

Bill 7
Mr. Klapstein

BILL 7

2002

AGRICULTURE FINANCIAL SERVICES AMENDMENT ACT, 2002

(Assented to , 2002)

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

Amends RSA 2000 cA-12

1 The *Agriculture Financial Services Act* is amended by this Act.

2 Section 1 is amended by adding the following after clause (c):

(c.1) “commercial enterprise” means a sole proprietorship, partnership, cooperative or corporation having for its object the acquisition of gain and which, in the opinion of the Corporation, has an opportunity to become a successful part of Alberta’s economic structure;

3 Section 2(2) is repealed and the following is substituted:

(2) The affairs of the Corporation shall be conducted by a Board of Directors that shall consist of not fewer than 5 and not more than 12 members appointed by the Minister.

4 Section 9(1) is amended by adding “, including any functions that are incidental or ancillary to the carrying out of those purposes” after “under this Act”.

5 Section 17 is amended by adding the following after clause (b):

- (b.1) the Insurance Act;

6 The following is added after section 25:

Non-agricultural loans

25.1 The Corporation may make loans to persons to promote the development of resources and the general growth and diversification of the economy of Alberta including, without restricting the generality of the foregoing, the encouragement and promotion of the following:

- (a) commercial enterprises offering a high degree of job opportunity in relation to capital investment;
- (b) commercial enterprises owned and operated by Canadian citizens;
- (c) the development of small businesses;
- (d) programs and projects which create increased economic opportunities for residents of smaller population centres, particularly where there is extensive community involvement;
- (e) research and development directed toward increased productivity and improved technology;
- (f) Alberta services and products to enhance their marketing and export potential;
- (g) projects and facilities that enhance the tourist potential of Alberta;
- (h) employment and business experience for Alberta students through loans for the creation, expansion or operation of student business enterprises;
- (i) companies, associations and groups formed for the purposes of attracting industrial development and expansion within their communities;

- (j) industries involved in pollution control, including recycling of products.

7 Section 28 is amended

- (a) **in subsection (1) by striking out** “primary producers of agricultural products, owners of associated businesses or persons engaged in agricultural industries for any of the purposes set out in section 25” **and substituting** “persons for any of the purposes set out in sections 25 and 25.1”;
- (b) **in subsection (4) by striking out** “primary producers of agricultural products, owners of associated businesses or persons engaged in agricultural industries for any of the purposes set out in section 25” **and substituting** “persons for any of the purposes set out in sections 25 and 25.1”.

8 Section 29(1) is amended by striking out “\$1 000 000” **wherever it occurs and substituting** “\$2 000 000”.

9 Section 30 is repealed and the following is substituted:

Restrictions re land acquisitions

30 Notwithstanding that the Corporation has the power to acquire, hold or dispose of land, 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.

10 Section 34 is amended by adding the following after clause (b):

- (b.1) persons engaged in commercial enterprises;

11 Section 38 is repealed.

12 Section 39(3) is amended by adding “consider,” **after** “bound to”.

13 Section 43(1) is amended by repealing clause (c) and substituting the following:

- (c) a claim under a contract of insurance must be made,
 - (i) where the contract of insurance makes provision as to the time within which a claim is to be made, within that time,
 - (ii) subject to subclause (i), before December 1 in the calendar year within which the loss occurred, or
 - (iii) within such longer period of time as the Corporation may allow;

14 Section 53 is amended

- (a) by striking out “or” at the end of clause (a);**
- (b) in clause (b) by adding “or other agricultural disaster or emergency” after “disaster”;**
- (c) by adding the following after clause (b):**
 - (c) in respect of market prices of crops;
 - (d) in respect of the cost of production in relation to crops.

15 Section 54 is amended by renumbering it as section 54(1) and by adding the following after subsection (1):

- (2)** Subject to the regulations, the Corporation may act as an intermediary or as a ceding insurer with respect to the reinsuring of any liability incurred or assumed by the Crown or any of its agents.

16 The following is added after section 55:

Exemption from writ proceedings, etc.

55.1 Any amount payable by the Corporation under this Division in respect of a claim for loss or damage to crops is exempt from writ proceedings under the *Civil Enforcement Act* or any other form of attachment except for

- (a) any continuing attachment or order for payment under the *Maintenance Enforcement Act*;
- (b) any claim under an assignment permitted by the Corporation;
- (c) any right of set-off that the Corporation may have.

17 Section 56 is amended

(a) by renumbering it as section 56(1);

(b) in subsection (1)

(i) by adding the following after clause (a):

(a.1) with respect to any matter concerning the activities of the Corporation under section 54(2);

(ii) in clause (b) by adding “or other agricultural disaster or emergency” after “disaster”;

(iii) by adding the following after clause (c):

(d) with respect to any program or plan that provides for compensation with respect to the market prices of crops or the cost of production in relation to crops,

(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);

- (iv) authorizing the recovery of overpayments of compensation or payments made in error and governing the manner in which such overpayments and payments may be recovered.

(c) by adding the following after subsection (1):

(2) Where the Lieutenant Governor in Council determines that an agricultural disaster or emergency exists, a regulation made under subsection (1) may provide for the retroactive application of the regulation in general or of any provision of the regulation.

18 Section 63 is amended by renumbering it as section 63(1) and by adding the following after subsection (1):

(2) All assets and property of the Alberta Opportunity Company are hereby transferred to the Agriculture Financial Services Corporation.

19 Section 64 is amended by renumbering it as section 64(1) and by adding the following after subsection (1):

(2) All liabilities and obligations of the Alberta Opportunity Company are hereby assumed by the Agriculture Financial Services Corporation.

20 Section 65 is amended by renumbering it as section 65(1) and by adding the following after subsection (1):

(2) If a person owes money to or has contractual or other obligations with the Alberta Opportunity Company, that person, on and after the coming into force of the *Agriculture Financial Services Amendment Act, 2002*, 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 Opportunity Company.

21 Section 66 is amended by renumbering it as section 66(1) and by adding the following after subsection (1):

(2) Where, before the coming into force of the Agriculture Financial Services Amendment Act, 2002,

- (a) an action or other proceeding has been commenced against the Alberta Opportunity Company but that action or proceeding has not been completed, that action or proceeding may be maintained and prosecuted against 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 the Alberta Opportunity Company had the *Alberta Opportunity Fund Act*, RSA 2000 cA-28, remained in force, or
- (b) an action or other proceeding has been commenced by the Alberta Opportunity Company 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 the Alberta Opportunity Company had the *Alberta Opportunity Fund Act*, RSA 2000 cA-28, remained in force.

22 Section 67 is amended

(a) by adding the following after subsection (1):

(1.1) Any reference to the Alberta Opportunity Company in any contract, agreement, title or other document or in any statute, regulation or bylaw is deemed to be a reference to the Agriculture Financial Services Corporation.

(b) by adding the following after subsection (2):

(3) Any reference to the *Alberta Opportunity Fund Act*, RSA 2000 cA-28, 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.

23 The following is added after section 67:

Transitional regulations re the Alberta Opportunity Company

67.1 The Minister may make regulations to deal with any difficulty or impossibility resulting from the transition of any matter

- (a) from the Alberta Opportunity Company to the Agriculture Financial Services Corporation, or
- (b) from under the *Alberta Opportunity Fund Act* to under the *Agriculture Financial Services Act*.

24 The *Alberta Opportunity Fund Act* is repealed.

25(1) This Act comes into force on April 1, 2002.

(2) Notwithstanding subsection (1), if this Act is assented to after April 1, 2002 it is deemed to have been in force at all times on and after April 1, 2002.

Explanatory Notes

1 Amends chapter A-12 of the Revised Statutes of Alberta 2000.

2 Defines “commercial enterprise”.

3 Section 2(2) presently reads:

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

4 Section 9(1) presently reads:

9(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.

5 Section 17 presently reads:

17 The following Acts do not apply to the Corporation or with respect to any business of the Corporation carried on under this Act:

- (a) the Fair Trading Act;*
- (b) the Financial Consumers Act;*
- (c) the Real Estate Act.*

6 Non-agricultural loans.

7 Section 28(1) and (4) presently read:

28(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 25.

(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 25.

8 Section 29(1) presently reads:

29(1) The Corporation must not

- (a) make a loan in which the Corporation advances more than \$1 000 000 of its own funds;*
- (b) execute a guarantee where the Corporation's liability under the guarantee exceeds \$1 000 000;*
- (c) make a loan or execute a guarantee if the sum of
 - (i) the proposed advance of the Corporation's own funds or the amount of the Corporation's liability under the proposed guarantee, as the case may be,*
 - (ii) the outstanding balance of all other loans of the Corporation's own funds to or for the benefit of the same person, and*
 - (iii) the amount of the Corporation's liability under any other guarantee to or for the benefit of the same person**

would exceed \$1 000 000.

9 Section 30 presently reads:

30(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.

10 Section 34 presently reads:

34 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.*

11 Section 38 presently reads:

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.

12 Section 39(3) presently reads:

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

13 Section 43(1)(c) presently reads:

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

- (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 any longer period of time that the Corporation may allow;*

14 Section 53 presently reads:

53 In addition to payments pursuant to an insurance program or plan, the Corporation may, subject to the regulations, make payments for the purposes of a program or plan providing compensation

- (a) for loss or damage to crops or land, or*
- (b) in respect of farm income disaster.*

15 Section 54 presently reads:

54 Subject to the regulations, the Corporation may enter into an agreement with any person for the purposes of reinsuring the liability that may be incurred by the Corporation with respect to an insurance program or plan or a compensation program or plan operated or administered by the Corporation under this Division.

16 Exemption from writ proceedings.

17 Section 56 presently reads:

56 The Lieutenant Governor in Council may make regulations,

- (a) with respect to the business of insurance,*

- (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) prescribing the maximum insurance liability to be underwritten by the Corporation in any year;*
- (v) establishing and governing any fund or reinsurance fund for the purposes of this Act or a federal-provincial agreement or other agreement;*
- (vi) continuing and governing any fund or reinsurance fund for the purposes of this Act or a federal-provincial agreement or other agreement;*
- (vii) providing for any matter necessary to carry out the obligations of the Government under a federal-provincial agreement or other agreement;*
- (viii) governing the fixing of a final date in each year for the execution of insurance contracts with the Corporation;*
- (ix) 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 or in respect of farm income disaster,*
 - (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);*

- (iv) *authorizing the recovery of overpayments of compensation or payments made in error, and governing the manner in which those overpayments and payments may be recovered;*
- (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;*
 - (iv) *authorizing the recovery of overpayments of compensation or payments made in error, and governing the manner in which those overpayments and payments may be recovered.*

18 Section 63 presently reads:

63 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.

19 Section 64 presently reads:

64 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.

20 Section 65 presently reads:

65 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 and after March 31, 1994, 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.

21 Section 66 presently reads:

66 Where, before March 31, 1994,

(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 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, RSA 1980 cA-7, remained in force, or

(ii) the Alberta Hail and Crop Insurance Corporation had the Hail and Crop Insurance Act, RSA 1980 cH-1, 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, RSA 1980 cA-7, remained in force, or

(ii) the Alberta Hail and Crop Insurance Corporation had the Hail and Crop Insurance Act, RSA 1980 cH-1, remained in force.

22 Section 67 presently reads:

67(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 bylaw is deemed to be a reference to the Agriculture Financial Services Corporation.

(2) Any reference

(a) to the Agricultural Development Act, RSA 1980 cA-7, or to any provision of that Act, or

(b) to the Hail and Crop Insurance Act, RSA 1980 cH-1, 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.

23 Regulation respecting transitional matters.

24 Repeals chapter A-28 of the Revised Statutes of Alberta 2000.

25 Coming into force.