

1985, chapter 67

## AN ACT RESPECTING THE JEAN HUDON ESTATE

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### **Bill 227**

Introduced by Mr Jean-Claude Rivest, Member for Jean-Talon

Introduced 8 May 1985

Passage in principle 20 June 1985

Passage 20 June 1985

**Assented to 20 June 1985**

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**Coming into force: 20 June 1985**

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**Act amended:** None





## CHAPTER 67

### An Act respecting the Jean Hudon estate

*[Assented to 20 June 1985]*

#### Preamble

WHEREAS Jean Hudon, died on 14 September 1963, settled the disposition of his property upon his death by an authentic will executed on 26 October 1961 by Arthur E.P. Scott, notary, under number 9135 of his minutes, and by a codicil the terms of which have been carried out;

Whereas one of the clauses of the will is a universal legacy to a trustee for the purposes, in particular, of ensuring the payment of an annual pension of \$6 000 by equal quaterly instalments to the widow of the testator, Dorothy Maud Hughes, out of the income or, as the case may be, out of the capital of the trust;

Whereas the amount by which the income of the trust exceeds the pension payable to Dorothy Maud Hughes accrues to the capital and whereas the will also provides that upon the death or remarriage of the testator's wife, the capital of the trust is to be divided according to certain terms and conditions among the children and grandchildren of the testator, the grandchildren being allowed to be represented by their descendants;

Whereas the will includes a clause authorizing the trustee to encroach upon the capital in favour of Dorothy Maud Hughes "in the event of urgent necessity such as might arise only from prolonged or serious illness affecting" the testator's wife; and, during the year 1984, the trustee paid approximately \$9 000 under the said clause;

Whereas, on the basis of statistics on the cost of living index, an amount of \$6 000 in 1963 is, in terms of purchasing power, approximately equivalent to an amount of \$23 000 in 1985, and whereas the income of Dorothy Maud Hughes is no longer sufficient to ensure her a standard of living comparable to that which she enjoyed in the first years following the death of her husband;

Whereas it is expedient that the annual pension payable by the trustee to Dorothy Maud Hughes be increased from \$6 000 to \$23 000 and that it be adjusted in accordance with the cost of living index, such increase and such indexation not being likely to reduce, by themselves, the capital of the trust to a smaller amount than the present amount;

Whereas the surviving child and the grandchildren of the testator consent to the passing of this Act and are all of full age, except Claude Barbeau who was born on 16 February 1968;

Whereas, by reason of his minority, it is expedient to preserve Claude Barbeau's right to re-examine his consent to the passing of this Act on reaching full age and, in the event that he revokes his consent, to be awarded an indemnity;

Whereas, if, in the year following the coming into force of this Act, an amount of \$23 000 instead of an amount of \$6 000 were paid as pension to Dorothy Maud Hughes, the contributory share of Claude Barbeau to the difference between the two amounts would be an amount of \$1 394;

Whereas the trustee does not object to the passing of this Act in so far as it preserves the rights of Claude Barbeau and in so far as the other beneficiaries consent to its passing;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

Increase in  
pension

**1.** The annual pension payable by the trustee to Dorothy Maud Hughes out of the income or, as the case may be, out of the capital of the trust constituted under the will of Jean Hudon, executed on 26 October 1961 before Arthur E.P. Scott, notary, under number 9135 of his minutes, is increased from \$6 000 to \$23 000.

Indexing

The pension is indexed in accordance with the first paragraph of section 119 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), adapted as required.

Urgent  
necessity

**2.** Section 1 does not limit the power of the trustee to encroach upon the capital of the trust in favour of Dorothy Maud Hughes in the event of urgent necessity such as might arise only from prolonged or serious illness affecting that person.

Deemed  
loan

**3.** Out of the sum paid annually to Dorothy Maud Hughes pursuant to section 1, an amount of \$1 394, indexed in accordance with the said section, will be deemed to be a loan, granted upon the coming into force

of this Act, by Claude Barbeau to Dorothy Maud Hughes, provided that Claude Barbeau revokes his consent to the passing of this Act in a writing sent to the trustee within three months of the date on which he reaches full age.

Presump-  
tion

Failing a revocation under the first paragraph the amount will be deemed never to have been a loan.

Adjustment  
of loan

**4.** If, before Claude Barbeau reaches full age or before the expiry of the time limit prescribed in section 3, the surviving child of Jean Hudon or any of his grandchildren dies, leaving no descendant, the amount of the loan contemplated in section 3, indexed where required, is adjusted in such a way that the contributory share of Claude Barbeau of the increase and indexation of the pension of Dorothy Maud Hughes corresponds to the share of the capital of the trust to which he would then be entitled.

Interest

**5.** The loan contemplated in section 3 bears interest at the legal rate and the indemnity provided for in article 1078.1 of the Civil Code shall be added to it. The interest and the indemnity on each instalment are computed from the date of the instalment.

Repayment

The loan shall be repaid, within two years from the revocation, by way of deductions made by the trustee from the pension payable under section 1. The sums deducted shall be added to Claude Barbeau's share of the estate of Jean Hudon. If the right to share the capital arises before full repayment of the loan, the balance shall be deemed to be a debt of the trust.

Future pen-  
sion pay-  
ments

**6.** Subject to the repayment provided for in section 5, the revocation does not affect future pension payments payable to Dorothy Maud Hughes.

Payment

That part of the pension which, until the revocation, is taken out of the share of Claude Barbeau will thereafter be taken out of the shares of the other capital beneficiaries.

Coming into  
force

**7.** This Act comes into force on 20 June 1985.