) governing the disposition of local opportunity bonds that are sold to or held by persons who are not eligible to purchase or hold the bonds;
- (p) governing the redemption of local opportunity bonds;
- (q) prescribing which provisions, if any, of the *Securities Act* and the regulations under that Act apply with respect to local opportunity bonds.

### PART 3

#### TRANSITIONAL, REPEAL AND COMMENCEMENT

- |                                 |  |
|---------------------------------|--|
| Transfer of assets              | <b>60</b> <i>All assets and property of the Alberta Agricultural Development Corporation and of the Alberta Hail and Crop Insurance Corporation are hereby transferred to the Agriculture Financial Services Corporation.</i>  |
| Assumption of liabilities, etc. | <b>61</b> <i>All liabilities and obligations of the Alberta Agricultural Development Corporation and of the Alberta Hail and Crop Insurance Corporation are hereby assumed by the Agriculture Financial Services Corporation.</i>  |
| Money owing, etc.               | <b>62</b> <i>If a person owes money to or has contractual or other obligations with the Alberta Agricultural Development Corporation or with the Alberta Hail and Crop Insurance Corporation, that person, on the coming into force of this Act, owes that money to or has those contractual or other obligations with the Agriculture Financial Services Corporation subject to the same terms or conditions, if any, that existed between that person and the Alberta Agricultural Development Corporation or the Alberta Hail and Crop Insurance Corporation, as the case may be.</i> |
| Actions                         | <b>63</b> <i>Where, before the coming into force of this Act,</i><br><div style="margin-left: 20px;"> <i>(a) an action or other proceeding has been commenced against the Alberta Agricultural Development Corporation or the Alberta Hail and Crop Insurance Corporation but that action or proceeding has not been completed, that action or proceeding may be maintained and prosecuted against</i> </div>  |

*the Agriculture Financial Services Corporation in the same manner and subject to the same terms or conditions as the action or proceeding could have been maintained and prosecuted against*

*(i) the Alberta Agricultural Development Corporation had the Agricultural Development Act remained in force, or*

*(ii) the Alberta Hail and Crop Insurance Corporation had the Hail and Crop Insurance Act remained in force,*

*or*

*(b) an action or other proceeding has been commenced by the Alberta Agricultural Development Corporation or by the Alberta Hail and Crop Insurance Corporation against a person but that action or proceeding has not been completed, the Agriculture Financial Services Corporation may maintain and prosecute that action or proceeding against that person in the same manner and subject to the same terms or conditions as the action or proceeding could have been maintained and prosecuted against that person by*

*(i) the Alberta Agricultural Development Corporation had the Agricultural Development Act remained in force, or*

*(ii) the Alberta Hail and Crop Insurance Corporation had the Hail and Crop Insurance Act remained in force.*

Reference to  
name

**64(1)** *Any reference to the Alberta Agricultural Development Corporation or the Alberta Hail and Crop Insurance Corporation in any contract, agreement, title or other document or in any statute, regulation or by-law is deemed to be a reference to the Agriculture Financial Services Corporation.*

**(2)** *Any reference*

*(a) to the Agricultural Development Act or to any provision of that Act, or*

*(b) to the Hail and Crop Insurance Act or to any provision of that Act,*

*is, subject to any necessary modifications, deemed to be a reference to this Act or to the appropriate provision of this Act.*

Application of  
previous Act

**65** *Notwithstanding this Act, where*

- (a) a person has been issued insurance under the Hail and Crop Insurance Act,*
- (b) that insurance is in effect on the coming into force of this Act, and*
- (c) a policy for that insurance has not been issued to the insured person under this Act,*

*that insurance with respect to that person shall, until a policy for that insurance is issued to that person under this Act, be governed by the Hail and Crop Insurance Act in the same manner as if the Hail and Crop Insurance Act had not been repealed.*

Repeal

**66** *The following Acts are repealed on Proclamation:*

- (a) the Agricultural Development Act;*
- (b) the Hail and Crop Insurance Act.*

Coming into  
force

**67** *This Act comes into force on Proclamation.*