

1995, chapter 33

**AN ACT TO AMEND THE ACT RESPECTING
THE IMPLEMENTATION OF THE REFORM OF THE CIVIL
CODE AND OTHER LEGISLATIVE PROVISIONS AS
REGARDS SECURITY AND THE PUBLICATION OF RIGHTS**

Bill 67

Introduced by Mr Paul Bégin, Minister of Justice

Introduced 16 March 1995

Passage in principle 21 March 1995

Passage 22 June 1995

Assented to 22 June 1995

Coming into force: 22 June 1995, except for sections 1 to 10, section 33 and section 35, which will come into force on the date of coming into force of the first regulation referred to in section 34, and for section 17, which will come into force on the date of coming into force of section 137 of the Building Act

Legislation amended:

Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1)
Land Surveyors Act (R.S.Q., chapter A-23)
Building Act (R.S.Q., chapter B-1.1)
Act respecting registry offices (R.S.Q., chapter B-9)
Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2)
Savings and Credit Unions Act (R.S.Q., chapter C-4)
Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1)
Land Transfer Duties Act (R.S.Q., chapter D-17)
Pharmacy Act (R.S.Q., chapter P-10)
Special Corporate Powers Act (R.S.Q., chapter P-16)
Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1)
Public Buildings Safety Act (R.S.Q., chapter S-3)
Securities Act (R.S.Q., chapter V-1.1)
Civil Code of Québec (1991, chapter 64)
Act respecting the implementation of the reform of the Civil Code (1992, chapter 57)





CHAPTER 33

An Act to amend the Act respecting the implementation of the reform of the Civil Code and other legislative provisions as regards security and the publication of rights

[Assented to 22 June 1995]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE IMPLEMENTATION OF THE REFORM OF THE CIVIL CODE

1992, c. 57,
s. 136, am.

1. Section 136 of the Act respecting the implementation of the reform of the Civil Code (1992, chapter 57) is amended

(1) by adding, at the end of the first paragraph, the following sentence: “Any such transfer not contained in an act entered either in the index of immovables in territory with a cadastral survey or in the index of names in territory without a cadastral survey requires, to conserve its rank, renewal of registration or registration, as the case may be, in the land register before 27 February 1996; the renewal or registration are effected by notice.”;

(2) by replacing the words “published within thirty days after the notice of the Minister of Justice provided for in section 162” in the second, third and fourth lines of the second paragraph by the words “registered before 27 February 1996”.

1992, c. 57,
s. 138, am.

2. Section 138 of the said Act is amended by replacing the words “the publication of the notice of the Minister of Justice provided for in section 162” in the second and third lines of the second paragraph by the words “31 August 1996, but the creditor may register the notice at any time before that date”.

1992, c. 57,
s. 149, am.

3. Section 149 of the said Act is amended by replacing the words “summary registration in the index or register making reference to the application under which registration was required and” in the fifth, sixth and seventh lines of the first paragraph by the words “registration, in the index or register, indicating summarily the nature of the document presented and referring to the application under which registration was requested; such a registration”.

1992, c. 57,
ss. 149.1,
149.2,
added

4. The said Act is amended by inserting, after section 149, the following sections:

Absence,
insuffi-
ciency or in-
accuracy

“149.1 For the period from 1 January 1994 to 31 August 1995 and subject to the rights of third persons in good faith whose rights were published during that period, absence of an indication as to the extent of a right or insufficiency or inaccuracy in stating the nature or extent of a right either in a registration effected under section 149 as it read on 30 August 1995 or in the application on which the registration is based, where the application is made by means of a summary, shall not affect the rights of the parties to the application who benefit from the registration, if analysis of the application or, where the application is made by means of a summary, of the accompanying document compensates for the absence, insufficiency or inaccuracy.

Completion
of
application

“149.2 A person may complete an application made by means of an extract during the period from 1 January 1994 to 31 August 1995 by presenting at the registry office, within 180 days after the end of that period, an authentic copy of the act, accompanied with a notice in duplicate for every act concerned establishing the connection between the act and the extract and indicating, in addition to the description of the immovables, the place of registration and the registration number of the extract. The notice, which does not require certification, shall be entered in the registers.

Applicable
provisions

From the registration of the notice and subject to the rights of third persons in good faith whose rights were published during the period from 1 January 1994 to the date of registration, the provisions of section 149.1, adapted as required, apply to the extract.”

1992, c. 57,
s. 154, am.

5. Section 154 of the said Act is amended by inserting, before paragraph 1, the following paragraph:

“(0.1) in article 2934, to the publication of rights effected by their registration in the land register, it means the publication of rights effected by registration under section 149, which is effective only in respect of rights admitting or requiring publication that are mentioned in the application for registration or, where the application is made by means of a summary, in the accompanying document;”.

1992, c. 57,
s. 155, am.

6. Section 155 of the said Act is amended

(1) by inserting, after paragraph 2, the following paragraphs:

“(2.1) articles 2981 and 2986 do not apply to applications for registration which relate to the land register;

“(2.2) the following provisions apply in place of the provisions of the second paragraph of article 2982:

Application

“The application is made by presenting the act itself or an authentic extract thereof, by means of a summary of the document or, where the law so provides, by means of a notice. It contains, in particular, the identity of the holders and grantors of the rights, the description of the property affected and any other particular prescribed by law or by the regulations under this Book.”;

“(2.3) a title registered in the appropriate register is considered to be validly published, within the meaning of articles 2988 and 2991;

“(2.4) the restrictions contained in the second paragraph of article 2991 concerning the content of applications for registration are not applicable;”;

(2) by inserting, after paragraph 4, the following paragraph:

“(4.1) in a territory that has not been the subject of a cadastral renovation, the requirement contained in articles 3036 and 3037 that the measurements of an immovable be mentioned is not applicable and the following provisions apply in place of the provisions of the second paragraph of article 3037:

Description

“The description of a part of lot as the remainder after separation of other parts of the lot is admissible only if the other parts of the lot are described in accordance with the provisions of article 3036.””

1992, c. 57,
s. 155.1,
added

7. The said Act is amended by inserting, after section 155, the following section:

Exception

“155.1 In a territory that has not been the subject of a cadastral renovation, article 3042 of the new Code does not apply where the application for registration of a transfer, cession or right referred to in the said article contains a declaration of the person authorized to expropriate the immovable or to appropriate a right of ownership therein, to the effect that the immovable, comprised of the required part and the remainder, corresponded to one or more parts of lot at the time of registration of the notice of expropriation or appropriation.”

1992, c. 57,
s. 156, am.

8. Section 156 of the said Act is amended by replacing the words and figures “articles 2988 and 2991” in the third line by the words and figures “articles 2988 to 2991”.

1992, c. 57,
ss. 157.1,
157.2,
added

9. The said Act is amended by inserting, after section 157, the following sections:

Registra-
tion of
movable
securities

“157.1 All movable securities created under the former legislation that were not subject to the formality of registration but which have become, under the new legislation, movable hypothecs subject to registration require, to preserve their opposability at their original rank, registration in the register of personal and movable real rights before 31 August 1996.

Registra-
tion period

“157.2 Notwithstanding article 2700 of the new Code, the period for registering the notice required by the said article to preserve the securities referred to in sections 157 and 157.1 runs, in respect of alienations of property occurring from 1 January 1994 to 31 August 1996, from the latter date, whether the alienation occurs before or after the registration of the securities affected. This rule shall not prevent a creditor from registering a notice before 31 August 1996.”

1992, c. 57,
s. 158, am.

10. Section 158 of the said Act is amended by replacing the word “registered” in the fourth line by the word “published”.

ACT RESPECTING THE ACQUISITION OF FARM LAND BY NON-RESIDENTS

c. A-4.1,
Div. IV,
heading,
replaced

11. The heading of Division IV of the Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) is replaced by the following heading:

"APPLICATION FOR REGISTRATION OF AN ACQUISITION".

c. A-4.1,
s. 21, am.

12. Section 21 of the said Act is amended by replacing the words "deed of acquisition of any farm land by a non-resident must bear" in the first line by the words "application for registration of the acquisition of farm land by a non-resident must contain".

c. A-4.1,
ss. 22-24,
replaced

13. Sections 22 to 24 of the said Act are replaced by the following sections:

Registra-
tion

"22. For the purposes of this Act, a person applying for the registration of an acquisition referred to in section 21 must present to the registrar, in addition to the documents required for registration, a copy, authenticated or not, of the deed of acquisition and a copy, authenticated or not, of the summary or extract where the application is made by means of a summary or extract.

Copy to
commission

"23. The registrar notifies the commission by sending it the copy presented by the applicant under section 22 not later than the fifteenth day of the month following the month of registration of the acquisition.

Refusal to
register

"24. The registrar must refuse to register the acquisition of farm land by a person who is not a resident of Québec if he ascertains that the application for registration does not contain the information required by section 21.

Refusal to
register

The registrar must also refuse to register an acquisition where the applicant does not present the copy required by section 22."

c. A-4.1,
s. 35, am.

14. Section 35 of the said Act is amended by striking out subparagraph 5 of the first paragraph.

LAND SURVEYORS ACT

c. A-23,
s. 52, am.

15. Section 52 of the Land Surveyors Act (R.S.Q., chapter A-23), amended by section 432 of chapter 57 of the statutes of 1992, is again amended by replacing the figure "791" in the fourth line of the second paragraph of subsection 1 by the figure "789".

BUILDING ACT

c. B-1.1,
s. 50, am.

16. Section 50 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing the second paragraph by the following paragraph:

Cancellation of registration

“The owner of an immovable charged with a legal hypothec referred to in paragraph 2 of article 2724 of the Civil Code of Québec and registered on the application of a contractor who does not hold the proper licence may apply for the cancellation of the registration of the hypothec and for the cancellation of any related registration which the contractor may have applied for.”

c. B-1.1, s. 137, am.

17. Section 137 of the said Act is amended by replacing the word “privileges” in the fourth line by the words “prior claims or legal hypothecs”.

ACT RESPECTING REGISTRY OFFICES

c. B-9, s. 10, replaced

18. Section 10 of the Act respecting registry offices (R.S.Q., chapter B-9), enacted by section 447 of chapter 57 of the statutes of 1992, is replaced by the following section:

Exceptions

“10. No fee is exigible

(1) for the registration of a hypothec granted under the Act respecting the Société de financement agricole (chapter S-11.0101) or the Farm Credit Corporation Act (Statutes of Canada, 1993, chapter 14). However, the application for registration must indicate that the grantor operates a farming business and must make reference to the Act under which the hypothec was granted;

(2) for searches made in registry offices for the purposes of such hypothecs;

(3) for the issue by the registrar, either hand to hand or by mail, of certified statements, extracts or copies of applications for registration that relate to such hypothecs.”

c. B-9, ss. 12, 13, added

19. The said Act is amended by inserting, after section 11, the following sections:

Updating of municipal assessment roll

“12. For the purposes of the updating of the municipal assessment roll, a person applying for the registration of the acquisition, creation, recognition, modification, transmission or extinction of the right of ownership in an immovable or of a special mode or dismemberment of that right must present to the registrar, in addition to the documents required for registration, a copy, authenticated or not, of the act evidencing the right and a copy, authenticated or not, of the summary or extract where the application is made by means of a summary or extract.

Copy

Where the act evidencing the right concerns immovables situated in the territory of several local municipalities, the applicant must present one copy per municipality.

Copies to
local
municipality

The registrar shall send to the local municipality concerned, within the time fixed in the first paragraph of section 10 of the Act respecting duties on transfers of immovables (chapter D-15.1) and according to the tariff applicable to the sending of notices of transfer, the copies presented by the applicant under the first paragraph.

Provisions
not
applicable

The provisions of this section do not apply where the act evidencing the right is a deed of transfer subject to the provisions of section 9.1 of the Act respecting duties on transfers of immovables.

Refusal
prohibited

“13. The registrar shall not refuse the registration referred to in section 12 on the ground that the applicant has failed to comply with the requirements of the said section concerning the presentation of copies.”

ACT RESPECTING THE CAISSE DE DÉPÔT ET PLACEMENT DU QUÉBEC

c. C-2, s. 28,
am.

20. Section 28 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2) is amended by replacing the word “privilege” in the first line of paragraph ii of subparagraph *a* of the second paragraph by the word “hypothec”.

SAVINGS AND CREDIT UNIONS ACT

c. C-4, s. 83,
am.

21. Section 83 of the Savings and Credit Unions Act (R.S.Q., chapter C-4) is amended

(1) by striking out the words “privilege or” in the first line of paragraph 1 of subparagraph *c* of the first paragraph;

(2) by replacing the word “privilege” in the first line of paragraph 3 of subparagraph *c* of the first paragraph by the word “hypothec”.

ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES

c. D-15.1,
s. 9.1, am.

22. Section 9.1 of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1), enacted by section 27 of chapter 78 of the statutes of 1993, is amended by replacing the words “an unauthenticated copy” in the third and fourth lines and in the fourth line of the first paragraph by the words “a copy, authenticated or not,”.

LAND TRANSFER DUTIES ACT

c. D-17,
s. 19, am.

23. Section 19 of the Land Transfer Duties Act (R.S.Q., chapter D-17), replaced by subsection 1 of section 10 of chapter 22 of the statutes of 1994, is amended by replacing the words “non-authenticated copy” in the fourth line by the words “copy, authenticated or not,”.

PHARMACY ACT

c. P-10,
s. 30, am.

24. Section 30 of the Pharmacy Act (R.S.Q., chapter P-10), amended by section 641 of chapter 57 of the statutes of 1992, is again amended

(1) by replacing the words “section 178 of the Bank Act (Revised Statutes of Canada, 1985, chapter B-1)” in the third and fourth lines by the words “section 427 of the Bank Act (Revised Statutes of Canada, 1985, chapter B-1.01)”;

(2) by replacing the words “deed of trust” by the words “movable hypothec”;

(3) by replacing the words “assignee, the trustee” by the words “hypothecary creditor”.

SPECIAL CORPORATE POWERS ACT

c. P-16,
s. 43,
repealed

25. Section 43 of the Special Corporate Powers Act (R.S.Q., chapter P-16) is repealed.

ACT TO PROMOTE THE REFORM OF THE CADASTRE IN QUÉBEC

c. R-3.1,
s. 15, am.

26. Section 15 of the Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1), amended by section 26 of chapter 52 of the statutes of 1993, is again amended by replacing the words “deposit of the renewal plan in the registry office of the registration division” in the second and third lines of the second paragraph by the words “coming into force of the renewal plan”.

c. R-3.1,
s. 18, am.

27. Section 18 of the said Act, amended by section 28 of chapter 52 of the statutes of 1993, is again amended by replacing the second paragraph by the following paragraph:

Amending
plan

“The Minister shall not, during such period, accept the deposit of a plan amending a lot contemplated in the notice, unless the renewal plan has been deposited at the registry office.”

PUBLIC BUILDINGS SAFETY ACT

c. S-3, s. 34,
am.

28. Section 34 of the Public Buildings Safety Act (R.S.Q., chapter S-3) is amended by replacing the words “cost of such demolition shall be a privileged claim” in the fifth line by the words “recovery of the cost of such demolition is secured by a legal hypothec”.

SECURITIES ACT

c. V-1.1,
s. 262, am.

29. Section 262 of the Securities Act (R.S.Q., chapter V-1.1) is amended by replacing the second paragraph by the following paragraph:

Prior claim

“The fees and expenses are deemed to constitute a prior claim, and have the same rank as expenses incurred in the common interest.”

CIVIL CODE OF QUÉBEC

30. Article 2993 of the Civil Code of Québec (1991, chapter 64) is amended by adding the following paragraph:

“However, the signature affixed by a notary to an act executed by him carries with it the certification required by article 2988.”

31. Article 3031 of the said Code is amended by inserting the words “or gas” after the word “water” in the fourth line of the first paragraph.

32. Article 3038 of the said Code is amended

(1) by inserting the words “or gas” after the word “water” in the second line of the first paragraph;

(2) by replacing the words “, in territory with a cadastral survey, of the lots on or over which it passes” in the first and second lines of subparagraph 2 of the first paragraph by the words “of the cadastres traversed by it”;

(3) by replacing the word “lots” in the second line of the second paragraph by the word “cadastres”.

TRANSITIONAL AND FINAL PROVISIONS

- 33.** Notwithstanding the Tariff of fees respecting publication by registration in the land register and the application of certain transitional provisions relating to the former registers of registry offices, enacted by Order in Council 1597-93 (1993, G.O. 2, 6257), the fee exigible for registration of a notice under section 149.2 of the Act respecting the implementation of the reform of the Civil Code, enacted by section 4, is \$10.00. The provisions of section 8.1 of the Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1) are not applicable to such a registration.
- 34.** Notwithstanding section 11 of the Regulations Act (R.S.Q., chapter R-18.1), the first regulation made by the Government after 22 June 1995 to amend the Provisional Regulation respecting the land register enacted by Order in Council 1596-93 (1993, G.O. 2, 6239) may be made on the expiry of a period of ten days after its publication in the *Gazette officielle du Québec*.
- 35.** The provisions of paragraph 2.3 of section 155 of the Act respecting the implementation of the reform of the Civil Code, enacted by section 6, and the provisions of sections 8 and 10 have effect from 1 January 1994.
- 36.** This Act comes into force on 22 June 1995, except for sections 1 to 10, section 33 and section 35, which will come into force on the date of coming into force of the first regulation referred to in section 34, and for section 17, which will come into force on the date of coming into force of section 137 of the Building Act.