



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 169

**An Act to amend the Professional Code
and other legislative provisions as
regards the carrying on of professional
activities within a partnership or
company**

Introduction

**Introduced by
Madam Linda Goupil
Minister responsible for the administration of legislation
respecting the professions**

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EXPLANATORY NOTES

This bill allows a professional order to authorize its members, by way of a regulation approved by the Office des professions, to carry on their professional activities within a limited liability partnership or a joint-stock company, and determine, as appropriate, the applicable terms and conditions and restrictions. Members of an order who have been so authorized will be required to secure and maintain professional liability coverage on behalf of the partnership or company in accordance with the regulation made by the Bureau. Such professionals will also be required to declare to the order that they are carrying on their professional activities within such a partnership or company.

Specific rules are provided with regard to the carrying on of professional activities within a limited liability partnership, including provisions concerning the limited liability of a member of an order, the name of the partnership, the continuance of a general partnership as a limited liability partnership, and the effect of such a continuance.

Specific rules are also provided with regard to the liability of a member of an order who is to carry on his or her professional activities within a joint-stock company and the relationship between such a company, the professionals who are to practise within the company, and the directors, officers and representatives of the company.

LEGISLATION AMENDED BY THIS BILL :

- Professional Code (R.S.Q., chapter C-26);
- Engineers Act (R.S.Q., chapter I-9);
- Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45).

Bill 169

AN ACT TO AMEND THE PROFESSIONAL CODE AND OTHER LEGISLATIVE PROVISIONS AS REGARDS THE CARRYING ON OF PROFESSIONAL ACTIVITIES WITHIN A PARTNERSHIP OR COMPANY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 93 of the Professional Code (R.S.Q., chapter C-26) is amended by adding the following paragraphs after paragraph *f*:

“(g) pursuant to paragraph 2 of section 187.11, impose on the members referred to therein, on the basis of the risk they represent, the obligation to secure and maintain coverage, on behalf of the partnership or company, by means of an insurance or suretyship contract or by any other means determined by the regulation, against liabilities of the partnership or company arising from fault or negligence in the practice of their profession, determine the minimum amount of coverage and prescribe specific rules according to such factors as the nature of the professional activities carried on and the number of members of the order in the partnership or company ;

“(h) fix the conditions and procedure and, as appropriate, any fees applicable to a declaration pursuant to paragraph 3 of section 187.11.”

2. Section 94 of the said Code, amended by section 20 of chapter 13 of the statutes of 2000, is again amended by adding the following paragraph after paragraph *o* :

“(p) authorize the members of the order to carry on their professional activities within a limited liability partnership or a joint-stock company constituted for that purpose and, as appropriate, determine the applicable terms and conditions and restrictions. If the Bureau authorizes the members to carry on their professional activities within a joint-stock company, the regulation may, in particular,

(1) determine standards with regard to the name of the company ;

(2) fix the minimum proportion of voting shares that must be held by members of the order ;

(3) fix the proportion or the minimum number of directors of the company who must be members of the order ;

(4) determine conditions governing the transfer of shares, or shares of certain classes, and the exercise of the voting rights of a shareholder whose right to engage in professional activities has been restricted or suspended or who is no longer a member of the order, and, as appropriate, the applicable procedures and restrictions; and

(5) define, if applicable, the professions, trades, industries, businesses, offices or duties incompatible with the status of employee, shareholder or director of the company.”

3. Section 95.2 of the said Code, amended by section 21 of chapter 13 of the statutes of 2000, is again amended by replacing “paragraph *d* of section 93, or paragraph *j, n* or *o*” in the first and second lines of the first paragraph by “paragraph *d, g* or *h* of section 93 or paragraph *j, n, o* or *p*”.

4. Section 95.3 of the said Code, amended by section 22 of chapter 13 of the statutes of 2000, is again amended by replacing “paragraph *d* of section 93 or paragraph *j* or *o*” in the second line by “paragraph *d* or *g* of section 93 or paragraph *j, o* or *p*”.

5. The said Code is amended by inserting the following chapter after section 187.10:

“CHAPTER VI.3

“CARRYING ON OF PROFESSIONAL ACTIVITIES WITHIN A LIMITED LIABILITY PARTNERSHIP OR A JOINT-STOCK COMPANY

“187.11. A professional order may allow its members to carry on their professional activities within a limited liability partnership or a joint-stock company constituted for that purpose, if

(1) the Bureau of the order makes a regulation under paragraph *p* of section 94 authorizing the members of the order to carry on their professional activities within such a partnership or company and, as appropriate, determining the applicable terms and conditions and restrictions;

(2) the members of the order carrying on their professional activities within such a partnership or company secure and maintain professional liability coverage, on behalf of the partnership or company, in accordance with the requirements prescribed in a regulation made by the Bureau of the order under paragraph *g* of section 93; and

(3) the members of the order carrying on their professional activities within such a partnership or company declare that fact to the order in accordance with the conditions and procedure fixed in a regulation made by the Bureau under paragraph *h* of section 93.

“187.12. Subject to the provisions of this chapter, a limited liability partnership is governed by the rules concerning general partnerships contained in the Civil Code of Québec.

“187.13. Members of an order carrying on their professional activities within a limited liability partnership must include the expression “limited liability partnership” or the abbreviation “L.L.P.” in the name of the partnership.

“187.14. A member of an order carrying on his or her professional activities within a limited liability partnership is not personally liable for obligations of the partnership or of any other professional arising from fault or negligence on the part of the other professional in the course of his or her professional activities within the partnership or from fault or negligence on the part of a person under the other professional’s supervision or control.

“187.15. Two or more members of an order who decide to form a limited liability partnership for the carrying on of their professional activities or who continue a general partnership as a limited liability partnership must so stipulate expressly in a written agreement.

Where a partnership ceases to be a limited liability partnership, the change must also be expressly stipulated in a written agreement.

“187.16. Upon continuance of a general partnership as a limited liability partnership, all rights and obligations of the general partnership which were in existence immediately before its continuance are transferred to the limited liability partnership, and all persons who were partners immediately before the continuance remain liable for all obligations of the general partnership, in accordance with article 2221 of the Civil Code of Québec.

“187.17. A member of an order carrying on his or her professional activities within a joint-stock company is not personally liable for obligations of the company or of any other professional arising from fault or negligence on the part of the other professional in the course of his or her professional activities within the company or from fault or negligence on the part of a person under the other professional’s supervision or control.

“187.18. No director, officer or representative of a joint-stock company may help or, by encouragement, advice or consent, or by an authorization or order, induce a member of an order carrying on his or her professional activities within the company to contravene a provision of this Code, the Act constituting the order or the regulations made under this Code or that Act.

“187.19. A member of an order may not invoke decisions or acts of a joint-stock company within which the member carries on his or her professional activities to justify a contravention of a provision of this Code, the Act constituting the order or the regulations made under this Code or that Act.”

6. The said Code is amended by inserting the following section after section 189:

“189.1. A professional order may, on a resolution of its Bureau or administrative committee and in accordance with article 10 of the Code of Penal Procedure, institute penal proceedings for an offence under section 187.18.”

7. Section 11 of the Engineers Act (R.S.Q., chapter I-9) is repealed.

8. Section 11 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) is amended by replacing paragraph 3 by the following paragraphs :

“(3) an entry indicating that the liability of some or all of the partners is limited, if the partnership is a limited liability partnership or is not formed in Québec ;

“(4) the date on which a general partnership becomes or ceases to be a limited liability partnership.”

9. This Act comes into force on (*insert here the date of assent to this Act*).