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# NATIONAL ASSEMBLY

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FIRST SESSION

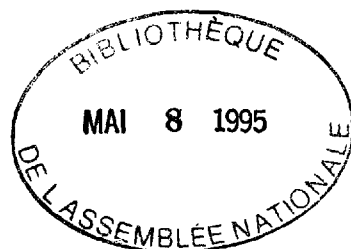
THIRTY-FIFTH LEGISLATURE

Bill 76

## **An Act to amend the Code of Civil Procedure and the Act respecting the Régie du logement**

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**Introduction**



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

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#### EXPLANATORY NOTES

*The object of this bill is to amend the Code of Civil Procedure in order to allow, in certain cases, the clerk of the court or the collector of support to use ordinary mail as a means of transmission.*

*The bill also provides that the compulsory execution of judgments rendered pursuant to Book VIII of the Code of Civil Procedure as regards the recovery of small claims and the compulsory execution of decisions rendered by the Régie du logement and concerning only the recovery of a small claim will be effected according to the rules otherwise prescribed in the Code of Civil Procedure for the execution of judgments in civil matters. However, other than for seizure in execution of immovable property, the bill contains provisions of a regulatory nature allowing the Government to fix, after consultation with the General Council of the Bar, a general tariff for extrajudicial costs that may be charged by advocates for acts performed in connection with the execution of those judgments or decisions. The bill also provides that the extrajudicial costs may be claimed from the debtor by the creditor.*

*In addition, the bill provides that the original of the record of the court of first instance is transferred to the Appeal Office only at the request of a judge of the Court of Appeal.*

*The bill also includes transitional and consequential amendments.*

## Bill 76

### An Act to amend the Code of Civil Procedure and the Act respecting the Régie du logement

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### CODE OF CIVIL PROCEDURE

**1.** Article 473 of the Code of Civil Procedure (R.S.Q., chapter C-25), amended by sections 281 and 420 of chapter 57 of the statutes of 1992, is again amended by striking out the words “by registered or certified mail” in the fourth and fifth lines of the second paragraph.

**2.** Article 477 of the said Code is amended by replacing the words “articles 992, 993 and 995” in the first and second lines of the second paragraph by the words “article 992”.

**3.** Article 494 of the said Code, amended by section 285 of chapter 57 of the statutes of 1992, by section 6 of chapter 30 of the statutes of 1993 and by section 3 of chapter 2 of the statutes of 1995, is again amended by striking out the words “by registered or certified mail,” in the fifth and sixth lines of the fourth paragraph.

**4.** Article 498 of the said Code, amended by section 420 of chapter 57 of the statutes of 1992, is replaced by the following article:

**“498.** As soon as the inscription in appeal is filed, the clerk must transmit the original of the inscription and a certified copy of the *plumitif* to the Appeal Office at Québec or Montréal, as the case may be, and a copy of the inscription to the judge whose judgment is appealed from.

The clerk must, at the request of a judge of the Court of Appeal, transmit without delay the record of the case to the Appeal Office

together with a list of the documents therein and a copy of the entries made in the registers.”

**5.** Article 507.2 of the said Code is amended by striking out the words “, by registered or certified mail,” in the fourth line of the first paragraph.

**6.** Article 522 of the said Code is amended

(1) by striking out the words “to which the record must be returned,” in the second line;

(2) by adding, at the end, the following paragraph:

“A copy of the judgment of the Court of Appeal, and the record of the case if the latter was transmitted to the Appeal Office, must be transmitted to the office of the court in which the judgment appealed from was rendered.”

**7.** Article 640.1 of the said Code, amended by section 420 of chapter 57 of the statutes of 1992, is again amended by striking out the words “, by personal service or by registered or certified mail,” in the third and fourth lines of the first paragraph.

**8.** The said Code is amended by inserting, after article 640.4, the following article:

**“640.5** A writ of seizure by garnishment may be served by registered or certified mail. Service upon a garnishee by the collector of support or by the clerk may also be made by ordinary mail.”

**9.** Article 655 of the said Code is amended by striking out the words “by registered or certified mail and” in the first line.

**10.** Article 657 of the said Code is amended by replacing the words “immediately notify the other creditors by registered or certified mail” in the first and second lines of the third paragraph by the words “, forthwith, notify the other creditors”.

**11.** Article 657.1 of the said Code is amended by replacing the words “immediately notify the creditors by registered or certified mail” in the sixth and seventh lines by the words “, forthwith, notify the creditors”.

**12.** Article 657.2 of the said Code is amended by replacing the words “notify the creditors by registered or certified mail” in the second and third lines by the words “, forthwith, notify the creditors”.

**13.** Article 730 of the said Code is amended by replacing the words “five days after the judgment of homologation has been served upon him or sent by registered or certified mail” in the second and third lines of the first paragraph by the words “ten days after the judgment of homologation is transmitted to him”.

**14.** Article 817.2 of the said Code, amended by sections 372 and 420 of chapter 57 of the statutes of 1992, is again amended

(1) by replacing the words “serve the judgment, by registered or certified mail, on” in the first and second lines of the second paragraph by the words “transmit the judgment to”;

(2) by replacing the words “served on” in the fifth line of the second paragraph by the words “transmitted to”.

**15.** Article 967 of the said Code is amended by replacing the words “registered or certified mail, with an acknowledgment of receipt or a notice of delivery” in the second and third lines of the third paragraph by the words “ordinary mail”.

**16.** Article 979 of the said Code is amended by replacing the words “serves a copy of the judgment upon each party by registered or certified mail” in the second and third lines of the first paragraph by the words “transmits to each of the parties a copy of the judgment as soon as it is rendered.”

**17.** Article 982 of the said Code is amended

(1) by replacing the words “ten days from the date it is rendered or served, as the case may be” in the first and second lines of the first paragraph by the words “twenty days from the day on which it was rendered”;

(2) by striking out the words “or the clerk” in the first line of the second paragraph;

(3) by replacing the word “ten” in the fourth line of the second paragraph by the word “twenty”.

**18.** Articles 993, 994 and 994.1 of the said Code are replaced by the following articles :

**“993.** Compulsory execution of judgments rendered under the provisions of this Book is effected in accordance with Title II of Book IV of this Code, subject to the following provisions:

(1) the extrajudicial costs of advocates provided for in article 994 and paid by the creditor may be claimed from the debtor and payment of such costs constitutes in favour of the creditor a claim immediately exigible from the debtor which, upon execution of the judgment, is collocated as a claim of an ordinary seizing creditor;

(2) service of a writ of seizure by garnishment may be made by registered or certified mail.

**“994.** Except as regards seizure in execution of immovable property, a general tariff for extrajudicial costs that advocates may charge for acts they perform in relation to the execution of a judgment rendered under the provisions of this Book is fixed by regulation by the Government after consulting with the General Council of the Bar. Notwithstanding any contrary provision, and except as regards acts performed upon seizure in execution of immovable property, the costs prescribed by regulation are the only costs chargeable as extrajudicial costs for the acts listed in the regulation.”

**19.** Article 995 of the said Code is amended

(1) by striking out the words “or the clerk” in the fifth line of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“If the debtor does not make the deposit within ten days of the request, the entire debt becomes exigible and execution is proceeded with by the creditor.”

ACT RESPECTING THE RÉGIE DU LOGEMENT

**20.** Section 82 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended by replacing the words “ten days from its date” in the third line of the second paragraph by the words “twenty days from the date thereof, except where the commissioner has ordered otherwise”.

TRANSITIONAL AND FINAL PROVISIONS

**21.** The compulsory execution of judgments rendered in accordance with Book VIII of the Code of Civil Procedure before (*insert here the date of coming into force of paragraph 2 of section 17 and sections 18 to 20 of this Act*), is governed by the provisions of Title VIII of Book VIII of the said Code, as they read before that

date, provided that before that date, the judgment has become executory or, in the case referred to in the second paragraph of article 982 of the said Code, that the judge has authorized the seizure.

This section also applies to the compulsory execution of decisions by the Régie du logement relating to an application the sole object of which is the recovery of a debt referred to in section 73 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), provided that the judgment becomes executory before *(insert here the date of coming into force of paragraph 2 of section 17 and sections 18 to 20 of this Act)*.

**22.** From *(insert here the date of coming into force of paragraph 2 of section 17 and sections 18 to 20 of this Act)* and until a general tariff is fixed by regulation, the general tariff for extrajudicial costs, except costs related to seizure in execution of immovable property, that advocates may charge for acts they perform in relation to the execution of a judgment rendered under the provisions of Book VIII of the Code of Civil Procedure or a decision of the Régie du logement in relation to an application whose sole object is the recovery of a debt referred to in section 73 of the Act respecting the Régie du logement, is fixed at 25 % of the amount of the judgment to be executed, including the costs awarded by judgment, up to an amount of \$100.

Notwithstanding any contrary provision, and except as regards acts performed upon seizure in execution of immovable property, the costs referred to in the first paragraph, which may be claimed from the debtor under paragraph 1 of article 993, introduced by section 18 of this Act, are the only costs chargeable as extrajudicial costs for the acts referred to in the first paragraph.

The current tariff remains in force until the Government, by regulation and after consulting with the General Council of the Bar, fixes a general tariff in accordance with article 994 of the Code of Civil Procedure, introduced by section 18 of this Act.

**23.** The provisions of this Act come into force on the date or dates to be fixed by the Government.