



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 19

(2015, chapter 3)

An Act to amend the Cooperatives Act and other legislative provisions

Introduced 12 November 2014
Passed in principle 11 February 2015
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Assented to 30 March 2015

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EXPLANATORY NOTES

This Act amends the Cooperatives Act as regards the administrative requirements involved in filing the applications and articles of a cooperative with the Minister responsible for the Act. It establishes rules concerning the correction of errors in articles and gives the Minister the power to determine what qualifies as a signature on technology-based documents required to be filed with the Minister and to correct documents that the Minister has drawn up.

The Act specifies that sums devolved to a cooperative must be allocated to the cooperative's reserve and that the reserve may not be drawn upon in any manner.

Measures are introduced to protect the patrimony of housing cooperatives a building of which has been built, acquired, restored or renovated under a government housing assistance program. These measures include requiring such cooperatives to maintain the destination, in particular the social or community vocation, of the building; making the alienation of the building or a change in its destination subject to the Minister's prior authorization; and requiring, when a cooperative is being wound up, that the balance of its assets be devolved to a cooperative of the same nature.

The rules applicable to work cooperatives are amended to give their general managers or managers the power to impose administrative or disciplinary measures, other than dismissal, on members.

The penal provisions of the Act are revised to provide for higher fines when a contravention of the Act affects a cooperative's patrimony or reserve.

Lastly, the Act makes other technical amendments to the Cooperatives Act and contains consequential amendments.

LEGISLATION AMENDED BY THIS ACT:

– Cooperatives Act (chapter C-67.2);

- Act respecting the Régie du logement (chapter R-8.1);
- Act to amend the Cooperatives Act (2003, chapter 18).

Bill 19

AN ACT TO AMEND THE COOPERATIVES ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

COOPERATIVES ACT

1. Section 7 of the Cooperatives Act (chapter C-67.2) is amended by replacing the first paragraph by the following paragraph:

“**7.** A minimum of five founders is required to request the constitution of a cooperative. The request is made by means of an application for constitution addressed to the Minister.”

2. Section 11 of the Act is replaced by the following section:

“**11.** The application, signed by the founders, and the articles must be sent to the Minister.”

3. Section 12 of the Act is amended

(1) by replacing “the articles” in the introductory clause by “the application and the articles”;

(2) by striking out paragraph 1.

4. Section 13 of the Act is amended,

(1) in the first paragraph,

(a) by inserting “the application,” after “receiving”;

(b) by replacing “of the articles and of the application” by “of the application and of the articles”;

(2) by inserting “the application and” after “registers” in subparagraph 2 of the second paragraph;

(3) by replacing “a certified copy” in subparagraph 3 of the second paragraph by “a copy”.

5. Section 28 of the Act is amended by adding “, provided the assistance is for a maximum period of 12 months” at the end of subparagraph 2 of the first paragraph.

6. Section 57 of the Act is amended by striking out “suspend or” in the second paragraph.

7. Section 76 of the Act is amended by replacing “four” in the first sentence of the first paragraph by “six”.

8. Section 119 of the Act is amended by replacing “the articles of amendment” in the second paragraph by “an application for the amendment of the articles addressed to the Minister”.

9. Section 120 of the Act is amended

(1) by replacing “The articles of amendment shall be accompanied with an application for the amendment of the articles, signed by the director authorized to sign the articles of amendment, with an attestation of the secretary” in the first paragraph by “The application and the articles of amendment must be accompanied with an attestation from a director”;

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

“The application, signed by the authorized director, and the articles of amendment must be sent to the Minister.”

10. Section 121 of the Act is amended by inserting “the application,” after “receiving” in the first paragraph.

11. The Act is amended by inserting the following after section 121:

“CHAPTER XV.1

“CORRECTION OF ARTICLES

“**121.1.** The board of directors may, without the authorization of a meeting of the members, correct obvious reference, typographical, transcription and similar errors in the articles.

The Minister may, of the Minister’s own motion or at the request of any interested person, ask a cooperative to correct an obvious error in the articles.

In all cases, a correction request must be addressed to the Minister.

“**121.2.** The board of directors shall authorize one of the directors to sign the correction request.

“121.3. The correction request and the corrected articles must be accompanied with a copy of the articles containing errors and, if applicable, with any other documents or information required by the Minister.

The correction request, signed by the authorized director, and the corrected articles must be sent to the Minister.

“121.4. On receiving the correction request, the corrected articles, the accompanying documents, the fees prescribed by government regulation and any other required documents or information, the Minister shall replace the articles containing an error by the corrected articles.

The Minister shall send a certified copy of the corrected articles to the enterprise registrar, who shall replace the articles in the register by the corrected articles.

“121.5. The articles of the cooperative as corrected are deemed correct since their origin. However, in the case of the correction of a date, the correction prevails if it is later than the date being corrected.”

12. Section 132 of the Act is amended by replacing “four” in the introductory clause by “six”.

13. The heading of Chapter XX of Title I of the Act is replaced by the following heading:

“OPERATING SURPLUS, SURPLUS EARNINGS AND RESERVE”.

14. Section 145 of the Act is amended by adding “and any devolved sums” at the end.

15. The Act is amended by inserting the following section after section 146:

“146.1. Any sum devolved to a cooperative under section 185, 210 or 221.2.10 must be allocated to the reserve.

The Conseil québécois de la coopération et de la mutualité is not subject to that requirement if the sum devolved to it is redistributed to a cooperative, a federation or a confederation in accordance with a redistribution policy adopted by its board of directors.”

16. Section 147 of the Act is amended by replacing “drawn on for” by “drawn upon in any manner, including by”.

17. Section 156 of the Act is amended by replacing “the articles of amalgamation” in subparagraph 1 of the first paragraph by “an application for amalgamation addressed to the Minister”.

18. Section 160 of the Act is amended

(1) by replacing “The articles” in the introductory clause by “The application and the articles”;

(2) by striking out paragraph 1;

(3) by replacing “petition” in paragraph 7 by “application”.

19. Section 161 of the Act is replaced by the following section:

“**161.** The application, signed by the authorized director of each of the cooperatives, and the articles of amalgamation must be sent to the Minister.”

20. Section 162 of the Act is amended by inserting “the application,” after “receiving” in the first paragraph.

21. Section 166 of the Act is amended by replacing “the articles” in the first paragraph by “an application for the amalgamation of the cooperatives addressed to the Minister”.

22. Section 168 of the Act is amended by replacing “must, by resolution, approve the agreement and authorize one among them to sign the articles” by “shall approve the agreement and authorize, by resolution, one among them to sign the application”.

23. Section 170 of the Act is amended

(1) by replacing “The articles” in the introductory clause by “The application and the articles of absorption”;

(2) by striking out paragraph 1;

(3) by replacing “petition” in paragraph 7 by “application”.

24. Section 173 of the Act is amended by adding the following paragraph at the end:

“In such a case, an application for amalgamation must be addressed to the Minister.”

25. Section 174 of the Act is amended by replacing “The articles must be accompanied with the documents referred to in paragraphs 1, 3 and 7” in the introductory clause of the second paragraph by “The application and the articles of amalgamation must be accompanied with the documents referred to in paragraphs 3 and 7”.

26. Section 185 of the Act is amended by replacing “shall be transferred” in the sixth paragraph by “is devolved”.

27. Section 185.1 of the Act is amended by replacing “it shall be transferred” by “that balance devolves”.

28. Section 192 of the Act is amended by replacing “are transferred” by “devolves”.

29. Sections 208 and 210 of the Act are amended by replacing “the Coopérative fédérée de Québec” by “La Coop fédérée”.

30. The Act is amended by inserting the following heading after the heading of Division I of Chapter IV of Title II:

“§1. — *General provisions*”.

31. The Act is amended by inserting the following heading after section 221.2.2:

“§2. — *Cooperative owning a building built, acquired, restored or renovated under a housing assistance program*”.

32. Section 221.2.3 of the Act is amended

(1) by replacing “government housing assistance program” in the introductory clause by “housing assistance program of the Government, the federal government or one of their departments, agencies or bodies”;

(2) by replacing “report on the maintenance and preservation work done on the building,” in paragraph 5 by “give the date of the last inspection of the building, and report on the maintenance and preservation work done”.

33. The Act is amended by inserting the following sections after section 221.2.3:

“221.2.4. The cooperative must maintain the destination, in particular the social or community vocation, of the building.

“221.2.5. The alienation of the building, other than by expropriation or forced sale, the establishment of emphyteusis on it or a change in its destination by any cooperative, other than a cooperative whose principal object is to assist its members in acquiring the ownership of a house or dwelling, must be authorized by the Minister, who may subject such authorization to the conditions the Minister determines.

The first paragraph does not apply if the building is taken in payment or another hypothecary right relating to the building is exercised

(1) by a hypothecary creditor whose business is making loans on real security;

(2) by the Government, the federal government or one of their departments, agencies or bodies, or by a legal person established in the public interest.

“221.2.6. The application for authorization must contain the name and domicile of the cooperative, a description of the building, the total amount obtained under any assistance program referred to in section 221.2.3 and a certified statement from the Land Registrar of the charges encumbering it. In the case of an alienation or the establishment of emphyteusis, it must also state the nature and conditions of the juridical act contemplated, the name of the acquirer, assignee or future beneficiary, and the sale price of the building; in the case of a change in destination, it must specify the proposed destination.

On receiving an application for authorization, the Minister shall inform the Confédération québécoise des coopératives d’habitation and, if applicable, the federation of housing cooperatives operating in the region where the building is located, which have 30 days to submit their observations.

In analyzing the application, in addition to the elements specified in the first paragraph, the Minister takes into account the impact of the act contemplated on the destination, in particular the social or community vocation, of the building and the observations submitted by the cooperative sector.

Before denying an authorization, the Minister must notify the applicant as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and give the applicant the opportunity to submit observations.

“221.2.7. The Minister may require the registration in the land register of a statement specifying that the building is subject to the provisions of section 221.2.5. The registration is required by way of a notice sent to the registry office.

“221.2.8. Any act done in contravention of this division is absolutely null.

“221.2.9. The Attorney General may obtain from the Superior Court an order to stop any act or transaction undertaken or continued without the Minister’s authorization.

The motion of the Attorney General is heard and decided by preference.

“221.2.10. In the case of a winding-up, the balance of the assets is devolved to a housing cooperative, a federation of housing cooperatives, a confederation of such federations or the Conseil québécois de la coopération et de la mutualité by the meeting of the members by means of a resolution adopted by a majority of the votes cast.

If the members do not make a decision with regard to the balance of the cooperative’s assets, that balance devolves to the Conseil québécois de la coopération et de la mutualité.”

34. The Act is amended by inserting the following section after section 224.4:

“224.4.0.1. The general manager or the manager may impose administrative or disciplinary measures, other than dismissal, on members and auxiliary members.

However, the board of directors may, by resolution, assign itself those powers or entrust them to another person or group of persons it designates. Such a decision must be made available to the members and auxiliary members.”

35. Section 226.1 of the Act is amended by adding “as producers or consumers” at the end of paragraph 1.

36. Section 226.6 of the Act is amended by replacing “users,” in the first paragraph by “user producers, the user consumers,”.

37. Section 226.7 of the Act is amended by replacing “who are users of the services provided by the cooperative, the number who are workers of the cooperative” by “of the cooperative who are user producers, the number who are user consumers, the number who are workers”.

38. Section 226.14 of the Act is amended by replacing “221.2.3” by “221.2.10”.

39. Section 229 of the Act is amended

- (1) by adding “or of the general meeting” at the end of the first sentence;
- (2) by striking out the second sentence.

40. Section 230.1 of the Act is amended

- (1) by replacing “the articles must” by “the application and the articles must”;
- (2) by replacing “the persons authorized to sign the articles” by “a director authorized to sign the application”.

41. The Act is amended by inserting the following section after section 232:

“232.1. To resign from a federation, the member cooperative must be so authorized by a resolution of its board of directors. The resolution must be ratified by the general meeting of the cooperative before the resignation.”

42. Section 246 of the Act is amended

- (1) by replacing the introductory clause by “Whoever”;
- (2) by replacing both occurrences of “elle” in paragraph 1 in the French text by “il”;

(3) by striking out paragraph 4;

(4) by replacing paragraph 5 by the following:

“(5) contravenes the second paragraph of section 16 or 20, paragraph 8 of section 90, any of the provisions of sections 33, 48, 124, 127, 127.1, 131, 132, 133, 135, 138, 140, 141 and 221.2.3, the second paragraph of section 221.6.1, the third paragraph of section 221.7 or the second paragraph of section 226.2

is guilty of an offence.”

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

“**246.1.** Whoever

(1) contravenes section 146 or 146.1, the third paragraph of section 188 or section 221.2.4;

(2) contravenes section 147, 149 or 149.3 or makes any other unlawful apportionment of sums belonging to a cooperative;

(3) transfers the balance of the assets of a cooperative being wound up to a person other than a person referred to in any of sections 185 and 185.1, the second paragraph of section 208 and sections 210 and 221.2.10;

(4) alienates a building that was built, acquired, restored or renovated under a housing assistance program without the authorization of the Minister required under section 221.2.5; or

(5) is able, through one or more transactions which resulted in evasion of the obligation to obtain the Minister’s authorization required under section 221.2.5, to take in payment a building built, acquired, restored or renovated under a housing assistance program or to exercise another hypothecary right on such a building

is guilty of an offence.”

44. Section 247 of the Act is replaced by the following section:

“**247.** Whoever, by an act or omission, aids, abets, counsels, allows, authorizes or orders a person to commit an offence under this Act is guilty of the offence.”

45. Section 248 of the Act is amended

(1) by replacing “Every person who” in the first paragraph by “Whoever”;

(2) by striking out the second paragraph.

46. The Act is amended by inserting the following sections after section 248:

“248.1. Whoever is guilty of an offence under section 246.1 is liable to a fine of not less than \$2,500 nor more than \$10,000 for each offence, and to a fine of not less than \$5,000 nor more than \$20,000 for each subsequent conviction.

On a finding of guilty for an offence under section 246.1, a judge may, in addition to imposing any other penalty and on an application by the prosecutor filed with the statement of offence, impose an additional fine equal to the value of the property involved in the offence even if the maximum fine under the first paragraph has been imposed on the offender.

“248.2. Penal proceedings for an offence under this Title are prescribed three years from the date on which the offence was committed.”

47. Section 260 of the Act is amended by inserting the following paragraph after the first paragraph:

“The request is made by means of an application for continuance addressed to the Minister.”

48. Section 265.1 of the Act is amended

(1) by replacing “The articles” in the introductory clause by “The application and the articles”;

(2) by striking out paragraph 1;

(3) by replacing “petition” in paragraph 6 by “application”.

49. The Act is amended by inserting the following section after section 265.1:

“265.2. The application, signed by the authorized director, and the articles of continuance must be sent to the Minister.”

50. Section 266 of the Act is amended

(1) by replacing “Upon receipt of the articles” in the first paragraph by “On receiving the application, the articles”;

(2) by replacing “the articles” in subparagraph 2 of the second paragraph by “the application and the articles”;

(3) by replacing “a certified copy” in subparagraph 3 of the second paragraph by “a copy”.

51. Section 269.1.1 of the Act is amended by replacing “the articles of continuance, and must adopt” by “the application for continuance, and must adopt”.

52. Section 269.1.3 of the Act is amended by replacing “The articles” by “The application and the articles”.

53. The Act is amended by inserting the following Title after section 269.2:

“TITLE VII.1

“POWERS OF THE MINISTER AND ADMINISTRATION

“CHAPTER I

“DOCUMENTS RECEIVED OR ESTABLISHED BY THE MINISTER

“DIVISION I

“GENERAL PROVISIONS

“269.3. The form of the documents that must be filed with the Minister and the manner in which they are to be sent are determined by the Minister according to the medium or technology used.

“269.4. Where the law requires that a document accompany another, the documents are deemed to have been received by the Minister when the last is received.

“269.5. The Minister must, in particular, refuse to issue any articles or documents that

(1) do not contain the statements required by this Act;

(2) are not accompanied with the prescribed fees and required documents;
or

(3) propose a name that is not in conformity with section 16, 221.6.1, 221.7, 226.2 or 231 or any of subparagraphs 1 to 6 of the first paragraph of section 17 of the Act respecting the legal publicity of enterprises (chapter P-44.1).

“269.6. The Minister shall register, in the manner determined by government regulation, all documents required to be registered under this Act.

The Minister may issue a certified copy of the documents to any person or partnership that so requests.

“269.7. The documents issued by the Minister under this Act are authentic.

Any copy of a document that is required to be registered under this Act and that has been certified by the Minister or a person designated by the Minister has the same value as the original and is proof of its registration.

“269.8. The Minister may, on request, issue a certificate attesting that a cooperative is governed by this Act and that no dissolution proceedings have been brought against the cooperative under this Act.

“DIVISION II

“FILING TECHNOLOGY-BASED DOCUMENTS

“269.9. If a technology-based document within the meaning of the Act to establish a legal framework for information technology (chapter C-1.1) must be filed with the Minister, the signature requirements for the document, including what may stand in lieu of a signature, are determined by the Minister.

“269.10. A person who sends to the Minister, by means of a technology-based medium, a document on behalf of a person required by law to sign and file the document, provided the person verifies the identity and consent of that person before sending the document, is presumed to be authorized to draw up, sign and send that document in that person’s name.

If a representative of the person required to sign and file a document entrusts the sending of the document to a third person in the circumstances described in the first paragraph, it is the responsibility of the representative to verify the person’s identity and consent in accordance with that paragraph.

“269.11. The time as of which a technology-based document is considered received is determined by the Minister, according to the medium and the method of transmission used.

“CHAPTER II

“CORRECTION OF DOCUMENTS

“269.12. The Minister may, of the Minister’s own motion or at the request of an interested person, correct a document drawn up by the Minister if it is incomplete or contains an error.

If such a document has been sent to the enterprise registrar for the purposes of this Act, the Minister shall inform the cooperative concerned. In such a case, the Minister shall register a copy of the corrected document and send another copy to the enterprise registrar, who shall deposit it in the register. If the correction is substantial, the Minister shall send an additional copy to the cooperative.

“269.13. The document as corrected is deemed correct since its origin.”

54. Sections 270, 272 and 280 to 281.1 of the Act are repealed.

55. The Act is amended by replacing “Conseil de la coopération du Québec” wherever it appears by “Conseil québécois de la coopération et de la mutualité”.

ACT RESPECTING THE RÉGIE DU LOGEMENT

56. Section 49 of the Act respecting the Régie du logement (chapter R-8.1) is amended by replacing “government program” by “program of the Government, the federal government or any of their departments or agencies”.

57. Section 51 of the Act is amended by replacing “government housing-assistance program” in the second paragraph by “housing assistance program of the Government, the federal government or any of their departments or agencies”.

ACT TO AMEND THE COOPERATIVES ACT

58. Section 179 of the Act to amend the Cooperatives Act (2003, chapter 18) is amended by replacing both occurrences of “(*insert the date of coming into force of this section*)” by “(*insert the date of coming into force of that section*)”.

FINAL PROVISION

59. This Act comes into force on 29 April 2015, except sections 1 to 4, 8 to 10, 17 to 25, 32, 40 and 47 to 54, which come into force on the date or dates to be set by the Government.