



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 24

(2003, chapter 20)

An Act to amend the Act respecting financial services cooperatives

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EXPLANATORY NOTES

This bill amends the Act respecting financial services cooperatives so that a federation can identify, from among the cooperatives established outside Québec whose mission is similar to those established under the Act, categories of auxiliary members that may exercise voting rights at the general meeting of the federation.

The bill also allows credit unions to constitute a reserve for future dividends. It changes the rules governing the remuneration of members of the board of a credit union and the attendance allowance for members of a council of representatives. It changes the definition of associate of an officer and provides for the expulsion of credit union members who engage in activities that represent an unacceptable risk for the credit union.

The bill stipulates that the person responsible for a federation's audit cannot sit on the board of directors of the security fund. It also sets out the rules for auditing the federation's financial statements.

The bill contains transitional provisions and concordance amendments.

Bill 24

AN ACT TO AMEND THE ACT RESPECTING FINANCIAL SERVICES COOPERATIVES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 6 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended by replacing “to provide services to credit unions, credit union members” in paragraph 3 by “to provide services to credit unions and their members, participating auxiliary members and their members”.

2. Section 84 of the said Act is amended by inserting the following subparagraph after subparagraph 4 of the first paragraph:

“(4.1) in the case of a credit union, establishing and maintaining a reserve for future dividends;”.

3. Section 88 of the said Act is amended by inserting “the reserve for future dividends or, if that reserve has insufficient funds, out of” after “reserve, out of” in the second line.

4. Section 89 of the said Act is amended by inserting “the reserve for future dividends and” after “allocated to” in the fourth line.

5. The said Act is amended by inserting the following section after section 90:

“90.1. The allocation of dividends from the reserve for future dividends must be consistent with the standards of the federation.”

6. Section 115 of the said Act is amended

(1) by striking out subparagraph 2 of the first paragraph;

(2) by replacing “a legal person controlled by the officer” in subparagraph 3 of the first paragraph by “a legal person or a partnership controlled by the officer”;

(3) by striking out subparagraph 4 of the first paragraph;

(4) by replacing “cohabiting” in the second line of the second paragraph by “living”.

7. Section 162 of the said Act is amended by replacing “a statement of the stabilization reserve and” in the first and second lines of paragraph 4 by “a statement of the reserve for future dividends, a statement of the stabilization reserve, a statement”.

8. Section 204 of the said Act is amended by adding the following paragraph after paragraph 4:

“(5) carries on an activity, determined by the federation, that represents an unacceptable financial risk for the credit union.”

9. Section 221 of the said Act is amended by inserting the following paragraph after paragraph 4:

“(4.1) decide on the payment of dividends from the reserve for future dividends;”.

10. Section 236 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

“236. A member other than the president of the board of directors may only receive remuneration if remuneration for the office held by that member is permitted by the federation.

The member is remunerated in keeping with the standards established by the federation.

Board members are entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions.”;

(2) by replacing “However” in the first line of the second paragraph by “In addition”.

11. The said Act is amended by inserting the following section after section 236:

“236.1. A member of the board of a credit union that is not a member of a federation may be remunerated if permitted by the by-law of the credit union in respect of the office held by the member.

The by-law must specify the amount of the remuneration, which may vary according to the office the member holds.

Board members are entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions.”

12. The said Act is amended by inserting the following section after section 246:

“246.1. The president is remunerated in keeping with the standards established by the federation.”

13. The said Act is amended by inserting the following section after section 287:

“287.1. The federation may identify by by-law one or more categories of participating auxiliary members from among the auxiliary members referred to in the first paragraph of section 286. The by-law shall stipulate the conditions that the participating auxiliary members must meet in order to exercise their voting rights and be eligible to office.”

14. Section 288 of the said Act is replaced by the following section:

“288. Subject to the provisions of a by-law passed by the federation under section 287, auxiliary members have the rights and obligations arising from their status as members but, with the exception of participating auxiliary members, they do not have voting rights and their representatives are not eligible to office.”

15. The said Act is amended by inserting the following section after section 288:

“288.1. The voting rights allotted to participating auxiliary members in accordance with the criteria determined by by-law of the federation must not exceed the limits determined by regulation of the Government. The regulation may not permit the participating auxiliary members to exercise together more than 30% of the voting rights at a general meeting of the federation.”

16. Section 294 of the said Act is amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) the manner in which credit unions and any participating auxiliary members are to be represented at meetings;”;

(2) by replacing “to which each credit union is entitled” in paragraph 2 by “to which each credit union and each participating auxiliary member, if any, is entitled”.

17. Section 295 of the said Act is amended by inserting “and any participating auxiliary members” after “credit unions”.

18. Section 297 of the said Act is amended by replacing “the groups to which the credit unions belong,” in paragraph 1 by “groups”.

19. The said Act is amended by inserting the following section after section 297:

“297.1. In addition to the reimbursement of reasonable expenses incurred in the exercise of their functions, the members of a council of representatives shall receive an attendance allowance in the amount set by the board of directors. The aggregate amount paid in that regard may not exceed the amount set by the general meeting. No allowance may be paid before the maximum amount has been set by the general meeting.”

20. Section 298 of the said Act is amended

(1) by replacing “may be represented only by a” in the first sentence of the second paragraph by “shall be represented by a single”;

(2) by adding the following paragraph after the second paragraph:

“The second paragraph does not apply to participating auxiliary members.”

21. Section 300 of the said Act is amended by striking out “, in accordance with the standards of the federation” in the second paragraph.

22. The said Act is amended by inserting the following section after section 336:

“336.1. For the purposes of paragraph 5 of section 204, the federation may determine the activities that represent an unacceptable financial risk for the credit union when they are exercised by a member of that credit union.”

23. Section 369 of the said Act is amended by adding the following paragraphs at the end:

“(11) the remuneration of the president of the board of directors;

“(12) the remuneration of the other members of the board of directors and the members of the board of audit and ethics, which may vary with the office they hold.”

24. Section 371 of the said Act is amended by adding the following paragraph at the end:

“(5) the reserve for future dividends.”

25. Section 372 of the said Act is amended by inserting the following paragraph after paragraph 3:

“(3.1) the issuing of subordinated debt securities;”.

26. The said Act is amended by inserting the following section after section 382:

382.1. After informing a member of a credit union in writing of the grounds invoked and giving the member an opportunity to submit observations, the federation may suspend or expel the member from the credit union if it believes that the member's activities

- (1) represent an unacceptable financial risk for the credit union; or
- (2) are contrary to the credit union's interests.

Before exercising the power given it in the first paragraph, the federation must inform the credit union of its intention and give it an opportunity to submit observations.

The federation informs the credit union of its decision. The credit union informs the member and enters the decision in its register."

27. Section 424 of the said Act, amended by section 338 of chapter 45 of the statutes of 2002, is again amended by adding "and audited by an auditor of the federation's audit service and by another auditor" at the end of subparagraph 5 of the first paragraph.

28. Section 497 of the said Act is amended

(1) by replacing "of president, director general and person in charge of inspections" in paragraph 1 by "of president and director general, and the person in charge of inspection for the federation, unless the latter is also responsible for the federation's audits";

(2) by adding the following paragraph at the end:

"The person responsible for the federation's audit may not be a member of the board of directors."

29. Sections 500, 501 and 502 of the said Act are amended by replacing "paragraph 2" by "subparagraph 2 of the first paragraph".

30. Section 599 of the said Act is amended

(1) by inserting the following subparagraph after subparagraph 7 of the first paragraph:

"(7.0.1) determine the limits applicable to the reserve for future dividends;";

(2) by inserting the following subparagraph after subparagraph 8 of the first paragraph:

"(8.1) determine, for the purposes of section 288.1, the limits to the voting rights that participating auxiliary members may exercise together at a general meeting of the federation;".

31. For the purposes of section 288.1 of the Act respecting financial services cooperatives, enacted by section 15 of this Act, the participating auxiliary members cannot exercise together more than 10% of the voting rights at a general meeting of the federation, until that limit is revised by regulation.

32. This Act comes into force on 18 December 2003.