



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 599

Anti-Farmland Grabbing Act

Introduction

**Introduced by
Mr. André Villeneuve
Member for Berthier**

**Québec Official Publisher
2016**

EXPLANATORY NOTES

The purpose of this bill is to establish an anti-farmland grabbing process. The bill also enacts measures to control farmland acquisition by one person.

Persons acquiring farmland must declare their acquisition to the Commission de protection du territoire agricole du Québec.

Furthermore, persons wishing to directly or indirectly acquire farmland whose total area exceeds 100 hectares must obtain prior authorization from the Commission. The Commission's authorization is also required before a direct or indirect acquisition of land that would ultimately bring the total area of farmland owned by one person beyond the 100-hectare limit.

The Commission must keep a farmland acquisitions register containing the declarations of acquisition received and the Commission's decisions on applications for authorization.

Lastly, the bill sets out penalties which, among other things, allow acquisitions to be annulled. It also contains miscellaneous provisions.

Bill 599

ANTI-FARMLAND GRABBING ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE, APPLICATION AND INTERPRETATION

1. The purpose of this Act is to establish an anti-farmland grabbing process. The Act also prescribes measures to control farmland acquisition that would ultimately bring the total area owned by one person beyond the 100-hectare limit.

For the purposes of this Act, “farmland” means land used for agriculture within the meaning of the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1).

CHAPTER II

CONTROLLING FARMLAND ACQUISITION

2. Persons acquiring farmland must declare the acquisition to the Commission de protection du territoire agricole du Québec, established by section 3 of the Act respecting the preservation of agricultural land and agricultural activities.

Declarations are filed at the Commission’s head office in accordance with section 15 of the Act respecting the preservation of agricultural land and agricultural activities.

3. Persons wishing to directly or indirectly acquire farmland whose total area exceeds 100 hectares must obtain prior authorization from the Commission.

The Commission’s authorization is also required before persons directly or indirectly acquire land that would ultimately bring the total area of farmland they own beyond the 100-hectare limit.

Persons are presumed to wish to indirectly acquire land when they act with someone in collusion with or related to them, in particular a spouse, a relative or someone connected by marriage or a civil union up to the second degree, someone living with them, or a partner or a legal person of which they are a director or which they control.

4. Persons wishing to obtain an authorization under this Act must file an application with the Commission together with all the documents and information prescribed by government regulation and, where applicable, payment of the duties prescribed for the application.

5. Applications for authorization must be accompanied by an affidavit stating the applicant's principal occupation, the reasons for the farmland acquisition and the land's intended use.

6. The Commission authorizes transactions in which persons are consolidating their farm, acquiring land en bloc, taking over from a person who was farming the land, or becoming the owner following a death.

7. The Commission takes the following factors into consideration in examining an application for authorization:

(1) the applicant's principal occupation: whether the applicant farms or will be able to farm farmland by cultivating the soil, raising livestock or engaging in any activity related to the latter;

(2) the intended use: in particular, the applicant's intention to cultivate the soil or raise livestock on the farmland for which the application is filed;

(3) the land's soil capability, taking into consideration the biophysical conditions of the soil and the environment: whether the farmland for which the application is filed is suitable for cultivating the soil or raising livestock. An authorization is granted in all cases where the land concerned is not suitable for cultivating the soil or raising livestock;

(4) the proximity of farmland, owned by the applicant, whose total area exceeds the 100-hectare limit;

(5) the acquisition's impact on farmland prices in the region;

(6) the effects of the acquisition or intended use on the region's economic development;

(7) the development of agricultural products and enhancement of underutilized farmland;

(8) the impact on land occupancy; and

(9) any other factor the Commission considers relevant.

8. The Commission must give applicants and all interested persons the opportunity to submit their observations.

In addition, it may require these persons to provide any information and documents it considers relevant for examining the application. In such cases, these persons must comply with this requirement.

Before rendering unfavourable decisions, the Commission must notify applicants in writing as prescribed under section 5 of the Act respecting administrative justice (chapter J-3) and give them at least 10 days to submit their observations.

9. The Commission renders substantiated decisions and sends them by registered mail to the applicants, the owners of the immovables concerned and all other interested persons.

10. The Commission is responsible for overseeing the enforcement of this Act and, for that purpose, sections 7, 8, 11, 13, 13.1, 14, 16, 17, 18.5, 18.6, 19 and 21.1 to 21.5 of the Act respecting the preservation of agricultural land and agricultural activities apply, with the necessary modifications.

11. The Government may, by a written notice to the Commission, despite the latter's jurisdiction, study an application itself.

In such cases, the Commission's secretary must send the Government a copy of the record and notify the interested persons in writing that the application has been withdrawn from the Commission's jurisdiction. The Government then decides the application, after obtaining the Commission's advice.

The Government's decision is filed at the head office of the Commission, which notifies the interested persons in writing.

CHAPTER III

FARMLAND ACQUISITIONS REGISTER

12. The Commission keeps a farmland acquisitions register, which contains all declarations received and decisions rendered by the Commission in accordance with Chapter II.

13. For each declaration of acquisition and application for authorization, the register must contain

(1) the applicant's name and address and, in the case of an enterprise, the name of its head officer, the address of its head office, the address of its principal establishment in Québec and its Québec business number;

(2) the applicant's principal occupation;

(3) the area of the farmland concerned;

(4) the land's soil capability and intended use;

(5) the proximity of farmland, owned by the applicant, whose total area, including the land for which the application is filed, exceeds the 100-hectare limit; and

(6) any other information the Commission considers appropriate.

14. The Commission makes the register available for public consultation.

CHAPTER IV

APPLICATION FOR REGISTERING AN ACQUISITION

15. An application for registering a farmland acquisition must contain

(1) the acquirer's declaration;

(2) the name of the local municipality in whose territory, or the name of the unorganized territory in which, the land is situated;

(3) the area of the farmland so acquired; and

(4) the Commission's authorization or the grounds on which such authorization is not required.

16. The registrar notifies the Commission of the farmland acquisition by sending the Commission a copy of the application for registration and, if the application is in the form of a summary, a copy of the accompanying document no later than the fifteenth day of the month following the month the acquisition was registered.

17. The registrar must refuse to register the farmland acquisition on ascertaining that the application for registration does not contain the information required under section 15.

CHAPTER V

PENALTIES

18. If the Commission becomes aware that a person is contravening a provision of this Act, or the conditions of an order or of an authorization to acquire farmland, it may issue an order directing the person to cease the alleged contravention within a specified time.

The order is notified to the offender in accordance with the Code of Civil Procedure (chapter C-25.01).

19. If a person fails to comply with an order of the Commission, issued under section 18, the Attorney General or the Commission may obtain an order from a Superior Court judge directing the person to comply with the order, and

indicating that, should the person fail to do so, the order may be carried out at the person's expense.

20. Any farmland acquisition in contravention of section 3 is null.

Any interested party, including the Attorney General and the Commission, may apply to the Superior Court for a declaration of nullity.

In such cases, the Superior Court may order that all rights and hypothecs created by or resulting from a deed of acquisition made in contravention of section 3 be cancelled.

21. If a person has acquired farmland in contravention of section 3, the Commission may, by order, if the right of action referred to in section 20 is not exercised, direct the person to dispose of the farmland within six months after service of the order.

If the person fails to comply with the order within the allotted time, the Commission may apply to a Superior Court judge for authorization to sell the immovable under judicial authority. In such cases, articles 704 to 710 of the Code of Civil Procedure apply, with the necessary modifications.

The proceeds of the sale, after payment of any costs, prior and hypothecary creditors' claims, and, if applicable, fines due under section 25 of this Act, are remitted to the offender.

22. Anyone who

- (1) contravenes this Act or its regulations;
- (2) knowingly acquires farmland or a lot in contravention of section 3;
- (3) knowingly hinders or misleads a person authorized to conduct investigations under this Act or gives the person false information;
- (4) hinders the application of this Act, fails to comply with an order issued by the Commission or refuses to comply with one of the Commission's decisions

is guilty of an offence.

23. Anyone who knowingly does or fails to do something to help someone commit an offence under this Act, or who knowingly advises, encourages or incites someone to commit an offence, is a party to the offence.

24. If a legal person commits an offence under this Act, all of its directors, officers, employees or agents who prescribed or authorized committing the offence or consented to it are deemed to be parties to the offence and are liable to the penalty provided in section 25 for natural persons.

25. Anyone who commits an offence under this Act is liable,

(1) in the case of a natural person, to a fine of \$200 to \$5,000;

(2) in the case of a legal person, to a fine of \$600 to \$30,000.

Furthermore, anyone who commits an offence under section 2 or 3 is liable,

(1) in the case of a natural person, to a fine of at least 10% of the actual value of the farmland in question;

(2) in the case of a legal person, to a fine of at least 20% of the actual value of the farmland in question.

CHAPTER VI

MISCELLANEOUS PROVISIONS

26. The Government may, by regulation, prescribe any measure necessary for the application of this Act.

27. The Minister of Agriculture, Fisheries and Food is responsible for carrying out this Act.

28. The Minister must, no later than (*insert the date that is five years after the date of coming into force of this Act*) and subsequently every five years, report on the implementation of this Act.

The Minister tables the report in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption.

29. This Act comes into force on (*insert the date of assent to this Act*).