

NATIONAL ASSEMBLY
Thirty-third Legislature, first session

1987, chapter 63

**AN ACT TO AMEND THE CODE OF CIVIL
PROCEDURE AND OTHER LEGISLATIVE
PROVISIONS IN RESPECT OF VOLUNTARY DEPOSIT**

Bill 159

Introduced by Mr Herbert Marx, Minister of Justice

Introduced 9 December 1986

Passage in principle 12 March 1987

Passage 23 June 1987

Assented to 23 June 1987

Coming into force: 23 July 1987

Acts amended:

Civil Code of Lower Canada

Code of Civil Procedure (R.S.Q., chapter C-25)

Act respecting the Régie du logement (R.S.Q., chapter R-8.1)





CHAPTER 63

An Act to amend the Code of Civil Procedure and other legislative provisions in respect of voluntary deposit

[Assented to 23 June 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. C-25,
a. 34, am. **1.** Article 34 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by adding, at the end of the last paragraph, the words “, except where the application consists in a contestation contemplated in article 645 or 656 of the Code of Civil Procedure.”

c. C-25,
a. 42, am. **2.** Article 42 of the said Code is amended by inserting, after the figure “584” in the second line of the first paragraph, the figure “,644”.

c. C-25,
a. 644, am. **3.** Article 644 of the said Code is amended by adding, at the end, the following paragraph:

“The prothonotary shall refuse any claim or part of a claim which concerns the difference between the rate of interest agreed between the parties and the rate provided for in this article, for any period during which the latter rate applies.”

c. C-25,
heading,
replaced **4.** The heading of subsection 3 of Section IV of Chapter IV of Title II of Book IV of the said Code is replaced by the following heading:

“§ 3.—*Voluntary deposit*”.

c. C-25,
a. 653.1,
added **5.** The said Code is amended by inserting, after article 653, the following article:

“653.1 Article 652, adapted as required, also applies to a self-employed worker who, every three months, produces a declaration in any office of the Provincial Court of the place of his domicile, residence or work and who monthly deposits the seizable portion of his earned income, after deducting the expenses relating to his work, the seizable portion being computed in the same manner as the seizable portion of salary or wages.

Each declaration must be made under oath and contain a statement of his income and of the expenses relating to his work for the three preceding months. The first declaration must also contain the information, adapted as required, contemplated in paragraphs *a*, *c* and *d* of article 653.”

c. C-25,
aa. 654,
655,
replaced

6. Articles 654 and 655 of the said Code are replaced by the following articles:

“654. A debtor must produce a new declaration every time

- (a) he changes the address of his residence or of his domicile;
- (b) he changes his employment;
- (c) his conditions of employment are altered;
- (d) he ceases to work;
- (e) he resumes work;
- (f) a change occurs in his family responsibilities.

In every case, the declaration must be produced within ten days following the change.

“655. The clerk of the court must, by registered or certified mail and without cost to the debtor, send a notice of every declaration produced by the debtor to the creditors mentioned in the list filed by the debtor and to all those reported subsequently.

“655.1 Any creditor must, within thirty days of acquiring knowledge of the first declaration of the debtor, file his claim in the record either in accordance with article 643, or at the time of filing a contestation of the debtor’s declaration in accordance with article 656.

If the claim is not filed within the allotted time, the creditor is entitled to only an amount proportional to the amount indicated in the debtor’s declaration, until he files his claim. Furthermore, for the purposes of article 644, the claim is deemed to have been filed on the date of the debtor’s declaration.”

c. C-25,
a. 656,
replaced

7. Article 656 of the said Code is replaced by the following articles:

“656. Any interested party may, within thirty days of knowledge acquired, contest a debtor’s declaration before the court where it has been filed, in the same manner as that of a garnishee. A copy of the contestation must be served on the debtor and the clerk.

“656.1 The clerk shall prepare and keep up to date a list of the creditors and issue a copy thereof to every creditor who applies therefor.

“656.2 If the clerk is unable to pay to a creditor a sum that is payable to him and that has been deposited by the debtor, he shall retain the sum until the creditor requests payment thereof or until the debtor furnishes proof of extinguishment of the debt, in which case the amount shall be redistributed among the other creditors in proportion to their claims.

If all the other debts are extinguished, the clerk shall notify the debtor that he may recover the undistributed sums upon a written application.

“656.3 Where the full amount of a claim has been paid to a creditor, the clerk shall, by registered or certified mail, transmit a notice to that effect to the debtor and to the creditor.

If the notice is not contested by the creditor within thirty days of receiving it, the clerk may, on the application of the debtor, certify on the duplicate of the notice in the possession of the debtor that it has not been contested, and the notice so certified is equivalent to a discharge.”

c. C-25,
a. 657,
replaced

8. Article 657 of the said Code is replaced by the following articles:

“657. The creditor may make a motion to the court, notice of which is served on the debtor and the clerk, that seizure may be made where a debtor having failed to make a deposit or produce a declaration in accordance with this subdivision has not remedied the failure within thirty days following receipt of a notice from the creditor requiring him to do so.

The court may suspend its decision for such time as it decides but not over ninety days if the debtor proves that his failure to make a deposit or produce a declaration was not due to his negligence and that it is possible for him to remedy the failure within that time or a shorter time.

If the motion of the creditor is granted, the clerk shall immediately notify the other creditors by registered or certified mail.

“657.1 A debtor who, in the course of a year, has not made a deposit or produced a new declaration must, within thirty days following receipt of a notice from the clerk reminding him of the content of this article, forward to the clerk a notice of his intention to continue to avail himself of the benefit of this subdivision. Failing that, he loses that benefit and the clerk shall immediately notify the creditors by registered or certified mail.

“657.2 Upon receiving a notice from the debtor indicating that he renounces the benefit of this subdivision, the clerk shall notify the creditors by registered or certified mail.”

c. C-25,
a. 658, am.

9. Article 658 of the said Code is amended by inserting, after the word “taken” in the fourth line of the first paragraph, the words “after the date of the debtor’s declaration but”.

C. C.,
a. 2224, am.

10. Article 2224 of the Civil Code of Lower Canada, amended by section 4 of chapter 98 of the statutes of 1959-60, by section 10 of chapter 68 of the statutes of 1972 and by section 49 of chapter 8 of the statutes of 1978, is again amended

(1) by replacing the figures “697” and “697c” wherever they appear in the fifth paragraph by the figures “643” and “655”, respectively;

(2) by replacing the words and figures “articles 697a and 697b” by the word and figure “article 652”.

c. R-8.1,
s. 28, am.

11. Section 28 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended by adding, at the end, the following paragraph:

Jurisdiction

“The board is not competent, however, to hear applications contemplated in articles 645 and 656 of the Code of Civil Procedure (R.S.Q., chapter C-25).”

Coming into
force

12. This Act comes into force on 23 July 1987.