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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

## Bill 110

(2005, chapter 14)

### **An Act to amend the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons and other legislative provisions**

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**Introduced 12 May 2005**

**Passage in principle 31 May 2005**

**Passage 8 June 2005**

**Assented to 17 June 2005**

## EXPLANATORY NOTES

*This bill amends the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons and the Act respecting the Ministère du Revenu to allow enterprises to update the information contained in the register of sole proprietorships, partnerships and legal persons when filing their fiscal return, in accordance with an agreement to be entered into between the enterprise registrar and the Minister of Revenue.*

*The bill amends the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons by substituting an annual registration fee for the fee payable on the presentation of an annual declaration. Legal persons that are required to file a fiscal return, and natural persons operating sole proprietorships, will pay that fee to the Minister of Revenue, while enterprises having other juridical forms will pay it to the enterprise registrar.*

*The bill allows the use of information technologies for filing the declarations required by the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons, subject to the conditions that will be determined by the enterprise registrar.*

*As well, the bill introduces provisions that will allow the enterprise registrar, after an agreement is entered into, to send a department, body or government enterprise the information contained in the register. It also grants the enterprise registrar the power to correct ex officio any addresses declared in the register of sole proprietorships, partnerships and legal persons that are inaccurate.*

*Lastly, the bill amends the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons to clarify the way certain provisions of that Act are to be administered. It also contains transitional provisions and consequential amendments.*

## LEGISLATION AMENDED BY THIS BILL:

- Cooperatives Act (R.S.Q., chapter C-67.2);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

– Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45).



## Bill 110

### AN ACT TO AMEND THE ACT RESPECTING THE LEGAL PUBLICITY OF SOLE PROPRIETORSHIPS, PARTNERSHIPS AND LEGAL PERSONS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 10 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) is amended by replacing “registration number” at the end of subparagraph 1 of the first paragraph by “business number”.

**2.** Section 12 of the Act is amended by replacing “registration number” in paragraph 2 by “business number”.

**3.** Section 17 of the Act is amended by replacing paragraph 1 by the following paragraph:

“(1) be in conformity with section 57.1;”.

**4.** Section 21 of the Act is amended

(1) by replacing “described in the first paragraph of section 10 and assigning a registration number to the registrant” in the fourth and fifth lines of the first paragraph by “and assigning a Québec business number to the registrant”;

(2) by replacing “registration number” in the first line of the second paragraph by “business number”.

**5.** Section 23 of the Act is amended

(1) by replacing “registration number” in the fifth line of the first paragraph by “business number”;

(2) by striking out the second paragraph.

**6.** The Act is amended by inserting the following section after section 23:

**“23.1.** The initial declaration must

(1) be completed by the registrant or an authorized person;

(2) be in conformity with section 57.1; and

(3) be filed with the enterprise registrar within 60 days after the registration date.

If the declaration is filed after the time prescribed in subparagraph 3 of the first paragraph, it must also be presented with the fee prescribed by regulation.”

**7.** Section 24 of the Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) is not in conformity with section 57.1;”.

**8.** Section 26 of the Act is amended by replacing “contained in the declaration of registration or initial declaration” in the first and second lines of the first paragraph by “in the register concerning the registrant”.

**9.** The Act is amended by inserting the following sections after section 26:

**“26.1.** A registrant who must file a fiscal return with the Minister of Revenue under section 1000 of the Taxation Act (chapter I-3), or, in the case of a natural person operating a sole proprietorship, who would be required to file such a return if tax were payable by the person under Part I of that Act, may, during the filing period for an annual declaration, update the information in the register concerning the registrant by filing the prescribed form with the registrant’s fiscal return and indicating on that form any changes in the information entered in the reference document sent previously by the Minister of Revenue.

The form provided for in the first paragraph shall be prescribed by the Minister or Deputy Minister of Revenue. Sections 36.1, 37.1, 37.3 and 37.6 of the Act respecting the Ministère du Revenu (chapter M-31) apply to that form, with the necessary modifications. Section 89 of that Act does not apply.

**“26.2.** Where the application of the Taxation Act (chapter I-3) changes the filing period for the annual declaration of a registrant referred to in section 26.1 who is a legal person, the registrant is required to satisfy the obligation under section 26 only once during a calendar year.

**“26.3.** A legal person whose filing period for an annual declaration spans two calendar years and who, in accordance with section 26 or 26.1, updates the information concerning the legal person during the part of that period that is in the second calendar year although no such updating was done during the preceding calendar year, is deemed to have satisfied the annual updating obligation for the preceding calendar year.

The enterprise registrar shall enter each year for which the legal person is deemed to have satisfied the annual updating obligation under the first paragraph in the legal person’s statement of information.”

**10.** Section 28 of the Act is amended

(1) by replacing “, of which a copy, extract or transcription is deposited in the register pursuant to section 71,” in the third and fourth lines by “, that is deposited in the register following its transfer under section”;

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

“Every registrant who, during the period referred to in the first paragraph, files under section 26.1 a document transferred under section 72.1 that is deposited in the register together with the reference document sent previously by the Minister of Revenue is also exempted from that requirement.”

**11.** Section 29 of the Act is amended by replacing the second paragraph by the following paragraph:

“The notice must state that registration may be struck off if the registrant fails to remedy the default and to file the next annual declaration required of that registrant.”

**12.** Section 30 of the Act is amended by striking out “tardy filing” in the second line of the second paragraph.**13.** The Act is amended by inserting the following section after section 30:

**“30.1.** A document transferred to the enterprise registrar under section 72 or 73 must be drawn up in accordance with the specifications determined by regulation.

In addition, a document submitted with the form provided for in section 26.1 and transferred to the enterprise registrar under section 72.1 must be drawn up in accordance with the specifications determined by regulation or on a medium of the same type, quality and format as that of the form.”

**14.** Section 31 of the Act is amended

(1) by replacing subparagraphs 4 and 5 of the first paragraph by the following subparagraphs:

“(4) is not in conformity with section 57.1;

“(5) is not presented with the fees prescribed by regulation, if those fees are payable.”;

(2) by replacing the second paragraph by the following paragraph:

“The enterprise registrar shall also refuse to file in the register the document referred to in section 28 if it is not in conformity with subparagraphs 1 and 2 of the first paragraph or section 30.1, or, in the case of a document filed by a

registrant and transferred under section 72.1, if it does not indicate the number of the reference document sent previously by the Minister of Revenue.”

**15.** Section 33 of the Act is amended by replacing the first paragraph by the following paragraphs:

**“33.** Where a registrant discovers or is informed that a declaration filed by the registrant or a document filed by the registrant and transferred under section 72, 72.1 or 73 is incomplete or contains inaccurate information, the registrant must make the appropriate correction by filing an amending declaration.

The correction is deemed to take effect from the date of deposit of the declaration or of the corrected document, as the case may be.”

**16.** Section 35 of the Act is amended by replacing “a declaration amending the declaration of registration or the initial declaration of the registrant whose registration number it retains” in the third and fourth lines by “an amending declaration to update in the register the information concerning the registrant whose business number it retains”.

**17.** Section 40 of the Act is amended

(1) by replacing “, of which a copy, extract or transcription is deposited in the register under section 71,” in the second and third lines by “ that is deposited in the register following its transfer under section”;

(2) by adding the following paragraph:

“Every registrant who, under section 26.1, files a document containing such information that is deposited in the register following its transfer under section 72.1 is also exempted from that requirement, if the second paragraph of section 28 does not apply.”

**18.** Section 41 of the Act is replaced by the following section:

**“41.** Every amending declaration must be presented to the enterprise registrar within 15 days after the change. It must

(1) be drawn up in duplicate on the form supplied for the purpose or authorized by the enterprise registrar, in accordance with the specifications determined by regulation;

(2) indicate the business number of the registrant and the change; and

(3) be in conformity with section 57.1.”

**19.** The Act is amended by inserting the following section after section 41:



**41.1.** A document transferred to the enterprise registrar under section 72 or 73 must be drawn up in accordance with the specifications determined by regulation.

In addition, a document submitted with the form provided for in section 26.1 and transferred to the enterprise registrar under section 72.1 must be drawn up in accordance with the specifications determined by regulation or on a medium of the same type, quality and format as that of the form.”

**20.** Section 42 of the Act is amended by inserting the following paragraph after the first paragraph:

“The enterprise registrar shall also refuse to deposit in the register a document referred to in section 40 that is not in conformity with subparagraphs 1 and 2 of the first paragraph, paragraph 2 of section 41 or section 41.1.”

**21.** Section 43 of the Act is amended by adding “; in the case of a document referred to in section 40, the enterprise registrar shall deposit it” at the end of the first paragraph.

**22.** Section 47 of the Act is replaced by the following section:

**47.** Every declaration for striking off must

(1) be drawn up in duplicate on the form supplied for the purpose or authorized by the enterprise registrar, in accordance with the specifications determined by regulation;

(2) be in conformity with section 57.1;

(3) indicate the business number of the registrant; and

(4) if it concerns a registrant other than a registrant referred to in section 57.5 or 57.6, be submitted with the annual registration fee, if that fee is payable, and any penalty prescribed in section 57.3.”

**23.** Section 48 of the Act is amended by replacing “the provisions of” in the second line of the first paragraph by “subparagraphs 1 to 3 of”.

**24.** Section 50 of the Act is amended by adding the following paragraph at the end:

“However, that legal person is deemed to continue in existence in order to terminate any judicial or administrative proceeding.”

**25.** Section 56 of the Act is amended by replacing “d’immatriculation” in the first line of the first paragraph of the French text by “de l’immatriculation”.

**26.** The Act is amended by inserting the following after section 57:

**“CHAPTER IV.1****“TRANSMISSION OF DECLARATIONS**

**“57.1.** A declaration filed under this Act must be signed by the registrant or the registrant’s representative or be sent using an information technology medium in accordance with the conditions determined by the enterprise registrar.

**“CHAPTER IV.2****“ANNUAL REGISTRATION FEE**

**“57.2.** A registrant who is registered on 1 January of each year must pay the annual registration fee prescribed by regulation that is applicable to the registrant’s juridical form on that date.

The obligation to pay the fee exists from the second year following the registrant’s initial registration.

**“57.3.** The registrant shall pay the annual registration fee to the enterprise registrar not later than whichever of the following dates occurs first:

(1) the date on which the period during which the registrant must file an annual declaration ends; and

(2) the date of presentation of a declaration for striking off, a document referred to in section 53, or any other document that entails the striking off of the registrant’s registration.

A registrant who fails to pay the annual registration fee in accordance with the first paragraph must, in addition, pay a penalty equal to 50% of that fee.

**“57.4.** Despite sections 57.2 and 57.3, a registrant or a registrant’s representative who presents an application for the revocation of a striking off under section 54 must also pay the enterprise registrar the annual registration fee prescribed by regulation for the current year, the fees in respect of all the years from the time of striking off until the presentation of the application, and the corresponding penalty prescribed in the second paragraph of section 57.3.

**“57.5.** Despite section 57.3, a natural person who operates a sole proprietorship and to whom section 26.1 applies shall pay the Minister of Revenue the annual registration fee on or before the balance-due day determined in respect of the registrant for the purposes of Part I of the Taxation Act (chapter I-3) for the preceding taxation year.

**“57.6.** Despite section 57.3, a legal person to which section 26.1 applies shall pay the Minister of Revenue the annual registration fee for a given year on or before the balance-due day determined in respect of the registrant for the

purposes of Part I of the Taxation Act (chapter I-3) for the taxation year that includes 1 January of that year.

**57.7.** Sections 57.5 and 57.6 constitute a fiscal law within the meaning of the Act respecting the Ministère du Revenu (chapter M-31).

Sections 1000 to 1010, 1037, 1045 and 1052 of the Taxation Act (chapter I-3) apply, with the necessary modifications, to sections 57.5 and 57.6.”

**27.** Section 61 of the Act is amended by inserting “and the documents transferred to the enterprise registrar under sections 72, 72.1 and 73 which are” after “contents of the declarations” in the second line.

**28.** Section 62 of the Act is amended

(1) by replacing the second sentence of the first paragraph by the following sentence: “Third persons may submit any proof to refute the information contained in a declaration or in a document transferred to the enterprise registrar under section 72, 72.1 or 73.”;

(2) by replacing “registration number” in the third line of subparagraph 15 of the second paragraph by “business number”.

**29.** Section 66 of the Act is amended by replacing “transcribe its contents in” in the third line of the first paragraph by “add its contents to”.

**30.** Section 67 of the Act is amended by replacing “transcribed” at the end of the first paragraph by “added”.

**31.** Section 68 of the Act is amended

(1) by replacing “any error contained in the index of documents, the statement of information or the index of names” in the first paragraph by “an index of documents, statement of information or index of names that is not consistent with the information declared by the registrant or the person referred to in section 5”;

(2) by replacing “that contains a clerical error or an inaccurate postal code” in the second line of the second paragraph by “inaccurate”;

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

“Where the correction is substantial, the enterprise registrar shall make the correction and deposit in the register a notice to that effect, a copy of which shall be given to the registrant.”

**32.** Section 70 of the Act is replaced by the following section:

**“70.** The enterprise registrar may, *ex officio*, cancel an entry or the deposit in the register of a declaration, a notice under the second paragraph of section 43, a notice of closure or a liquidation notice under section 53, or a document transferred under section 72, 72.1 or 73, where the presentation of the declaration, notice or document giving rise to the registration was carried out without entitlement.”

**33.** Section 71 of the Act is repealed.

**34.** Section 72 of the Act is amended

(1) by replacing “an agreement” in the first line of the first paragraph by “a written agreement”;

(2) by replacing “The department or body is authorized” in the first line of the second paragraph by “Any department or body is competent”;

(3) by replacing the third, fourth and fifth paragraphs by the following paragraphs:

“Where the document contains information that is not required for the purposes of the register, the department or body shall transfer to the enterprise registrar only a document containing the required information.

The department or body must inform the registrant before transferring a document that contains information concerning the registrant.”

**35.** The Act is amended by inserting the following section after section 72:

**“72.1.** The enterprise registrar shall enter into a written agreement with the Minister of Revenue to allow the document filed by a registrant under section 26.1 and a copy of the reference document sent previously to the registrant to be deposited in the register.

The Minister of Revenue is competent to enter into such an agreement and to transfer the documents referred to in the first paragraph to the enterprise registrar for deposit in the register.”

**36.** Section 73 of the Act is amended by replacing “an agreement” in the first line by “a written agreement”.

**37.** The Act is amended by inserting the following sections after section 73.1:

**“73.2.** The enterprise registrar may enter into a written agreement with a department, body or government enterprise to communicate to it information contained in a document filed by a registrant under this Act, where that information must also be communicated by the registrant to that department, body or enterprise.

Any department, body or government enterprise is competent to enter into such an agreement with the enterprise registrar.

The enterprise registrar must inform the registrant before transferring information concerning the registrant.

**“73.3.** The enterprise registrar may enter into a written agreement with a department, body or government enterprise to communicate to it all the information contained in the register and any subsequent amendments, where such a communication is necessary for the purposes of the duties and powers of that department, body or enterprise.

Any department, body or government enterprise is competent to enter into such an agreement with the enterprise registrar.

A department, body or government enterprise that receives information contained in the register under the first paragraph may not use that information to

(1) make a compilation of information for a third person; or

(2) make for its own purposes a compilation of information containing the name and address of a natural person or a compilation of information based on the name and address of a natural person, except if the compilation is made for the purposes set out in subparagraphs 1 to 3 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

An agreement referred to in the first paragraph must be submitted to the Commission d'accès à l'information for an opinion. Section 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information applies to such an agreement, with the necessary modifications.

Subparagraph 2 of the third paragraph does not prevent the Minister of Revenue from using the information from the register that was filed with the Minister by the enterprise registrar under section 71 of the Act respecting the Ministère du Revenu (chapter M-31) to make a compilation of information.

**“73.4.** For the purposes of this Act, a government body includes any body referred to in the first paragraph of section 2 of the Financial Administration Act (chapter A-6.001), and a government enterprise includes any government enterprise referred to in the third paragraph of that section.

In addition, a person designated by the National Assembly to exercise a function under its authority is considered to be a government body.”

**38.** Section 82 of the Act is amended

(1) by replacing the second sentence of the first paragraph by the following sentence: “Third persons may submit any proof to refute the information contained in a declaration or in a document transferred to the enterprise registrar under section 72, 72.1 or 73.”;

(2) by replacing “registration number” in subparagraphs 1 and 14 of the second paragraph by “business number”.

**39.** Section 84 of the Act is replaced by the following section:

**“84.** Any interested person may, upon payment of the fees prescribed by regulation, petition the enterprise registrar to cancel an entry or the deposit in the register of a declaration, a notice under the second paragraph of section 43, a notice of closure or a liquidation notice under section 53, or a document transferred under section 72, 72.1 or 73, where the presentation of the declaration, notice or document giving rise to the registration was carried out without entitlement.”

**40.** Section 98 of the Act is amended

(1) by inserting “or an annual declaration” after “an initial declaration” in subparagraph 2 of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“The Government may also, by regulation, prescribe the annual registration fee payable and the fees payable for priority processing, on request, of a document that has been filed.”

**41.** Section 101 of the Act is amended

(1) by inserting “the following duly completed declarations within the applicable time:” at the end of the part preceding paragraph 1;

(2) by replacing “section 23 within the prescribed time” in paragraph 2 by “section 23.1”;

(3) by inserting “the registrant or person is deemed to have satisfied the obligation under section 26.3 or is” after “unless” in paragraph 3.

**42.** Section 102 of the Act is amended

(1) by replacing “23” in the second line by “23.1”;

(2) by striking out “être” in the third line of the French text.

**43.** The Act is amended by inserting the following section after section 102:

**102.1.** A registrant or a person referred to in section 5 is guilty of an offence upon knowingly presenting under section 26.1 a false, incomplete or misleading document that is deposited in the register following its transfer under section 72.1.”

**44.** Section 103 of the Act is amended by inserting “duly completed” after “file the” in paragraph 1.

**45.** Section 104 of the Act is amended by inserting “duly completed” after “time, the” in paragraph 1

**46.** Section 105 of the Act is amended by inserting “duly completed” after “present the” in paragraph 1.

**47.** Section 107 of the Act is amended by adding “in the case of a natural person, and not less than \$400 and not more than \$4,000 in the case of a legal person” at the end of the first paragraph.

**48.** Section 530 of the Act is amended by replacing “retain its existence in order to terminate any judicial proceeding” by “continue its existence in order to terminate any judicial or administrative proceeding”.

**49.** Section 539 of the Act is replaced by the following section:

**539.** The Minister of Finance is responsible for the administration of this Act, except sections 57.5, 57.6 and 57.7, which shall be administered by the Minister of Revenue.”

#### COOPERATIVES ACT

**50.** Section 190 of the Cooperatives Act (R.S.Q., chapter C-67.2) is amended by adding the following paragraph at the end:

“However, the cooperative referred to in the dissolution order is deemed to continue in existence in order to terminate any judicial or administrative proceeding.”

#### TAXATION ACT

**51.** Section 85.3.2 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing “registration number” in the third line of subparagraph *c* of the first paragraph by “business number”.

#### ACT RESPECTING THE MINISTÈRE DU REVENU

**52.** Section 12.0.2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 18 of chapter 4 and section 505 of chapter 21 of the statutes of 2004, is again amended by inserting “an assessment

issued pursuant to section 57.5 or 57.6 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45),” after “Taxation Act,” in the first paragraph.

**53.** Section 58.1.1 of the Act is amended by replacing “registration number” in paragraph *f* by “business number”.

**54.** Section 69.1 of the Act, amended by section 1 of chapter 10 of the statutes of 2004 and section 6 of chapter 2 of the statutes of 2005, is again amended

(1) by replacing “registration number” in the eighth line of subparagraph *h* of the second paragraph by “business number”;

(2) by adding the following subparagraph after subparagraph *t* of that paragraph:

“(u) the enterprise registrar, but only to the extent that the information is necessary to identify a registrant referred to in section 26.1 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45), to verify the address used to send the reference document referred to in that section, or, where the registrant is a corporation, to determine the filing period for the registrant’s annual declaration.”

**55.** Section 93.1.1 of the Act, amended by section 37 of chapter 4 of the statutes of 2004, is again amended by inserting “an assessment issued pursuant to section 57.5 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45),” after “Taxation Act (chapter I-3),” in the second paragraph.

**56.** Section 93.2 of the Act, amended by section 513 of chapter 21 of the statutes of 2004, is again amended by adding the following paragraph after paragraph *n*:

“(o) an assessment pursuant to section 57.5 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (chapter P-45).”

#### MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

**57.** The declaration referred to in section 26 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) for a year prior to the year 2006 that was not filed by 1 January 2006 must, when filed, be presented with the fees prescribed by regulation that would have been applicable had the declaration been filed in accordance with the provisions of that Act in force on 31 December 2005 and the tardy filing fee corresponding to the fee applicable for the tardy filing of an annual declaration that was required before 1 January 2006.



Section 30 and subparagraphs 1 to 3 and 5 of the first paragraph of section 31 of that Act, as they read on 31 December 2005, apply to a declaration referred to in the first paragraph.

**58.** A legal person referred to in section 26.1 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45), enacted by section 9 of this Act, is exempted from the obligation under section 26 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons during the filing period applicable to that legal person if that period ends between 1 January and 30 June 2006, inclusively.

**59.** Despite section 57.2 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45), enacted by section 26 of this Act, a registrant whose registration is struck off after 31 December 2005 is exempted from paying the annual registration fee for the year 2006 if the document whose deposit in the register entailed the striking off was presented duly completed to the enterprise registrar before 1 January 2006.

**60.** This Act comes into force on 17 June 2005, except section 3, paragraph 2 of section 5, sections 6, 7 and 9, paragraph 2 of section 10, sections 12 to 15, paragraph 2 of section 17, sections 18 to 20, 22, 23, 26 and 27, paragraph 1 of section 28, section 32, paragraph 1 of section 38, sections 39 to 41, paragraph 1 of section 42 and sections 43, 49, 52 and 55 to 59, which come into force on 1 January 2006.