



NATIONAL ASSEMBLY

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THIRTY-FOURTH LEGISLATURE

Bill 117

An Act to amend various legislative provisions relating to the cadastre

Introduction

Introduced by
Madam Lise Bacon
Minister of Energy and Resources

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EXPLANATORY NOTES

This bill amends the Cadastre Act, the Act to promote the reform of the cadastre in Québec and the Act respecting land titles in certain electoral districts to bring their provisions into line with the new concepts and the new terminology introduced in the Civil Code of Québec in relation to the publication of rights.

The bill provides, in addition, that cadastral plans are to be prepared according to the instructions of the Minister of Energy and Resources and that the computerized version of a plan will have precedence where the law requires that a plan be deposited for registration in computerized form.

Finally, the bill gives the Minister the power to require from municipalities that the data which must be furnished regarding cadastral renovation be furnished in the form he indicates where such data is available in that form in the municipalities concerned.

ACTS AMENDED BY THIS BILL:

- Cadastre Act (R.S.Q., chapter C-1);
- Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1);
- Act respecting land titles in certain electoral districts (R.S.Q., chapter T-11).

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Cadastre Act (R.S.Q., chapter C-1) is replaced by the following section:

“1. The Minister of Energy and Resources shall cause to be prepared, under his superintendence, a cadastral plan for the first immatriculation of an immovable situated in a registration division.”

2. Section 2 of the said Act is replaced by the following section:

“2. A cadastral plan shall mention the name of the cadastre, the name of the registration division and the name of the municipality in which the lots are situated.

The plan shall be established in accordance with the instructions of the Minister, who may take any steps he considers appropriate to ensure the correctness of the plan.”

3. Section 3 of the said Act is replaced by the following section:

“3. The original of the cadastral plans and books of reference, dated and signed by the Minister, shall be kept in his records.

The Minister shall also keep in his records the duplicate of the Schedules made under The Seigniorial Amendment Act of 1859 (22 Victoria, chapter 48) and the other plans, maps and documents of a similar nature.”

4. Section 4.1 of the said Act is amended by replacing the words “index of immovables” in the third and fourth lines of the first paragraph by the words “land register”.

5. Section 4.4 of the said Act is amended

(1) by replacing, in the French text, the words “division d’enregistrement” in the first line of the first paragraph by the words “circonscription foncière”;

(2) by replacing the words “index of immovables” in the first line of the second paragraph by the words “land register”;

(3) by striking out the third paragraph.

6. Section 4.5 of the said Act is amended

(1) by replacing, in the French text, the words “division d’enregistrement” in the fifth line of the first paragraph by the words “circonscription foncière”;

(2) by replacing the words “registered a notice of address against the lot” in the third and fourth lines of the third paragraph by the words “caused his address to be registered in the land register”.

7. Section 4.6 of the said Act is amended

(1) by replacing, in the French text, the words “L’enregistrement” in the first line of the first paragraph by the words “L’inscription”;

(2) by replacing, in the French text, the words “division d’enregistrement” in the first and second lines of the first paragraph by the words “circonscription foncière”.

8. Section 4.7 of the said Act is amended by inserting the words “a right or of” after the word “of” in the first line of the second paragraph.

9. Section 5 of the said Act is amended

(1) by replacing, in the French text, the word “régistrateur” in the first line by the words “officier de la publicité des droits”;

(2) by replacing the words “the corporation of every local or county municipality, city or town” in the fourth and fifth lines by the words “each municipality and regional county municipality”;

(3) by replacing the words “, if required by the Minister, furnish him *gratis* with” in the fifth and sixth lines by the words “furnish, free of charge, to the Minister in the form he requires, where it has it in its possession,”.

10. Section 6 of the said Act is replaced by the following section :

“6. The Minister shall, forthwith, note any change in the boundaries or name of a registration division on the plans of the cadastrés affected and on the copy of such plans deposited at the registry office. He shall send a copy of the plans to the registry office of the appropriate registration division.”

11. Section 7 and Division II of the said Act are repealed.

12. The heading of Division III of the said Act is replaced by the following heading :

“IDENTIFICATION OF LOTS”.

13. Sections 14, 15, 17 and 18 of the said Act are repealed.

14. Section 19 of the said Act is replaced by the following section :

“19. In addition to territories that have been the subject of a cadastral renewal referred to in paragraph 3 of section 155 of the Act respecting the implementation of the reform of the Civil Code (1992, chapter 57), the following lots are subject to the second paragraph of article 2996, the first paragraph of article 3030, the last paragraph of article 3043 and article 3054 of the Civil Code of Québec :

(1) any lot situated in a territory that has been the subject of a revised plan drawn up after 30 September 1985 under the Act respecting land titles in certain electoral districts (R.S.Q., chapter T-11);

(2) any lot situated in part in a territory that has been the subject of a cadastral renewal or a revised plan drawn up after 30 September 1985 under the Act respecting land titles in certain electoral districts ;

(3) any lot shown on a plan prepared pursuant to section 1 where the plan is certified to that effect by the Minister.

In the case of a lot referred to in subparagraph 3 of the first paragraph, the registrar shall, when establishing the land file, enter the certificate and its contents under the number of that lot.”

15. Sections 19.1, 19.2 and 19.3, Division IV and sections 21.1 and 21.2 of the said Act are repealed.

16. Section 21.3 of the said Act is replaced by the following section:

“21.3 Every renewal plan, every revised plan, every plan showing a lot referred to in section 19, and every subsequent amendment to such a plan must be drawn up in duplicate; one copy shall be computerized and the other shall be the written version of the computerized version.

The computerized copy of the cadastral plan shall be updated regularly by compiling all the data relating to a plan and its amendments; it is deemed to be a duplicate of all the plans concerned.

Where the computerized version and the written version differ, the computerized version shall prevail.

In case of deterioration or loss of one of the versions, the other may serve to reconstitute it.”

17. Section 21.4 of the said Act is replaced by the following section:

“21.4 The Minister may replace or reconstitute all or part of any plan or book of reference forming part of his records in order to ensure its conservation and facilitate its consultation.

He shall determine the means to be used for the replacement or reconstitution of the plan or book of reference and the manner in which the replacement or reconstitution is to be carried out in order to ensure the authenticity of the new document.

Where the plan or book of reference is replaced, the Minister shall collate the reproduction with the original and certify in writing that it is true to the original.

Where the plan or book of reference is reconstituted, the Minister shall certify in writing that the reconstituted plan or book has the same force as the original.

Every plan or book of reference that has been so certified has the same authenticity, validity and effect as the plan or book of reference it replaces or reconstitutes.”

18. Section 21.5 of the said Act is repealed.

19. Section 21.6 of the said Act is replaced by the following section:

“21.6 The Minister may, when a change is made to a plan or book of reference or when a plan is updated, transmit to the registry office a copy, certified by him, of the plan or book of reference or of the updated plan, to be substituted for the existing copy, which shall be destroyed.”

20. Section 4 of the Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1), amended by section 2 of chapter 29 of the statutes of 1992, is again amended by replacing, in the French text of paragraphs 1.1 and 2, the word “registrateurs” by the words “officiers de la publicité des droits”.

21. Section 8 of the said Act, amended by section 682 of chapter 57 of the statutes of 1992, is again amended

(1) by replacing, in the French text, the words “les registrateurs” in the third and fourth lines by the words “les officiers de la publicité des droits”;

(2) by striking out the words “or the Stamp Act (chapter T-10)” in the fourth and fifth lines.

22. Section 8.1 of the said Act, enacted by section 4 of chapter 29 of the statutes of 1992, is amended

(1) by replacing, in the French text, the word “régistrateurs” in the first line of the first paragraph by the words “officiers de la publicité des droits”, and by striking out the words “, from 1 January 1993,” in the first line of the first paragraph;

(2) by replacing, in the French text, the word “enregistrement” in the first line of subparagraph 1 and subparagraph 2 of the first paragraph by the word “inscription”;

(3) by replacing the words “Tariff of fees for registration and other services performed by registrars made by Order in Council 288-89 dated 1 March 1989 and amended by Order in Council 1227-91 dated 4 September 1991” in the second, third, fourth and fifth lines of subparagraph 1 of the first paragraph by the words “Tariff of fees respecting publication by registration in the land register made by order in council (*insert here the number and date of the order in council*)”;

(4) by replacing, in the French text, the word “registrateurs” in the first line of the last paragraph by the words “officiers de la publicité des droits”.

23. Section 8.3 of the said Act, enacted by section 4 of chapter 29 of the statutes of 1992, is amended by replacing the words “registration fees at the registry office” in the first and second lines by the words “fees for the registration of a right or a document at a registry office”.

24. Section 10.1 of the said Act, enacted by section 5 of chapter 29 of the statutes of 1992, is amended

(1) by replacing, in the French text, the words “division d’enregistrement” in the second line of the first paragraph by the words “circonscription foncière”;

(2) by replacing the word “concerned” in the third line of the first paragraph by the word “affected”;

(3) by replacing, in the French text, the words “division d’enregistrement par le registrateur” in the second and third lines of the second paragraph by the words “circonscription foncière par l’officier de la publicité des droits”.

25. Section 12 of the said Act is amended by replacing the words “or a divided co-ownership subdivision plan” in the second and third lines of the first paragraph by the words “, a divided co-ownership plan or a co-emphyteusis plan”.

26. Section 15 of the said Act is amended

(1) by replacing the words “*inter vivos* of” in the third line of the first paragraph by the words “of a right of ownership in”;

(2) by replacing, in the French text, the words “division d’enregistrement” in the second and third lines of the second paragraph by the words “circonscription foncière”.

27. Section 16 of the said Act is amended

(1) by replacing, in the French text, the words “au registrateur de la division d’enregistrement” in the second line of the first paragraph by the words “à l’officier de la publicité des droits de la circonscription foncière”;

(2) by replacing, in the French text, the words “Le registrateur” in the first line of the second paragraph by the words “L’officier de la publicité des droits”.

28. Section 18 of the said Act is amended by replacing the first paragraph by the following paragraph:

“18. During the period of prohibition, no right of ownership may be registered in the land register against a lot contemplated by the notice.”

29. Section 19 of the said Act is repealed.

30. Section 19.1 of the said Act, enacted by section 7 of chapter 29 of the statutes of 1992, is amended

(1) by replacing the first paragraph by the following paragraph:

“19.1 Upon the deposit of the renewal plan at the registry office of the registration division, the registrar shall establish a land file for each lot shown on the plan.”;

(2) by replacing, in the French text, the word “enregistrement” in the fourth line of the second paragraph by the word “inscription”.

31. Section 19.2 of the said Act, enacted by section 7 of chapter 29 of the statutes of 1992, is amended

(1) by replacing the word “privileges” in the third line of the first paragraph by the words “prior claims”;

(2) by replacing, in the French text, the words “l’enregistrement qui en a été fait” in the first line of the second paragraph by the words “l’inscription qui en a été faite”.

32. Section 20 of the said Act is amended

(1) by replacing, in the French text, the word “enregistrement” in the first line by the word “inscription”;

(2) by replacing, in the French text, the words “bureau de la division d’enregistrement” in the second line by the words “bureau de la circonscription foncière”.

33. Section 2 of the Act respecting land titles in certain electoral districts (R.S.Q., chapter T-11), amended by section 11 of chapter 29 of the statutes of 1992, is again amended by striking out the words “, and the plans come into force on the date of their deposit in the office of the registration division” in the third and fourth lines of the second paragraph.

34. Section 4 of the said Act is amended

(1) by replacing the words “deposit of the plans in the office of the registration division” in the first and second lines of the first paragraph by the words “coming into force of the plans”;

(2) by replacing the word “Any” in the seventh line of the first paragraph by the words “The registration of any”;

(3) by replacing the words “articles 2172 and 2172*a* of the Civil Code of Lower Canada” in the ninth and tenth lines of the first paragraph by the words “article 2942 of the Civil Code of Québec”;

(4) by replacing the words “or a divided co-ownership subdivision plan” in the eleventh and twelfth lines of the first paragraph by the words “, divided co-ownership plan or co-emphyteusis plan”;

(5) by replacing the word “first” in the first line of the second paragraph by the word “initial”;

(6) by replacing the word “registered” in the third line of the second paragraph by the word “published”.

35. Section 4.1 of the said Act, amended by section 12 of chapter 29 of the statutes of 1992, is repealed.

36. Section 6 of the said Act, amended by section 13 of chapter 29 of the statutes of 1992 and by section 701 of chapter 57 of the statutes of 1992, is replaced by the following section:

“6. Upon the coming into force of the plans, the registrar shall send, by registered or certified mail, to every hypothecary creditor who has caused his address to be registered, a notification, over his signature, to renew the registration of the real right of which he appears to be the holder.”

37. Section 7 of the said Act is replaced by the following section:

“7. After the expiration of the eight months following the coming into force of the plans, the Minister shall deliver to the registrar a list, which he shall attest, of the lots for which he has received no opposition and the names of persons mentioned therein as occupants.

Publication of the list is effected by the filing of the list itself. The registrar shall enter, under the number of each lot included in the list, the registration number of the list and the name of the occupant. Such entry entails adjudication of the lot to its occupant, as owner.”

38. Section 8 of the said Act is amended

(1) by replacing, in the French text, the words “au registrateur” in the second line of the second paragraph by the words “à l’officier de la publicité des droits”;

(2) by replacing the words “deposit of the plans in the office of the registration division” in the second and third lines of the third paragraph by the words “coming into force of the plans”;

(3) by replacing, in the French text, the words “le régistrateur de la division d’enregistrement” in the fifth line of the third paragraph by the words “l’officier de la publicité des droits de la circonscription foncière”;

(4) by replacing, in the French text, the words “le régistrateur” in the seventh line of the third paragraph by the words “l’officier de la publicité des droits”;

(5) by replacing the last paragraph by the following paragraph:

“The certificates referred to in this section shall be registered by the registrar on the land file of the lot concerned.”

39. Section 8.1 of the said Act is repealed.

40. This Act comes into force on 1 January 1994.