



NATIONAL ASSEMBLY

FIFTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 56

An Act respecting Québec business investment companies

Introduction

**Introduced by
Mr Rodrigue Biron
Minister of Industry and Commerce**

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EXPLANATORY NOTES

The principal objects of this bill are

(1) to increase the proportion of the owners' equity in the financial structure of incorporated small and medium-sized businesses in Québec;

(2) to induce the shareholders of small and medium-sized businesses to invest more in their business;

(3) to allow the shareholders of small and medium-sized businesses to involve other investors in the financing of their businesses;

(4) to facilitate the starting up and expansion of small and medium-sized businesses in Québec.

Bill 56

An Act respecting Québec business investment companies

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

SCOPE

1. This Act applies to every Québec business investment company which is a private corporation incorporated after 23 April 1985 under Part IA of the Companies Act (R.S.Q., chapter C-38) and registered as such with the Société de développement industriel du Québec.

For the purposes of this Act, a private corporation is a private corporation within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3).

2. The articles of a company shall state that its activities consist primarily in acquiring and holding shares of the share capital of other corporations as the actual owner thereof.

3. Every shareholder of a company shall be

- (1) a natural person; or
- (2) a private corporation which is a venture capital corporation; and
- (3) the actual owner of the shares he holds.

DIVISION II

REGISTRATION

4. The Société de développement industriel du Québec shall register a company

(1) where the company proves that common shares with full voting rights of its share capital have been subscribed and paid in cash in an amount of not less than \$100 000;

(2) where, in its opinion, the company fulfills the requirements prescribed by this Act and the regulations thereunder.

For that purpose, the Société may require the production of any document it considers likely to enlighten it as to the advisability of registering a company.

5. For the purposes of this Act, a common share with full voting rights is a common share to which are attached a number of voting rights in the issuing corporation, in all circumstance and regardless of the number of shares held, which is not less than the number attached to any other share of the share capital of the corporation.

6. The Société de développement industriel du Québec may prescribe the form and content of an application for the registration of a company.

7. The Société de développement industriel du Québec may revoke the registration of a company if it is proved that the company

(1) has furnished false information or documents;

(2) is failing or neglecting to fulfill its obligations under this Act and the regulations thereunder.

The notice of revocation of the registration of a company shall indicate the date of the revocation and shall be sent to the head office of the company by registered or certified mail.

8. Registration of a company is void of right

(1) upon the company's dissolution;

(2) upon adoption or approval, by the shareholders of the company, of a resolution to wind it up;

(3) upon the company's being placed under a winding-up order for a reason other than bankruptcy or insolvency;

(4) upon the company's being placed under a receiving order pursuant to the Bankruptcy Act (R.S.C., 1970, chapter B-3) or having made an assignment of its property within the meaning of the said Act.

9. The Société de développement industriel du Québec shall send to the Minister of Revenue the information he deems necessary where it registers a company or a registration is revoked or becomes void.

10. The Société de développement industriel du Québec shall keep a register containing the following information:

- (1) the names of the companies;
- (2) their dates of incorporation;
- (3) their dates of registration;
- (4) the addresses of their head offices.

DIVISION III

QUALIFIED INVESTMENT

11. A company shall make a qualified investment to enable its shareholders to avail themselves of the tax benefits provided in the Taxation Act in respect of a company.

12. A common share with full voting rights of the share capital of a qualified corporation acquired by a company as first purchaser is a qualified investment.

A corporation shall, to be qualified, meet the following conditions on the date of the acquisition:

(1) be a Canadian-controlled private corporation within the meaning of section 1 of the Taxation Act;

(2) have assets of less than \$25 000 000 or a net shareholders' equity not in excess of \$10 000 000;

(3) have its head office in Québec;

(4) have paid, in the last twelve months preceding the date of acquisition, or in the months preceding that date in the case of a corporation that has been in operation for less than twelve months,

more than 75 per cent of the salaries paid to its employees within the meaning of section 771 of the Taxation Act and, as the case may be, to employees of corporations with which it is associated, to employees of an establishment situated in Québec;

(5) operate in one of the sectors of activity determined by regulation of the Government;

(6) deal at arm's length with the company, within the meaning of the regulations, on that date and in the following two years, except with the authorization of the Société de développement industriel du Québec where the acquisition of other shares may prevent the bankruptcy of the corporation.

13. No qualified corporation may be the recipient of an aggregate of qualified investments in excess of \$1 000 000. However, for the purposes of computing that amount, any excess amount is deemed not to be a qualified investment and qualified investments held for at least two years shall not be taken into account.

14. A company shall, within thirty days of any change, send in writing, to the Société de développement industriel du Québec, the information relating to its shareholders, its share capital and its qualified investments.

15. The Société de développement industriel du Québec shall issue a statement to each shareholder of a company, attesting to the amount of his share in a qualified investment.

DIVISION IV

REGULATIONS

16. The Government may make regulations to

(1) determine the required qualifications for any company applying to be registered, the conditions it shall fulfil and the information it shall furnish;

(2) determine the form of the reports that a company shall furnish, the information required to be contained in the reports and the period at which they shall be filed;

(3) determine what constitutes the assets of a corporation and the net shareholders' equity, including those of a corporation associated with the corporation, and the mode of computing them;

(4) determine the sectors of activity in which corporations contemplated in section 12 are required to operate, except the activities it determines;

(5) define the expressions “venture capital corporation”, “associated corporation” and “arm’s length”;

(6) determine the conditions of holding a qualified investment and the length of time for which it may be held, and provide penalties and modalities for receiving such an investment;

(7) determine tariffs of duties and fees payable to the Société de développement industriel du Québec for any act done by it under this Act.

The regulations come into force ten days after their date of publication in the *Gazette officielle du Québec* or on any later date fixed therein.

DIVISION V

FINAL PROVISIONS

17. The Minister of Industry and Commerce is responsible for the administration of this Act.

18. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

19. This Act comes into force on the date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on any later date to be fixed by proclamation of the Government.