

NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FIFTH LEGISLATURE

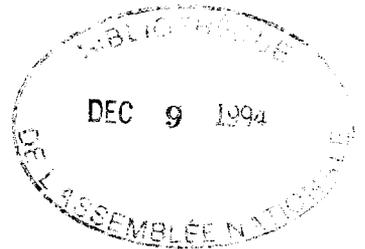
Bill 41

An Act to amend the Code of Civil Procedure and the Act respecting municipal courts



Introduction

**Introduced by
Mr Paul Bégin
Minister of Justice**



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EXPLANATORY NOTES

This bill amending the Code of Civil Procedure and the Act respecting municipal courts increases from \$15 000 to \$30 000 the jurisdictional amount of the Court of Québec in civil matters as well as that of municipal courts in certain civil matters and, by reference, the jurisdictional amount of the Régie du logement.

The rules governing appeals in civil matters are also modified. First, the threshold for an automatic right of appeal to the Court of Appeal is raised from \$15 000 to \$20 000. Secondly, changes are made to the provisions governing administrative dismissal of matters submitted to the Court of Appeal and the time allotted for the filing of appeal factums. As well, the time within which an appeal must be brought in connection with the cancellation of a seizure before judgment is shortened. Lastly, the Court of Appeal is authorized to dispense from hearing the parties before dismissing the motion of a respondent requesting the dismissal of the appeal on the grounds that it is improper or dilatory.

Moreover, courts of first instance will be authorized to order provisional execution of a judgment for any reason deemed sufficient.

A final amendment to the Code of Civil Procedure will allow the Court of Appeal and its judges to suspend the execution of a judgment of the Court where a party intends to apply for leave to appeal to the Supreme Court of Canada.

Bill 41

An Act to amend the Code of Civil Procedure and the Act respecting municipal courts

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 26 of the Code of Civil Procedure (R.S.Q., chapter C-25), amended by section 176 of chapter 57 of the statutes of 1992, section 2 of chapter 30 of the statutes of 1993 and section 1 of chapter 72 of the statutes of 1993, is again amended by replacing the figure “\$15 000” at the end of subparagraph 1 of the first paragraph by the figure “\$20 000”.

2. Article 34 of the said Code, amended by section 180 of chapter 57 of the statutes of 1992, is again amended by replacing the figure “\$15 000” in subparagraphs 1, 2 and 3 of the first paragraph by the figure “\$30 000”.

3. Article 494 of the said Code, amended by section 285 of chapter 57 of the statutes of 1992 and section 6 of chapter 30 of the statutes of 1993, is again amended

(1) by inserting the words “or, in the case of an application for leave to appeal from a judgment ruling on a motion to quash a seizure before judgment, within 5 clear days of the date of judgment” after the word “judgment” in the second line of the third paragraph;

(2) by replacing the word and figure “paragraph 2” in the second line of the fifth paragraph by the words and figure “subparagraph 2 of the first paragraph”.

4. Article 501 of the said Code is amended by inserting, after the first paragraph, the following paragraph:

“The Court may dismiss a motion based on subparagraph 5 of the first paragraph without hearing the parties.”

5. Articles 503.1, 503.2 and 503.3 of the said Code, enacted by section 13 of chapter 30 of the statutes of 1993, are replaced by the following article:

“503.1 Where the factum is not served and filed within the time prescribed by article 503, the appeal is deemed abandoned unless an application for an extension is served and filed at the office of the court by the appellant before the expiry of the prescribed time. The extension may be granted, on a motion, by a judge of the Court of Appeal for a period which, barring exceptional circumstances owing to the nature of the case, may not exceed 30 days.

Where the appellant has not, within the allotted time, filed and served his factum and no application for an extension, or motion under article 505.1, is pending, the clerk of the Court of Appeal shall record the default and issue a certificate stating that the appeal is abandoned with costs.”

6. Article 504.1 of the said Code is amended by replacing the word “sixty” in the first line by the word “ninety”.

7. Article 505 of the said Code, replaced by section 14 of chapter 30 of the statutes of 1993, is again replaced by the following articles:

“505. Where the respondent does not file his factum within the time prescribed by article 504.1, he is barred from filing it unless an application for an extension is served and filed at the office of the court by him before the expiry of the prescribed time. The extension may be granted, on a motion, by a judge of the Court of Appeal for a period which, barring exceptional circumstances owing to the nature of the case, may not exceed 30 days.

Where the respondent fails to file his factum within the allotted time, the Court may refuse to hear him. If the respondent makes an incident appeal but does not act within the time allotted for the filing of his factum, the incident appeal is deemed abandoned.

“505.1 A judge of the Court of Appeal may, on a motion filed before the expiry of the time prescribed by article 503 and with the consent of the appellant and the respondent, fix another time for the filing of their factums.”

8. The said Code is amended by inserting, after article 522, the following article:

“522.1 The Court of Appeal or one of its judges may, subject to the conditions the Court or the judge deems appropriate, order

suspension of the execution of a judgment of the Court, on a motion of a party who establishes his intention to apply for leave to appeal to the Supreme Court of Canada.”

9. Article 547 of the said Code, amended by section 295 of chapter 57 of the statutes of 1992, section 15 of chapter 30 of the statutes of 1993 and section 27 of chapter 28 of the statutes of 1994, is again amended by replacing the words “special reason” in the second and third lines of the second paragraph by the words “reason deemed sufficient”.

10. The French text of article 792 of the said Code, replaced by section 367 of chapter 57 of the statutes of 1992, is amended by replacing the word “arpenteur” in the second line of the first paragraph by the word “arpenteur-géomètre”.

11. Section 28 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by replacing the figure “\$15 000” in subparagraph 3 of the first paragraph by the figure “\$30 000”.

12. Section 1 and paragraph 1 of section 3 apply to cases pending in first instance on (*insert here the date of coming into force of section 1 and of paragraph 1 of section 3*), but not to judgments already rendered on that date in respect of which the time for appeal is not expired.

13. Sections 2 and 11 have no effect in respect of cases pending before the Superior Court on (*insert here the date of coming into force of sections 2 and 11*).

14. Sections 5 and 7 do not apply to cases inscribed for appeal before (*insert here the date of coming into force of sections 5 and 7*).

15. This Act comes into force on (*insert here the date of assent to this Act*), except sections 1 and 2, paragraph 1 of section 3 and sections 4 to 7, 9 and 11 to 14, which will come into force on (*insert here the date occurring forty-five days after the date of assent to this Act*).