

NUNATSIAVUT ASSEMBLY

BILL NO. IL 2007-04

THE TORNGAT CO-OP LOAN GUARANTEES ACT

**AN INUIT LAW TO AUTHORIZE THE NUNATSIAVUT GOVERNMENT TO ISSUE A LOAN
GUARANTEE TO SUPPORT COMMERCIAL BORROWING BY THE TORNGAT
COOPERATIVE SOCIETY LIMITED**

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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* prohibits the Nunatsiavut Government from providing loan guarantees unless specifically authorized to do so under 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*.

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 Co-op’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 Cooperative Society Limited or any other person concerning the

guaranteeing of the payment of obligations of Torngat Cooperative Society Limited 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 the Torngat Cooperative Society Limited not exceeding \$ 600,000 for the purpose of paying the Torngat Co-op's operating expenses during the 2007-2008 fiscal year and to enter into such further agreement or agreements as the President-in-Council may be advised are necessary or prudent with respect to the guarantee, the indebtedness of Torngat Co-op to its bank and the Nunatsiavut Government and in order to secure the interests of the Nunatsiavut Government with respect to the guarantee and 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 six months.

Security required for guarantees

7.

The Minister shall require that the Torngat Cooperative Society Limited provide 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 Cooperative Society Limited that the Auditor has access to all the financial books, accounts and other records of the cooperative during its normal business hours after giving reasonable advance notice.

Additional terms and conditions

9.

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 any loan guarantee to Torngat Cooperative Society Limited.

Payment of guarantee

10.

Where by or under this Act a guarantee has been given by or on behalf of the Nunatsiavut Government for the payment of a debt or obligation of Torngat Cooperative Society Limited, 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, pursuant to this Act, the Nunatsiavut Government has guaranteed the payment of any debt or obligation of Torngat Cooperative Society Limited, 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 President-in-Council may, where the Executive Council deems it to be in the best interest of the Nunatsiavut Government to do so, 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 by the Minister and the Controller on behalf of the Nunatsiavut Government.

Coming into effect

15.

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