

THIRD SESSION

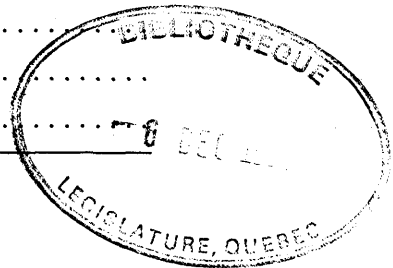
THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 103

**An Act respecting Initiatives
and Development Associations
for Commercial Districts**

First reading
Second reading
Third reading



M. JACQUES LÉONARD
Minister of Municipal Affairs

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EXPLANATORY NOTES

This bill allows every municipality in Québec to establish initiatives and development associations for commercial districts (I.D.A.C.D.) in its territory.

ACTS AMENDED BY THIS BILL

- (1) the Municipal Code;
- (2) the Cities and Towns Act (R.S.Q., chapter C-19).

Bill 103

An Act respecting Initiatives and Development Associations for Commercial Districts

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

DIVISION I

AMENDMENTS TO THE MUNICIPAL CODE

1. The headings of Sections VI and VII of Chapter Third of Title XV of the Municipal Code are replaced by the following:

“SECTION VI

“INITIATIVES AND DEVELOPMENT ASSOCIATIONS FOR COMMERCIAL DISTRICTS

“420. A local corporation may make, amend or repeal by-laws to define the limits of a commercial zone within which a single commercial district may be formed, comprising at least 50 places of business and more than 50% of the places of business in that zone, and to provide for the establishment of an initiatives and development association having jurisdiction in that district.

“420a. Such an association may promote the economic development of the district, establish joint services for its members and their customers, operate a business in the district, erect and manage a parking garage or parking lot and carry out work on public property or private property with the consent of the owner.

“420b. The association may be formed on the application of ten ratepayers having a place of business in the district. The application shall be submitted to the council of the corporation.

The application must conform to the by-law passed under article 420*r* and contain the following information:

- (a) the names of the applicants;
- (b) the addresses of their places of business;
- (c) the limits of the commercial district, using street names wherever possible;
- (d) the proposed name of the association;
- (e) the proposed address of its head office.

The application must be accompanied with a list of the names and addresses of the ratepayers having a place of business in the district, and with a sketch of the commercial district.

“420*c*. Within 45 days of receipt of the application, the council shall order the secretary-treasurer to send a notice by registered or certified mail to every ratepayer having a place of business in the district, or cause it to be served on him, informing him that a register will be open to receive the signatures of the ratepayers who oppose the formation of the association.

“420*d*. The notice must state:

- (a) the object of the application;
- (b) the right of the ratepayers having a place of business in the district to request, by signing the register, that a poll be held on the application;
- (c) the number of persons required for the holding of a poll, and the fact that if that number is not attained, the application will be deemed to be approved by those persons;
- (d) the fact that if the application is approved, the council may, by resolution, authorize the establishment of the association, that every ratepayer having a place of business in the district will be a member of the association, and that the association may levy a contribution from its members;
- (e) the place, dates and hours for signing the register.

“420*e*. The secretary-treasurer shall attach to the notice a copy of the application and of the documents accompanying it, the names and addresses of the ratepayers to whom the notice has been sent or on whom it has been served, and the text of this section and of every pertinent by-law.

“420f. Subject to this section, sections 370 to 396 of the Cities and Towns Act apply, *mutatis mutandis*, to the registration and the poll.

“420g. The place where the register is to be open must be situated in the district or at a distance of not over two kilometres from the perimeter of the district.

“420h. In no case may the register be open before the expiry of fifteen days from the sending of the notice.

“420i. A ratepayer who has not received the notice from the secretary-treasurer may sign the register if he proves that he has a place of business in the district. The procedure of registering signatures is not invalidated merely because a ratepayer having a place of business in the district did not receive the notice or because the period between the date of opening of the register and the date of sending of the notice is shorter than that mentioned in article 420h.

“420j. Not more than one signature may be registered for each place of business.

“420k. If a poll is to be held, the secretary-treasurer shall, at least fifteen days before the appointed day, send a notice by registered or certified mail to every ratepayer having a place of business in the district, or cause it to be served on him, informing him that a poll will be held within 90 days from the filing of the application.

“420l. If more than 50% of the ratepayers who have voted have indicated that they are in favour, the council may, by resolution, authorize the establishment of the association; otherwise, the application is denied and no new application may be filed before a period of six months has expired.

“420m. The resolution authorizing the establishment of the association shall indicate the corporate name of the association and the limits of the commercial district in which it is to have jurisdiction.

“420n. The head office of the association must be situated within the limits of the municipality.

“420o. The secretary-treasurer shall transmit to the Minister of Financial Institutions and Cooperatives three certified true copies of the resolution authorizing the establishment of the association. The Minister shall, on receiving the three copies of the resolution,

(1) register one copy in accordance with the Companies Act (R.S.Q., chapter C-38),

(2) transmit to the secretary-treasurer and to the association or its authorized representative a copy of the resolution and proof of its registration, and

(3) publish, at the cost of the corporation, a notice of registration of the resolution in the *Gazette officielle du Québec*.

“420p. From the date of registration, the association is a corporation within the meaning of the Civil Code.

“420q. To the extent that it is applicable, Part III of the Companies Act governs the association, particularly the provisions relating to dissolution, subject to this section and the by-law approved by the Minister of Financial Institutions and Cooperatives.

However, sections 103, except subsection 3, 113, 114 and 123 of Part I of the said Act apply, *mutatis mutandis*, subject to this section and the by-law approved by the Minister of Financial Institutions and Cooperatives.

“420r. The council may, by by-law, provide the formalities of application to form an association, its composition, the responsibilities of the general meeting of members and of the board of directors, respectively, and any matter related to its organization, operation and dissolution.

Any by-law passed under the first paragraph must be approved by the Minister of Financial Institutions and Cooperatives.

“420s. The council shall regulate any other matter relating to the association, in particular, the terms and conditions respecting the establishment, collection and repayment of assessments. It shall do so by by-law.

It shall also approve the internal management by-laws of the association.

“420t. Within fifteen days following the date of the organization meeting, the association shall transmit to the Minister of Financial Institutions and Cooperatives a notice of the address of the head office and a list of its directors.

“420u. All the ratepayers having a place of business in the district are members of the association and, subject to article 420v, have the right to vote at its meetings; they are entitled to one vote for each place of business.

“420v. Where all or part of an assessment becomes exigible, only the members who have paid their assessment may be elected to the board of directors and exercise their right to vote.

“420w. The board of directors is composed of nine persons, of whom seven are elected from among the members by the general meeting of the members and two are appointed from among the members by the council of the corporation.

“420x. At a general meeting specially convened for that purpose, the association shall adopt its operating budget, as well as any project involving capital expenditures that may be financed by a loan with the authorization of the council.

“420y. The council may, by a by-law subject to all the formalities of a loan by-law, guarantee the repayment of loans contracted for by the association.

“420z. On receiving the operating budget, the council may approve it after ascertaining that all the formalities for its adoption have been complied with and may order by by-law an assessment for which it shall determine the mode of computation and the number of payments.

“420aa. The rules governing the computation of the assessments of the members, the payments and the dates they become due are established by by-law and are the same for every association. The rules may provide a maximum limit to the amount or share of the assessments that the members may be required to pay.

“420ab. The assessments are ordered on the ratepayers having a place of business on the first day of the fiscal period for which the budget is deposited.

“420ac. A ratepayer who begins to occupy a place of business in the district of an association during a fiscal period becomes a member and, in the case of an existing place of business, succeeds to the rights and obligations of the preceding occupant, who then ceases to be a member.

“420ad. The new member must notify the board of directors of the association in writing of the commencement of his occupancy of the place of business. The new member succeeds to the rights and obligations of the preceding occupant even if he has not given the notice prescribed by this article.

“420ae. An assessment ordered under this section is deemed a special business tax for the purposes of its collection and the secretary-treasurer has all the powers vested in him in that respect by this Code and the Act respecting municipal taxation. The assessments collected, minus collection costs, are remitted to the association.

“420af. On the application of the board of directors of an association, the council may, by resolution, change the limits of the district of the association.

“420ag. The application is filed with the council which shall order a consultation of members who have paid the exigible part of their assessment, if any, in accordance with the modalities it may establish by by-law.

“420ah. Furthermore, where an expansion of the district is planned, the ratepayers having a place of business in the territory to be included in the district must also be consulted.

“420ai. Before the application is granted, it must be approved by a majority of the persons so consulted. In the case of an expansion, the application must be approved by a majority of the members and a majority of the ratepayers having a place of business in the territory to be added to the district.

“420aj. No application to change the limits of a district is receivable if the change results in reducing the number of members of the association to less than fifty.

“420ak. The council resolution granting the application of an association extends or limits the jurisdiction of the association to the district thus changed.

“420al. Article 420af does not prevent an association from providing, according to the modalities and on the conditions established in its by-laws, for the voluntary membership of persons having a place of business outside the limits of the district.

“420am. The resolution changing the limits of the district of the association must be transmitted to the Minister of Financial Institutions and Cooperatives in three certified true copies. On receiving the copies of the resolution, the Minister shall observe the procedures prescribed in article 420o, *mutatis mutandis*.

“420an. The change takes effect from the date of registration of the resolution.

“420ao. The council may, by by-law, on the conditions it determines, make grants to the associations that, in each case, may be in an amount equivalent to that part of the revenues of the association estimated in its budget as derived from members' assessments or an amount not greater than the maximum amount established by the by-law.

“420ap. If a special general meeting is called at the request of the members to deal with a particular subject, no second meeting may be held to deal with the same subject within the same fiscal period, except with the consent of the board of directors.

“420aq. For the purposes of this section, the expression “place of business” includes any premises or establishment where an economic or administrative activity in matters of finance, trade, industry or services, a calling, an art, a profession or any other activity constituting a means of profit, gain or livelihood is carried on, except an employment or a charge.”

DIVISION II

AMENDMENTS TO THE CITIES AND TOWNS ACT

2. The Cities and Towns Act (R.S.Q., chapter C-19) is amended by inserting, after section 458, the following:

“§14.1—Initiatives and development associations for commercial districts

“458.1 The council may, by by-law, define the limits of a commercial zone within which a single commercial district may be formed, comprising at least 50 places of business and more than 50% of the places of business in that zone, and provide for the establishment of an initiatives and development association having jurisdiction in that district.

“458.2 Such an association may promote the economic development of the district, establish joint services for its members and their customers, operate a business in the district, erect and manage a parking garage or parking lot and carry out work on public property or private property with the consent of the owner.

“458.3 The association may be formed on the application of ten ratepayers having a place of business in the district. The application shall be submitted to the council of the municipality.

The application must conform to the by-law passed under section 458.19 and contain the following information:

- (a) the names of the applicants;
- (b) the addresses of their places of business;
- (c) the limits of the commercial district, using street names wherever possible;
- (d) the proposed name of the association;
- (e) the proposed address of its head office.

The application must be accompanied with a list of the names and addresses of the ratepayers having a place of business in the district, and with a sketch of the commercial district.

“458.4 Within 45 days of receipt of the application, the council shall order the clerk to send a notice by registered or certified mail to every ratepayer having a place of business in the district, or cause it to be served on him, informing him that a register will be open to receive the signatures of the ratepayers who oppose the formation of the association.

“458.5 The notice must state:

(a) the object of the application;

(b) the right of the ratepayers having a place of business in the district to require, by signing the register, that a poll be held on the application;

(c) the number of persons required for the holding of a poll, and the fact that if that number is not attained, the application will be deemed to be approved by those persons;

(d) the fact that if the application is approved, the council may, by resolution, authorize the establishment of the association, that every ratepayer having a place of business in the district will be a member of the association, and that the association may levy a contribution from its members;

(e) the place, dates and hours for signing the register.

“458.6 The clerk shall attach to the notice a copy of the application and of the documents accompanying it, the names and addresses of the ratepayers to whom the notice has been sent or on whom it has been served, and the text of this subdivision and of every pertinent by-law.

“458.7 Subject to this subdivision, sections 370 to 396 apply, *mutatis mutandis*, to the registration and the poll.

“458.8 The place where the register is to be open must be situated in the district or at a distance of not over two kilometres from the perimeter of the district.

“458.9 In no case may the register be open before the expiry of fifteen days from the sending of the notice.

“458.10 A ratepayer who has not received the notice from the clerk may sign the register if he proves that he has a place of business in the district. The procedure of registering signatures is not invalidated merely because a ratepayer having a place of business in the district did not receive the notice or because the period between the date of opening of the register and the date of sending of the notice is shorter than that mentioned in article 458.9.

“458.11 Not more than one signature may be registered for each place of business.

“458.12 If a poll is to be held, the clerk shall, at least fifteen days before the appointed day, send a notice by registered or certified mail to every ratepayer having a place of business in the district, or cause it to be served on him, informing him that a poll will be held within 90 days from the filing of the application.

“458.13 If more than 50% of the ratepayers who have voted have indicated that they are in favour, the council may, by resolution, authorize the establishment of the association; otherwise, the application is denied and no new application may be filed before a period of six months has expired.

“458.14 The resolution authorizing the establishment of the association shall indicate the corporate name of the association and the limits of the commercial district in which it is to have jurisdiction.

“458.15 The head office of the association must be situated within the limits of the municipality.

“458.16 The clerk shall transmit to the Minister of Financial Institutions and Cooperatives three certified true copies of the resolution authorizing the establishment of the association. The Minister shall, on receiving the three copies of the resolution,

(1) register one copy in accordance with the Companies Act (R.S.Q., chapter C-38),

(2) transmit to the clerk and to the association or its authorized representative a copy of the resolution and proof of its registration, and

(3) publish, at the cost of the municipality, a notice of registration of the resolution in the *Gazette officielle du Québec*.

“458.17 From the date of registration, the association is a corporation within the meaning of the Civil Code.

“458.18 To the extent that it is applicable, Part III of the Companies Act governs the association, particularly the provisions relating to dissolution, subject to this section and the by-law approved by the Minister of Financial Institutions and Cooperatives.

However, section 103, except subsection 3, 113, 114 and 123 of Part I of the said Act apply, *mutatis mutandis*, subject to this section and the by-law approved by the Minister of Financial Institutions and Cooperatives.

“458.19 The council may, by by-law, provide the formalities of application to form an association, its composition, the responsibilities of the general meeting of members and of the board of directors, respectively, and any matter related to its organization, operation and dissolution.

Any by-law passed under the first paragraph must be submitted to the Minister of Financial Institutions and Cooperatives.

“458.20 The council shall regulate any other matter relating to the association, in particular, the terms and conditions respecting the establishment, collection and repayment of assessments. It shall do so by by-law.

It shall also approve the internal management, by-laws of the association.

“458.21 Within fifteen days following the date of the organization meeting, the association shall transmit to the Minister of Financial Institutions and Cooperatives a notice of the address of the head office and a list of its directors.

“458.22 All the ratepayers having a place of business in the district are members of the association, and subject to 458.23, have the right to vote at its meetings; they are entitled to one vote for each place of business.

“458.23 Where all or part of an assessment becomes exigible, only the members who have paid their assessment may be elected to the board of directors and exercise their right to vote.

“458.24 The board of directors is composed of nine persons, of whom seven are elected from among the members by the general meeting of the members and two are appointed from among the members by the council of the municipality.

“458.25 At a general meeting specially convened for that purpose, the association shall adopt its operating budget, as well as any project involving capital expenditures that may be financed by a loan with the authorization of the council.

“458.26 The council may, by by-law subject to all the formalities of a loan by-law, guarantee the repayment of loans contracted for by the association.

“458.27 On receiving the operating budget, the council may approve it after ascertaining that all the formalities for its adoption have been complied with and may order by by-law an assessment for which it shall determine the mode of computation and the number of payments.

“458.28 The rules governing the computation of the assessments of the members, the payments and the dates they become due are established by by-law and are the same for every association. The rules may provide a maximum limit to the amount or share of the assessments that the members may be required to pay.

“458.29 The assessments are ordered on the ratepayers having a place of business on the first day of the fiscal period for which the budget is deposited.

“458.30 A ratepayer who begins to occupy a place of business in the district of an association during a fiscal period becomes a member of the association and, in the case of an existing place of business, succeeds to the rights and obligations of the preceding ratepayer, who then ceases to be a member.

“458.31 The new member must notify the board of directors of the association in writing of the beginning of his occupancy of the place of business. The new member succeeds to the rights and obligations of the preceding ratepayer even if he has not given the notice prescribed by this section.

“458.32 An assessment ordered under this subdivision is deemed a special business tax for the purposes of its collection and the clerk and the treasurer have all the powers vested in them in that respect by this Act and the Act respecting municipal taxation. The assessments collected, minus collection costs, are remitted to the association.

“458.33 On the application of the board of directors of an association, the council may, by resolution, change the limits of the district of the association.

“458.34 The application is filed with the council, which shall order a consultation of members who have paid the exigible part of their assessment, if any, in accordance with the modalities that the council may establish by by-law.

“458.35 Furthermore, where an expansion of the district is planned, the ratepayers having a place of business in the territory to be included in the district must also be consulted.

“458.36 Before the application is granted, it must be approved by a majority of the persons so consulted. In the case of an expansion, the application must be approved by a majority of the members and a majority of the ratepayers having a place of business in the territory to be added to the district.

“458.37 No application to change the limits of a district is receivable if the change results in reducing the number of members of the association to less than fifty.

“458.38 The council resolution granting the application of an association extends or limits the jurisdiction of the association to the district thus changed.

“458.39 Section 458.33 does not prevent an association from providing, according to the modalities and on the conditions established in its by-laws, for the voluntary membership of persons having a place of business outside the limits of the district.

“458.40 The resolution changing the limits of the district of the association must be transmitted to the Minister of Financial Institutions and Cooperatives in three certified true copies. On receiving the copies of the resolution, the Minister shall observe the procedures prescribed in section 458.16, *mutatis mutandis*.

“458.41 The change takes effect from the date of registration of the resolution.

“458.42 The council may, by by-law, on the conditions it determines, make grants to the associations that, in each case, may be in an amount equivalent to that part of the revenues of the association estimated in its budget and derived from members’ assessments or an amount not greater than the maximum amount established by the by-law.

“458.43 If a special general meeting is called at the request of the members to deal with a particular subject, no second meeting may be held to deal with the same subject within the same fiscal period, except with the consent of the board of directors.

“458.44 For the purposes of this subdivision, the expression “place of business” includes any premises or establishment where an economic or administrative activity in matters of finance, trade, industry or services, a calling, an art, a profession or any other activity constituting a means of profit, gain or livelihood is carried on, except an employment or a charge.”

DIVISION III

FINAL PROVISIONS

3. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

4. This Act comes into force on the day of its sanction.