



CHAPTER 85

An Act to amend the Savings and Credit Unions Act and
the Act respecting the *caisses d'entraide économique*

[Assented to 23 June 1978]

HER MAJESTY, with the advice and consent of the Assemblée
nationale du Québec, enacts as follows:

R.S.,
c. 293, s. 1
am. **1.** Section 1 of the Savings and Credit Unions Act (Revised
Statutes, 1964, chapter 293), amended by section 1 of chapter 59
of the statutes of 1970, is again amended by adding, at the end,
the following paragraph:

“executive
officer”. “(g) “executive officer”: a member of the board of directors,
of the board of supervision, or of the committee on credit, and the
manager.”

R.S.,
c. 293, s. 4.
am. **2.** Section 4 of the said act, amended by section 3 of chapter 59
of the statutes of 1970, is again amended by replacing paragraph *d*
by the following paragraph:

“(d) the annual operating surplus is divided in conformity with
Division XVII.”

Id., s. 10,
am. **3.** Section 10 of the said act, replaced by section 9 of chapter
59 of the statutes of 1970, is amended by replacing, in the fourth,
fifth and sixth lines of the second paragraph, the words “, the
Fédération des Caisses d’Économie du Québec or the Cendel Credit
Union Federation” by the words “or the Fédération des Caisses
d’Économie du Québec”.

Id., s. 11,
added. **4.** The said act is amended by inserting, after section 10,
the following section:

Name fol-
lowing
change of
affiliation. **“11.** No union having changed its affiliation, whose name at
the time of that change included one of the expressions mentioned
in section 10, may carry on its operations under a name including
that expression for a period exceeding sixty days from the coming
into force of the change of affiliation, except a union contemplated

in the first paragraph of section 10 that has affiliated with a federation contemplated in that paragraph, or a union contemplated in the second paragraph of section 10 that has affiliated with a federation contemplated in that paragraph.”

R.S.,
c. 293,
s. 16, am.

5. Section 16 of the said act, amended by section 12 of chapter 59 of the statutes of 1970, is again amended by replacing paragraph *h* by the following paragraph:

“(h) issue, endorse, accept and discount promissory notes, bills of exchange, drafts and other negotiable instruments;”.

Id., s. 19,
am.

6. Section 19 of the said act is amended by replacing paragraph *d* by the following paragraph:

“(d) is admitted by the board of directors or by any person it authorizes.”

Id., s. 49,
am.

7. Section 49 of the said act, amended by section 20 of chapter 59 of the statutes of 1970, is again amended by replacing paragraph *d* by the following paragraph:

“(d) determine the rate of interest on savings and loans as well as the amount of the funds of which the committee on credit may dispose for loans to members;”.

Id., s. 51a,
added.

8. The said act is amended by inserting, after section 51, the following section:

Member
must
disclose
interest.

“**51a.** Any member of the board of directors having a direct or indirect interest in an undertaking with which the union has or intends to have business relations, must, under pain of forfeiture of office, disclose his interest and refrain from voting on any matter concerning that undertaking.”

R.S.,
c. 293, s. 57,
repealed.

9. Section 57 of the said act is repealed.

Id., s. 62,
am.

10. Section 62 of the said act is amended by replacing the first paragraph by the following paragraphs:

Officers.

“**62.** The commissioners choose each year from among their number a chairman and a secretary; a deputy-secretary may be designated from among the persons contemplated in the second paragraph. The deputy replaces the secretary when the latter is absent or unable to act.

Manager,
etc., may
attend
meetings.

The manager and any person entitled to authorize loans may attend the meetings of commissioners but have no vote.”

R.S.,
c. 293,
s. 63,
replaced.

11. Section 63 of the said act, amended by section 22 of chapter 59 of the statutes of 1970, is replaced by the following section:

Authoriza-
tion of
loans, etc.

“63. Only the committee on credit may authorize loans to members and the signing of releases, discharges or waivers of priority. Such decisions shall only be taken unanimously by the commissioners present and entitled to vote.

Delegation
of author-
ity; restric-
tions.

The committee on credit may, upon such conditions as it determines, delegate to the manager, or to any other person that may be designated by the board of directors, its power to authorize loans to members, except loans secured by hypothec, mortgage or pledge on real estate or on machinery intended for industrial or commercial purposes; however, neither the manager nor a person designated by the board of directors may thus authorize a loan exceeding \$2 000 to any member or authorize a loan of \$2 000 or less to any member where the outstanding balance on the loans to that member amounts to more than \$2 000 or where the loan to such member would increase that balance to over \$2 000. The union, by by-law, may fix a limit above \$2 000.

Approval
and coming
into force
of by-law.

The passing of such a by-law, and any amendment to it, is subject to section 40; such a by-law, and any by-law amending it, comes into force only after being approved by the federation with which the union is affiliated.

Security.

The committee on credit may require the borrower to provide such real or personal security as is necessary to ensure the repayment of the loan.

Appeal.

Any member whose application for a loan has been refused may appeal to the board of directors.

Powers.

The by-laws of the union shall also determine the extent and conditions of the powers of the committee on credit.”

R.S.,
c. 293, ss.
63a, 63c,
added.

12. The said act is amended by inserting, after section 63, the following sections:

Approval
of certain
loans.

“63a. Every loan exceeding \$10 000 not secured by hypothec, mortgage or pledge on real estate or on machinery intended for industrial or commercial purposes, granted by a union to one of its executive officers or to any person entitled to authorize loans, and any loan of \$10 000 or less not thus secured granted to one of such persons whereas the balance of such loans to that person exceeds \$10 000 or which increases the balance of such loans to that person to more than \$10 000 must be approved by the federation with which the union is affiliated.

Approval
of certain
loans.

The same rule applies to every loan exceeding \$10 000 not thus secured granted by a union, for which one of the executive officers of the union or any person entitled to authorize loans is surety.

Idem.

“63b. Any loan exceeding \$40 000 secured by hypothec, mortgage or pledge on real estate or on machinery intended for industrial or commercial purposes, granted by a union to one of its executive officers or to any person entitled to authorize loans, and any loan of \$40 000 or less thus secured and granted to one of such persons whereas the balance of such loans to that person exceeds \$40 000 or increases the balance of such loans to that person to more than \$40 000 must be approved by the federation with which the union is affiliated.

“federation”.

“63c. In sections 63, 63a and 63b, the word “federation” does not include the Fédération de Québec des Unions régionales des Caisses Populaires Desjardins.”

R.S.,
c. 293,
s. 64,
replaced.
Must
dis-
close
interest.

13. Section 64 of the said act is replaced by the following section:

“64. A credit commissioner, the manager or any person entitled to authorize loans, who has a direct or indirect interest in the application for a loan, must disclose his interest and, in the case of a commissioner, must also refrain from voting on that application.”

R.S.,
c. 293,
s. 68, am.

14. Section 68 of the said act is amended by striking out the fourth paragraph.

Id., s. 76a,
added.

15. The said act is amended by inserting, after section 76, the following section:

Preferen-
tial rate
prohibited.

“76a. No union may, in the case of a loan or deposit, grant a preferential rate to one of its executive officers or employees on the mere grounds of his capacity as such.

Offence
and
penalty.

In addition to the other penalties provided for in this act, any person found guilty of such an offence is forfeited of office.”

R.S.,
c. 293,
s. 77,
replaced.

16. Section 77 of the said act, amended by section 23 of chapter 59 of the statutes of 1970, is replaced by the following section:

Borrowing
limited.

“77. The total amount of the sums borrowed by a union shall not at any time exceed twice the amount of the general reserve and of its paid-up and unimpaired capital.

Inter-
pretation.

For the purposes of this section, the savings deposited in a union by its members and the loans fully secured by the pledge

of securities or made for transitional requirements of liquid assets from the federation with which the union is affiliated are not regarded as sums borrowed."

R.S.,
c. 293,
s. 83,
replaced.

17. Section 83 of the said act, replaced by section 26 of chapter 59 of the statutes of 1970, is again replaced by the following section:

Invest-
ment of
certain
funds.

"83. One-half of the general reserve must be deposited with the federation with which the union is affiliated, or invested in the manner prescribed in paragraph *a*, *b*, or *e* of section 82.

"federation".

In the first paragraph, the word "federation" does not include the Fédération de Québec des Unions régionales des Caisses Populaires Desjardins."

R.S.,
c. 293,
s. 84,
replaced.

18. Section 84 of the said act, amended by section 27 of chapter 59 of the statutes of 1970, is replaced by the following section:

Approval
required.

"84. No union, without the previous approval of the federation with which it is affiliated, may

(*a*) make any investment contemplated in paragraphs *a* to *g* of section 82;

(*b*) acquire any real estate, except by a giving in payment, or erect or make any major alteration in a building thereon;

(*c*) dispose of real estate it holds for purposes other than investment;

(*d*) become the lessee of a building or make major lessee's improvements to a building it occupies or intends to occupy as lessee.

Exception

In the case of a union affiliated with a federation affiliated with the Fédération de Québec des Unions régionales des Caisses Populaires Desjardins, the approval of the latter is not required.

No liability.

The approval of a federation does not engage its liability."

R.S.,
c. 293,
s. 85,
replaced.

19. Section 85 of the said act, amended by section 29 of chapter 59 of the statutes of 1970, is replaced by the following section:

Surpluses
to be
divided.

"85. The members of the union, at the annual meeting, after considering the recommendations of the board of directors and in accordance with the statement of the last business year, shall divide the amount of the annual operating surplus, allocating it first of all to the funding of the general reserve in accordance with section 86. Any balance is allocated to:

(*a*) the payment of the interest on the amounts paid up on shares;

(b) the payment of rebates to depositors or borrowers in proportion to the operations carried on by each of them with the union; or

(c) the constitution of the fund contemplated in section 86a."

R.S.,
c. 293,
s. 86,
replaced.

20. Section 86 of the said act, replaced by section 30 of chapter 59 of the statutes of 1970, is again replaced by the following section:

General
reserve.

"86. Every union must establish and maintain a general reserve.

Allocation
of sur-
pluses to
reserve.

The annual operating surplus must be allocated to that reserve in such amount that the general reserve thereupon becomes equal to at least 3½% of the liabilities of the union constituted by the deposits of members, as established at the close of the last business year.

Id., for a
federation.

In the case of a federation, the percentage contemplated in the second paragraph is 1%.

Division
prohibited.

This reserve shall not be divided among the members in whole or in part."

R.S.,
c. 293,
s. 86a,
replaced.

21. Section 86a of the said act, enacted by section 30 of chapter 59 of the statutes of 1970, is replaced by the following section:

Special
fund.

"86a. The union may, by by-law, order the establishment of a fund which is to be used for social or community purposes.

Amount.

Not more than 10% of the amount allocated to rebates may be paid into this fund; the sums constituting the fund must be used by the board of directors within 3 years after their allocation to the fund, failing which they must be paid into the general reserve.

Winding-
up, etc.

In the case of the winding-up or dissolution of the union, the balance of this fund is paid into the general reserve."

R.S.,
c. 293,
s. 92,
am.

22. Section 92 of the said act, replaced by section 36 of chapter 59 of the statutes of 1970, is again amended by replacing the fifth paragraph by the following:

Copy to
board of
super-
vision, etc.

"Upon receipt of such report, the Minister shall forward one copy thereof to the board of supervision, one copy to the federation with which the union is affiliated, and one copy to one of the persons who applied for the inspection."

R.S.,
c. 293,
s. 92j, am.

23. Section 92j of the said act, enacted by section 37 of chapter 59 of the statutes of 1970, is amended by replacing the word and figure "section 92" in the second line of the first paragraph by the words "this act".

R.S.,
c. 293,
s. 92k,
replaced.

24. Section 92k of the said act, enacted by section 37 of chapter 59 of the statutes of 1970, is replaced by the following section:

Report.

“92k. The administrator must present to the Minister, with the least possible delay, a detailed report of his findings, together with his recommendations.

Term of
office.

The administrator remains in office until the expiry of the period for which he has been appointed, unless, before then, the Minister prolongs or terminates his term of office.

Report.

As soon as his term of office has expired, the administrator must send a complete report of his administration to the Minister.

Costs,
fees, etc.

The costs, fees and expenditures of the transitional administration are payable by the union, unless the Minister orders otherwise.”

R.S.,
c. 293,
s. 92l, am.

25. Section 92l of the said act, enacted by section 37 of chapter 59 of the statutes of 1970, is amended by replacing the first four lines by the following:

Powers of
Lt.-G. in C.

“92l. The Lieutenant-Governor in Council, upon the recommendation of the Minister, after the latter has received the administrator’s report contemplated in section 92k, may:”.

R.S.,
c. 293,
s. 95,
replaced.

26. Section 95 of the said act, replaced by section 39 of chapter 59 of the statutes of 1970, is again replaced by the following section:

Payment of
debts, etc.

“95. The liquidator first pays the debts of the union and the costs of winding it up and repays to the members the amounts paid on their shares.

Devolution
of balance.

After such payments, the balance from the winding-up, including the balance of the general reserve, devolves to the federation with which the union was affiliated.

Report to
Minister.

The liquidator must, within 7 days after the expiry of any period of three months, send to the Minister a brief report of his activities for such period.

Delivery of
documents.

When the winding-up of the union is terminated, the liquidator must send to the Minister a complete report of his activities and deliver to the federation with which the union was affiliated the documents of which he took possession for the purposes of the winding-up.”

R.S.,
c. 293,
s. 95m,
replaced.

27. Section 95m of the said act, enacted by section 40 of chapter 59 of the statutes of 1970, is replaced by the following section:

Devolution
of balance,
etc.

"95m. In the case of the winding-up or dissolution of an unaffiliated union, the balance derived from the winding-up or dissolution, including the balance of the general reserve, devolves to an institution designated by the Lieutenant-Governor in Council, who also determines to whom are to be delivered the documents of which the liquidator or the public curator took possession."

R.S.,
c. 293,
s. 115a,
added.

28. The said act is amended by inserting, after section 115, the following section:

Approval
not re-
quired,
etc.

"115a. A federation of unions which is affiliated with the Fédération de Québec des Unions régionales des Caisses Populaires Desjardins is not required to obtain the approval contemplated in section 84 for any investment contemplated in paragraph *a* of this section. However, it must, with the least possible delay, inform the latter federation of any such investment."

R.S.,
c. 293,
Form 2,
Sched. I,
replaced.

29. Form 2 of Schedule I to the said act is replaced by the form in the schedule to this act.

1974, c. 68,
s. 17, am.

30. Section 17 of the Act respecting the *caisses d'entraide économique* (1974, chapter 68) is amended by replacing the second paragraph by the following paragraph:

Savings,
etc., not
deemed
sums
borrowed.

"For the purposes of this section, the savings deposited in a union by its members and the borrowings fully secured by the pledge of securities or made for transitional requirements of liquid assets from the federation are not regarded as sums borrowed."

1974, c. 68,
s. 19,
replaced.

31. Section 19 of the said act is replaced by the following section:

Approval
of certain
loans.

"19. The by-laws of the union may prescribe that certain loans authorized in accordance with section 63 of the Savings and Credit Unions Act must be approved by the board of directors of the union. These by-laws determine the classes and amounts of such loans."

1974, c. 68,
s. 22,
replaced.

32. Section 22 of the said act is replaced by the following section:

Disclosure
of loan.

"22. Every loan owing from an executive officer of a union or from a person entitled to authorize loans, except in the case of a loan on acknowledgement of debt or a loan guaranteed by hypothec on his personal residence, must be disclosed within sixty days to the Régie de l'assurance-dépôts du Québec with mention of the name of each borrower, the amount of the loan granted and the rate of interest."

1974, c. 68,
s. 23, am.

33. Section 23 of the said act is amended by replacing the first two lines by the following:

Rules
applicable.

“23. The rules contemplated in sections 63*a* and 63*b* of the Savings and Credit Unions Act and in section 22 apply to every loan granted”.

1974, c. 68,
s. 27,
replaced.

34. Section 27 of the said act is replaced by the following section:

Duties of
commission
on credit.

“27. The duties of the committee on credit are, in particular,
(*a*) to authorize loans to affiliated unions and the signing of releases, discharges or waivers of priority; and
(*b*) to approve any loan granted by its affiliated unions and contemplated in sections 63*a* and 63*b* of the Savings and Credit Unions Act and in sections 20 and 23.

No liability.

The approval of the federation does not engage its liability.”

1974, c. 68,
s. 30, am.

35. Section 30 of the said act is amended by replacing the words and figures “, section 20 and the first paragraph of section 22”, in the tenth and eleventh lines, by the words and figure “and section 20”.

Allocation
of surplus
of union.

36. In the case of a union whose general reserve does not represent, at the close of the business year current on 23 June 1978, 3½% or more of the liabilities of the union constituted by the deposits of members and, in the case of a union created after such date, the annual operating surplus must be allocated to the general reserve in the amount determined by the federation with which the union is affiliated or, in the case of an unaffiliated union, by the Minister.

Determina-
tion of
amount.

This amount is determined each year for each union and the union may pay an amount exceeding the determined amount.

“federation”.

In the first paragraph, the word “federation” does not include the Fédération de Québec des Unions régionales des Caisses Populaires Desjardins.

Provisions
not appli-
cable.

This section does not apply to a union governed by the Act respecting the *caisses d'entraide économique*.

Allocation
of surplus
of federa-
tion.

37. In the case of a federation to which the Savings and Credit Unions Act applies and whose general reserve is not, at the close of the business year current on 23 June 1978, equal to 1% or more of the liabilities of the federation constituted by the deposits of members, at least 25% of the annual operating surplus must be allocated to that reserve.

Provisions
to apply.

38. Where, after such allocation, the general reserve of a union subject to section 36 or of a federation subject to section 37 is equal, in the case of a union, to 3½% or more or, in the case of a federation, to 1% or more of the liabilities constituted by the deposits of members, as at the close of the last business year, this union or federation becomes subject to section 86 of the Savings and Credit Unions Act.

Other
reserves.

39. The sums allocated to a reserve, other than the general reserve constituted by a union before 23 June 1978, may be transferred to the general reserve of the union.

Deposit or
investment.

Until this transfer is made, these sums may be added to the amount of the general reserve, in order to determine the total amount that may be borrowed by the union under section 77 of the Savings and Credit Unions Act, and one-half of these sums must be deposited or invested in accordance with section 83 of the said act.

Provisions
applicable.

40. The definitions of expressions given in section 1 of the Savings and Credit Unions Act apply to sections 36 to 39 of this act.

Coming
into force.

41. This act comes into force on the day of its sanction.

SCHEDULE

Form 2 (section 19)

*Application for membership
in a a savings and credit union*

I, the undersigned, apply to become a member of

.....
(name of union)

the corporate seat of which is at

I undertake to comply with the by-laws of the union and
I subscribe forshares of five dollars each.

Signed at this19..

.....
(signature of the witness)

.....
(signature of the applicant)

Address

Occupation

Accepted this19....

by