

NUNATSIAVUT ASSEMBLY

TORNGAT CO-OP LOAN GUARANTEES ACT, 2008 (IL-2008-05)

**AN INUIT LAW TO AUTHORIZE THE NUNATSIAVUT GOVERNMENT TO ISSUE A
LOAN GUARANTEE TO SUPPORT COMMERCIAL BORROWING BY THE
TORNGAT FISH PRODUCERS COOPERATIVE SOCIETY LIMITED FOR THE
PERIOD FROM APRIL 1, 2008 TO MARCH 31, 2009**

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Whereas section 8.6.2 of the Constitution enables the Assembly to authorize the Nunatsiavut Government to provide loan guarantees to third parties;


And Whereas section 80 of the *Financial Administration Act* enables the Nunatsiavut Government to provide loan guarantees when authorized to do so pursuant to an Inuit Law

NOW THEREFORE BE IT ENACTED by the Assembly as follows:

Short title

1.

This Act may be cited as the *Torngat Co-op Loan Guarantees Act, 2008*.



Definitions

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In this Act:

- (a) "Act" means an Inuit Law and includes this Inuit Law;
- (b) "Assembly" means the Nunatsiavut Assembly;
- (c) "Auditor" means the Auditor for Nunatsiavut appointed in terms of the Constitution;
- (d) "Constitution" means the Labrador Inuit Constitution;
- (e) "Controller" means the officer of the Nunatsiavut Government appointed pursuant to section 12 of the *Financial Administration Act*;
- (f) "Fiscal Year" means the period beginning on April 1 in one year and ending on March 31 in next year;
- (g) "Fund" means the reserve of money in the Nunatsiavut Fund set apart in the accounts of the Nunatsiavut Government as the development fund referred to in section 44(1)(e) of the *Financial Administration Act*;
- (h) "Minister" means the member of the Executive Council responsible for economic development;
- (i) "Nunatsiavut Fund" means the consolidated revenue fund of the Nunatsiavut Government described in part 8.1 of the Constitution;
- (j) "President-in-Council" means the President of Nunatsiavut acting on the advice of the Executive Council;
- (k) "Torngat Co-op" means the Torngat Cooperative Society Limited, a legal person existing under the *Co-operatives Act* of Newfoundland and Labrador; and
- (l) "Treasurer" means the Nunatsiavut Treasurer as described in subsection 5.1.1(c) of the Constitution;

Conflict with Inuit law

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If there is an inconsistency or conflict between this Act and the provisions of the *Financial Administration Act*, this Act prevails to the extent of the inconsistency or conflict.

Authority to guarantee the payment of Torngat Coop's obligations

4.

Subject to this Act, the President-in-Council may authorize the Minister, on behalf of the Nunatsiavut Government, to enter into agreements with any of the chartered banks of Canada, the Government of Newfoundland and Labrador, Torngat Co-op or any other person concerning the guaranteeing of the payment of obligations of Torngat Co-op for the purpose and subject to the amount set out in section 5.

Maximum amount and purpose of loan guarantee

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Subject to this Act, the President-in-Council may authorize the Minister to guarantee a loan by a chartered bank of Canada to Torngat Co-op in an amount not to exceed \$ 750,000.00 for the purpose of paying Torngat Co-op's operating expenses during the 2008-2009 fiscal year, and to enter into such further agreements as the President-in-Council may be advised are necessary or prudent in order to protect and secure the interests of the Nunatsiavut Government with respect to the guarantee and any prior loans made by the Nunatsiavut Government to Torngat Co-op.

Term of guarantee

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The maximum term of the loan guarantee under this Act shall be before March 31, 2009.

Security required for guarantees

7.

The Minister shall require that the Torngat Co-op provides security with respect to the loan guarantee and all indebtedness of Torngat Co-op to the Nunatsiavut Government in such amounts and of such nature as the Minister considers prudent before providing any loan guarantee to or for Torngat Co-op or Torngat Co-op's bank.

Access to financial records

8.

The Minister shall require as a condition of the loan guarantee provided to Torngat Co-op that the Auditor has access to all the financial books, accounts and other records of Torngat Co-op during its normal business hours after giving reasonable advance notice.

Additional terms and conditions and recovery of costs

9.

- (1) Without limiting anything in sections 6, 7 and 8, the Minister may require such additional terms and conditions as may be prudent or consistent with good business practice before providing a loan guarantee to Torngat Co-op under this Act and shall recover from Torngat Co-op all costs and fees incurred by the Nunatsiavut Government in relation to the guarantee.
- (2) Costs and fees recovered under subsection (1) shall be paid into the Nunatsiavut Fund.

Payment of guarantee

10.

Where a guarantee has been given by or on behalf of the Nunatsiavut Government for the payment of a debt or obligation of Torngat Co-op pursuant to this Act, any amount required to be paid by the terms of the guarantee may be paid out of the Nunatsiavut Fund.

Borrowing to pay guarantee

11.

Where, the Nunatsiavut Government has guaranteed the payment of any debt or obligation of Torngat Fish Producers Co-op pursuant to this Act, the President in Council may borrow such amount as is necessary to discharge the liability resulting from the guarantee for the purpose of discharging the liability of the Nunatsiavut Government.

Guarantee to be charge on development fund

12.

All guarantees made under this Act shall be a charge upon the development fund referred to in section 44(1)(e) of the *Financial Administration Act* to the amount of the guarantees from time to time outstanding.

Acquisition and alienation of property given as security

13.

(1)

The Executive Council may authorize the Minister to purchase or otherwise acquire any property that is the subject of a mortgage, charge or security, whether general or specific, in respect of any guarantee made under this Act.

(2)

The Minister may sell, lease or otherwise dispose of any property acquired under subsection (1) for such consideration and on such terms and conditions as the Minister deems advisable.

(3)

The proceeds of any sale, lease or disposal made under subsection (2) shall be paid to the Treasurer and be credited to the Fund.

Execution of instruments

14.

All agreements, guarantees and other instruments whatsoever relating to any guarantees made under this Act may be executed on behalf of the Nunatsiavut Government by the Minister and the Controller.

Repeal of IL-2007-04

15.

The *Torngat Co-op Loan Guarantees Act*, IL-2007-04 is repealed.

Coming into effect

16.

This Act comes into effect immediately upon its registration pursuant to the *Inuit Laws Registration Act*.