

Municipal Finance Corporation Act

CHAPTER 301 OF THE REVISED STATUTES, 1989

as amended by

1990, c. 19, ss. 70, 71; 1993, c. 32; 1998, c. 18, s. 569;
2010, c. 2, ss. 132, 133; 2015, c. 49, s 15



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**An Act to Establish the Nova Scotia
 Municipal Finance Corporation**

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Municipal Finance Corporation Act*.
 R.S., c. 301, s. 1.

Interpretation

2 In this Act,
 (a) “Board” means the Board of Directors of the Corporation;
 (b) “Corporation” means the Nova Scotia Municipal Finance Corporation;

(c) “financial assistance” includes assistance by way of loan, loan guarantee and the purchase or guarantee of a bond, debenture, note or other debt obligation;

(d) “hospital” means a hospital to which the *Hospitals Act* applies;

(e) “Minister” means Minister of Municipal Affairs;

(f) “municipal enterprise” means any body corporate the borrowings of which are or may be guaranteed by a municipality, any body corporate to which a municipality may lend money and any body corporate the deficit of which is or may be paid by a municipality, and includes a school board as defined in the *Education Act* but does not include a hospital;

(g) “municipality” means a city, an incorporated town, village commissioners, a service commission or a municipality of a county or district;

(h) “service commission” means a board, commission or corporation created by or under the authority of any Act and having power to

(i) provide, for an area or the residents of an area, services similar to one or more of those which may be provided by a municipality for its residents, and

(ii) levy rates and taxes, or require a municipality or an official of a municipality to levy rates and taxes, other than or in addition to water or electric rates fixed or approved under the *Public Utilities Act*,

and includes fire protection commissioners incorporated under the *Rural Fire District Act* or to whom the *Rural Fire District Act* applies by virtue of Section 56 thereof but does not include a municipality of a county or district, an incorporated town, a city, village commissioners or a school board as defined in the *Education Act*. R.S., c. 301, s. 2.

Municipal Finance Corporation

3 There is hereby created a body corporate under the name of the Nova Scotia Municipal Finance Corporation, consisting of a Board of Directors. R.S., c. 301, s. 3.

Board of Directors

4 (1) The Board is comprised of such members, not less than five, as may from time to time be appointed by the Governor in Council.

(2) A number of the members of the Board shall be appointed upon the recommendation of the Union of Nova Scotia Municipalities and the number so appointed is that number that is nearest to being forty per cent of the total number of the members on the Board.

(3) No member of the Board shall participate in decisions respecting borrowings by the municipality or hospital by which the member of the Board is employed or of whose council or board, respectively, the member of the Board is a member.

(4) Each member of the Board holds office for such term as the Governor in Council determines. R.S., c. 301, s. 4.

Management of Corporation

5 (1) The affairs of the Corporation shall be managed by the Board.

(2) A quorum of the Board consists of a majority of the members of the Board and includes at least one member appointed on the recommendation of the Union of Nova Scotia Municipalities. R.S., c. 301, s. 5.

Board membership and Chief Executive Officer

6 (1) The Governor in Council may appoint a member of the Board to be the Chairman of the Board.

(2) The Governor in Council may appoint a person to be the Chief Executive Officer of the Corporation.

(3) The Chairman of the Board and its members and the Chief Executive Officer of the Corporation shall be paid such remuneration and expenses as may be determined by the Governor in Council.

(4) The appointment of a member of the House of Assembly, including a member of the Executive Council, does not render such member of the House or of the Executive Council ineligible or disqualified from sitting or voting in the House of Assembly by reason of being a member of the Board and receiving remuneration, travelling or living expenses in respect of duties pertaining to the Board or by reason of any dealing by the Board with the Province.

(5) Members of the Board may include persons in the public service and persons who hold an office or appointment under any enactment, including an enactment of the Province or of the Parliament of Canada. R.S., c. 301, s. 6.

Object of Corporation

7 The object of the Corporation is to provide financial assistance for municipalities, municipal enterprises and hospitals through a central borrowing authority. R.S., c. 301, s. 7; 1998, c. 18, s. 569.

Powers of Corporation and Regulations

8 (1) The Corporation may

(a) borrow or raise or secure the payment of money in such manner as the Board thinks fit by the issue and sale of notes, bonds, debentures or any other security;

(b) purchase, redeem or pay off any notes, bonds, debentures or securities, including the purchase or rollover of its own notes, bonds, debentures or securities;

(c) enter into agreements that seem conducive to its object including agreements with any government or authority, be it municipal, local or otherwise;

(d) purchase, take on lease or in exchange, hire or otherwise acquire and hold real or personal property and any rights or privileges that the Corporation considers necessary or convenient for the purpose of its business;

(e) sell, improve, manage, exchange, lease, dispose of or otherwise deal with the property and rights of the Corporation;

(f) draw, make, accept, endorse, execute and issue promissory notes, bills of exchange and any other negotiable or transferable instrument;

(g) lend money to municipalities, municipal enterprises and hospitals and accept and receive therefrom notes, bonds, debentures or any other security and sell, pledge, mortgage or otherwise dispose of or deal with such notes, bonds, debentures or securities;

(ga) create, maintain and manage a sinking fund for the requirement of securities of the corporation;

(gb) subject to subsection (2), and without restricting the generality of clauses (a), (c) and (e), enter into financial transactions and agreements affecting the debt and financial assets of the Corporation;

(h) do all or any of the above things as principal, agent, contractor or otherwise;

(i) do all other things as are incidental or conducive to the attainment of the object and the exercise of the powers of the Corporation.

(2) The Governor in Council may make regulations prescribing or prohibiting financial transactions or classes of financial transactions that the corporation may enter into pursuant to clause (gb) of subsection (1).

(3) The exercise by the Governor in Council of the authority contained in subsection (2) is regulations within the meaning of the *Regulations Act*. R.S., c. 301, s. 8; 1998, c 18, s. 569.

Municipal sinking fund

9 (1) Where a municipality is required pursuant to the *Municipal Affairs Act* to provide a sinking fund, the sums required therefor and the interest accruing thereon from time to time may be held and administered by the Corporation in trust for the municipality or assigned by the Corporation to the Minister of Finance in trust for the municipality.

(2) The Corporation or the Minister of Finance, as the case may be, may invest the sums held in trust in investments authorized by the *Finance Act*. R.S., c. 301, s. 9; 2010, c. 2, s. 132.

Powers of Board

10 (1) The notes, bonds, debentures and securities issued by the Corporation may be in such form and in such denomination, bear interest at such rate and be made payable as to principal, interest and premium, if any, at such time and at such place as the Board may determine.

(2) Notes, bonds, debentures or securities of the Corporation may be made redeemable or payable in advance of maturity either at the option of the Corporation or on demand of the holder thereof at any time and at such price and either with or without payment of a premium and either in whole or in part, as the Corporation may provide.

(3) The Board may sell or otherwise dispose of notes, bonds, debentures or securities on such terms and conditions as it deems advisable, either at the par value thereof or at less or more than the par value thereof, and may charge, pledge, mortgage, deposit or deal with any such securities as collateral security.

(4) A recital or declaration in any resolution of the Corporation authorizing the issue and sale of notes, bonds, debentures or securities of the Corporation for any purpose to the effect that it is necessary to issue and sell notes, bonds, debentures or securities of the Corporation for such purpose in the amount authorized by the resolution is conclusive evidence of the fact recited or declared. R.S., c. 301, s. 10.

Resolutions

11 The Board may make resolutions relating to such matters or things as appear to it to be requisite or proper for the conduct or regulation of the business or affairs of the Corporation and, without restricting the generality of the foregoing, including

(a) the appointment, functions, duties, remuneration and removal of all officers, employees, agents or servants of the Corporation;

(b) the disposition of all money received in respect of the business of the Corporation, the institutions in which the money is to be deposited, the manner in which such accounts are to be kept and managed and the manner in which withdrawals are to be made from such accounts;

- (c) the borrowing by way of temporary loan from chartered banks by way of overdraft or line of credit or by pledging notes, bonds, debentures or any other security of the Corporation as security, or in any other manner, and the execution of bills of exchange, promissory notes or other instruments used in connection with temporary borrowings;
- (d) the execution of notes, bonds, debentures and securities of the Corporation and the provision of facsimile signatures and seal;
- (e) the sale and pledging of notes, bonds, debentures and securities;
- (f) the creation, management and application of reserve funds;
- (g) the creation and application of sinking funds;
- (h) the registration, transfer, exchange and management of notes, bonds, debentures and securities of the Corporation;
- (i) the management and administration of the property of the Corporation. R.S., c. 301, s. 11.

Guarantee by Province

12 (1) The repayment of the principal, interest and premium, if any, of any borrowings by, or any notes, bonds, debentures or securities issued by, the Corporation may be guaranteed by the Province and any such guarantees require the approval of the Governor in Council.

(2) The guarantee, in such form and manner as the Governor in Council may approve, may be endorsed upon any note, bond, debenture or security issued by the Corporation and may be signed on behalf of Her Majesty by the Minister of Finance or by such other person as the Governor in Council may designate.

(3) The signature of the Minister of Finance, or the person designated by the Governor in Council, upon the guarantee endorsed upon a note, bond, debenture or security of the Corporation may be engraved, lithographed or otherwise mechanically reproduced.

(4) The signature of the Minister of Finance, or the person designated by the Governor in Council, upon the guarantee is conclusive proof that the relevant provisions of this Act have been complied with. R.S., c. 301, s. 12.

Financial assistance

13 The Minister of Finance, with the approval of the Governor in Council, may provide financial assistance to the Corporation. R.S., c. 301, s. 13.

Right to borrow in any currency

14 The Corporation may borrow in the currency of any country and notes, bonds, debentures or securities given for any money borrowed may be redeemable in the currency of any country. R.S., c. 301, s. 14.

Acceptance of securities

15 (1) The Corporation shall not accept any note, bond, debenture or security of a municipality or municipal enterprise unless

(a) all of the requirements of the *Municipal Affairs Act* and any other governing enactment have been complied with by the issuing municipality or municipal enterprise; and

(b) the issue of the note, bond, debenture or security has been approved by the Minister.

(2) Subsection (1) does not apply to the issue of a note, bond, debenture or security of a school board, and the Corporation shall not accept a note, bond, debenture or security of a school board unless

(a) all requirements of the *Education Act* and any other applicable enactment have been complied with; and

(b) the issue of the note, bond, debenture or security has been approved by the Minister of Education.

(3) The Corporation shall not accept a note, bond, debenture or security of a hospital unless all requirements of the *Hospitals Act* or any other applicable enactment have been complied with by the hospital and the issue of the note, bond, debenture or security has been approved by the Minister of Health and Fitness. R.S., c. 301, s. 15.

Restriction on sale or issuance

16 (1) Notwithstanding the *Municipal Affairs Act* or any other general or special Act of the Legislature, no municipality or municipal enterprise shall issue or sell notes, bonds, debentures or securities except to the Corporation or to the Government of Canada, the Province, or another municipality, or to any department, agency or fund thereof.

(2) This Section does not apply to a temporary borrowing pending the issue of notes, bonds, debentures or securities or a borrowing by a municipality or municipal enterprise made in accordance with the Act under which the municipality or municipal enterprise is incorporated and for the purpose of defraying part of its annual current expenditure.

(3) This Section does not apply to a borrowing or part thereof by a municipal housing corporation where the municipal housing corporation obtains a borrowing guarantee from Canada Mortgage and Housing Corporation in respect of that borrowing or that part thereof, respectively. R.S., c. 301, s. 16.

Default of payment by municipality or municipal enterprise

17 (1) Where a municipality or municipal enterprise defaults in any payment required to be made to the Corporation, the Corporation shall immediately inform the Minister.

(2) The Governor in Council shall, upon the recommendation of the Minister, appoint trustees to manage the affairs of the municipality or municipal enterprise and Sections 36 to 38 of the *Municipal Affairs Act* apply thereto *mutatis mutandis*.

(3) The Corporation, by order of the Board, may recover any amount in default by a levy on the property and occupancy assessment subject to taxation in a municipality.

(4) The Corporation may, by order of the Board, seize and sell property of a municipal enterprise to recover any amount in default, and for this purpose a loan by the Corporation to a municipal enterprise is a charge upon the property of the municipal enterprise. R.S., c. 301, s. 17; 1998, c. 18, s. 569.

Default of payment by hospital

18 (1) Where a hospital defaults in any payment required to be made to the Corporation, the Corporation shall immediately notify the Minister.

(2) The Governor in Council may, upon the recommendation of the Minister, appoint trustees to manage the affairs of the hospital.

(3) The Corporation may, with the approval of the Governor in Council, seize and sell property of a hospital to recover any amount in default, and for this purpose a loan by the Corporation to a hospital is a charge upon the property of the hospital. R.S., c. 301, s. 18.

Fiscal year

19 The fiscal year of the Corporation is

- (a) the calendar year 1990 or a preceding calendar year;
- (b) the period from the first day of January, 1991, to the thirty-first day of March, 1992, inclusive;
- (c) the period from the first day of April in the year 1992 or any year thereafter to the thirty-first day of March in the next following year, inclusive. 1990, c. 19, s. 70.

Proceedings against the Crown Act

20 (1) The *Proceedings against the Crown Act* applies to actions and proceedings against the Corporation.

(2) For the purposes of this Section, a reference in the *Proceedings against the Crown Act* to

- (a) the Crown shall be construed as a reference to the Corporation;
- (b) the Minister of Finance shall be construed as a reference to the Chief Executive Officer of the Corporation;

(c) the General Revenue Fund of the Province shall be construed as a reference to the funds of the Corporation.

(3) In the proceedings under this Section, an action shall be brought against the Corporation in the name of the Corporation.

(4) Where a document or notice must be served upon or given to the Corporation pursuant to this Section or the *Proceedings against the Crown Act*, it shall be served by delivering a copy to the office of the Attorney General or the Deputy Attorney General or any other barrister or solicitor employed in the Department of the Attorney General or by delivering a copy to a barrister or solicitor designated for that purpose by the Attorney General, and such service is and is deemed to be service upon the Corporation. R.S., c. 301, s. 20; 2010, c. 2, s. 133.

Annual estimate

21 (1) The Board shall not later than the thirty-first day of December in each year submit to the Minister an estimate of its anticipated administration expenditures for the next following fiscal year.

(2) The Minister shall examine the anticipated administration expenditures and approve therefrom for the next following fiscal year such administration expenses as he deems fit.

(3) The Minister shall, on or before the thirty-first day of March in each year, notify the Board of the approved administration expenses for the next following fiscal year.

(4) The Corporation shall not expend an amount in excess of the approved administration expenses approved by the Minister.

(5) The Board may from time to time prepare supplementary estimates and the provisions of this Section apply thereto *mutatis mutandis*. R.S., c. 301, s. 21; 1990, c. 19, s. 71.

Payment of administration expenses

22 (1) Such proportion as the Governor in Council may prescribe in any year, of the approved administration expenses shall be paid by the Minister.

(2) The remainder, if any, of the approved administration expenses shall be paid, as the Board in its discretion may determine, by

(a) the Corporation;

(b) the municipalities, municipal enterprises and hospitals that have obtained financing through the Corporation, with the share payable by each municipality, municipal enterprise and hospital equal to the proportion that the total outstanding indebtedness to the Corporation, as reflected in its most recently audited financial statements, of the municipality, municipal enterprise or hospital bears to the total

outstanding indebtedness to the Corporation for all municipalities, municipal enterprises and hospitals; or

(c) both the Corporation and the municipalities, municipal enterprises and hospitals, with the share payable by each municipality, municipal enterprise and hospital determined in accordance with the formula set out in clause (b).

(3) The sums required by the municipalities under this Section shall be held to be sums required for the ordinary lawful purposes of the municipalities and may be raised, levied and collected in the same manner and in all respects as other sums required for the ordinary lawful purposes of the municipalities are raised, levied and collected.

(4) The council of each municipality, on a requisition signed by the Chairman or other officer of the Corporation, shall pay over to the Corporation the municipality's share of the approved administration expenses of the Corporation. R.S., c. 301, s. 22; 1993, c. 32, s. 1.

Auditor

23 (1) The Board shall at each annual meeting appoint a registered municipal auditor, public accountant or firm practising public accounting to be the auditor of the Corporation.

(2) The auditor has a right of access at all times to the books and accounts of the Corporation and is entitled to require from the directors, officers and employees of the Corporation such information and explanation as may be necessary for the performance of the duties of the auditor.

(3) The auditor shall make all examinations that are in his opinion necessary to enable him to report accurately on the financial statements of the Corporation and on the state of the financial affairs of the Corporation. R.S., c. 301, s. 23; 2015, c. 49, s. 15.

Deposit of report and financial statement

24 A copy of the report of the auditor and the financial statements of the Corporation in the form prescribed by the Minister shall be deposited with the Minister, the Minister of Finance and the clerk of every municipality. R.S., c. 301, s. 24.

Purchase of securities of Corporation

25 The Province, a municipality, a municipal enterprise or a hospital may purchase the notes, bonds, debentures and securities of the Corporation. R.S., c. 301, s. 25.

Guarantee is a debt

26 (1) Where the Province has guaranteed a repayment of principal, interest or premium, if any, of a borrowing, whether the borrowing is by note, bond, debenture or security, or any combination thereof, or in any manner whatsoever, of

the Corporation and the Province is required to honour that guarantee, then the amount of the guarantee is a debt of the Corporation and the Corporation shall recover that amount as if there were a default to the Corporation by the municipal enterprises, municipalities and hospitals indebted to it, and subsections (3) and (4) of Section 17 apply thereto *mutatis mutandis*.

(2) The Corporation shall pay over to the Province all money collected or recovered pursuant to subsection (1) by the Corporation. R.S., c. 301, s. 26.

Securities Act

27 The *Securities Act* does not apply to securities or transactions of the Corporation. R.S., c. 301, s. 27.
