



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 200

(Private)

**An Act respecting Associates Mortgage
Corporation and Avco Financial
Services Québec Limited**

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Passage in principle 21 June 2001

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Assented to 21 June 2001

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AN ACT RESPECTING ASSOCIATES MORTGAGE CORPORATION AND AVCO FINANCIAL SERVICES QUÉBEC LIMITED

WHEREAS Avco Financial Services Québec Limited, a legal person constituted on 23 August 1965 and governed by the Companies Act (R.S.Q., chapter C-38), has been dissolved since 1 September 2000;

Whereas by agreement signed at London, Ontario on 28 September 1999, Associates Mortgage Corporation has acquired all the rights, titles, interests of any nature and all the assets and accounts receivable of Avco Financial Services Québec Limited, and whereas since that date, Associates Mortgage Corporation has acted as holder of all claims and accounts receivable and as owner of all the assets of Avco Financial Services Québec Limited;

Whereas since 28 September 1999, all borrowing clients have been notified of that assignment and consequently have been repaying their debts to Associates Mortgage Corporation;

Whereas more than 1,325 hypothecs have been granted to Avco Financial Services Québec Limited in several registration divisions of Québec and whereas those hypothecs have different terms;

Whereas in the normal course of business, consumers may also repay their debts before the due date, which then gives them the right to an acquittance and a release;

Whereas the provisions of Book Nine of the Civil Code respecting publication in the land register do not allow for publication in the land register of the agreement reached on 28 September 1999 so as to make the transfer of the hypothecary claims conveyed by Avco Financial Services Québec Limited to Associates Mortgage Corporation effective against third persons;

Whereas the provisions of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) do not allow for Avco Financial Services Québec Limited to revive;

Whereas, consequently, the acquittance and release of the security, following the repayment of a claim by a borrowing client, and the transfer of the immovable property acquired through the realization on securities created to guarantee the payment of debts, cannot be published in the land register in the name of Associates Mortgage Corporation;

Whereas the passage by the National Assembly of an Act authorizing the name “Associates Mortgage Corporation” to be substituted for the name “Avco Financial Services Québec Limited” is in the interest of persons having relations with those two companies, and more particularly the borrowing clients, and whereas the object of the passage of such an Act is to clearly establish their rights and obligations ;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. From the date of 28 September 1999, Associates Mortgage Corporation is substituted *de pleno jure* for Avco Financial Services Québec Limited everywhere and with respect to any situation where Avco Financial Services Québec Limited is appointed, notwithstanding by what document, instrument, proceeding or judgment Avco Financial Services Québec Limited was appointed and whatever title was used to appoint it and, more particularly but without limiting the generality of the foregoing, with respect to any situation where Avco Financial Services Québec Limited is designated as the owner of a movable or immovable property and as creditor under a loan contract guaranteed or not by movable or immovable security.

The fact that some of the movable or immovables referred to in this section are situate outside Québec does not prevent such substitution.

2. Subject to section 5, where a notarial act or private writing, a judgment or any other instrument imposes any obligations or confers any rights on Avco Financial Services Québec Limited in relation to any situation described in section 1, the name “Associates Mortgage Corporation” is substituted for the name “Avco Financial Services Québec Limited”.

3. From the date of 28 September 1999, Associates Mortgage Corporation is substituted *de pleno jure* for Avco Financial Services Québec Limited in all rights related to property, corporeal or incorporeal, movable or immovable, vested in it in relation to any situation described in section 1, whether in the form in which it was originally acquired by Avco Financial Services Québec Limited or otherwise, and such substitution is effective without any need of publication or deposit of this Act or any other document indicating such substitution in a registry office in Québec or in the register of personal and movable real rights for Québec.

4. Subject to section 5, no proceeding which is exercised or which may have been exercised by or against Avco Financial Services Québec Limited in relation to any situation described in section 1, before any court or administrative tribunal or any government agency in Québec, shall be suspended or terminated as a result of the coming into force of this Act ; however, such proceedings may be continued in the name of Associates Mortgage Corporation, which shall have the same rights and obligations as if they had been commenced in its name or against it, upon a simple written notice served to all parties and deposited in the record of such proceedings.

5. Nothing in this Act affects the rights of a person having any claim against Avco Financial Services Québec Limited in relation to any situation described in section 1 nor lessens, changes or affects the liability of the company towards such a person regarding events that occurred before 28 September 1999.

6. Any person under an obligation to make payments to Avco Financial Services Québec Limited in relation to any situation described in section 1 shall continue to make such payments to Associates Mortgage Corporation.

7. For the publication, in the land register or the register of personal and movable real rights, of any cancellation, release, acquittance or any other real right and the publication of any cadastral amendment, and for the registration of a right or power of Avco Financial Services Québec Limited, the document transmitted to the registry office for the registration division concerned or to the register of personal and movable real rights shall mention that Associates Mortgage Corporation acts in the rights of Avco Financial Services Québec Limited pursuant to the substitution operated by this Act and shall refer to this Act.

8. This Act does not change or otherwise affect the rights and obligations of Associates Mortgage Corporation as assignee of all the rights of Avco Financial Services Québec Limited.

9. This Act applies where Services Financiers Avco Québec Limitée is designated under the English version of its name, Avco Financial Services Québec Limited, and where Les Associés, Corporation de Prêts Hypothécaires is designated under the English version of its name, Associates Mortgage Corporation.

10. This Act comes into force on 21 June 2001.