



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 189

**An Act to amend the Act respecting
the Société d'habitation du Québec
and other legislation**

Introduction

**Introduced by
Mr Claude Ryan
Minister of Municipal Affairs**

**Québec Official Publisher
1991**

EXPLANATORY NOTES

The primary object of this bill is to amend the Act respecting the Société d'habitation du Québec so as to prohibit the alienation of a low-rental housing immovable operated under an agreement between the Corporation and the owner of the immovable, and the institution of a hypothec or servitude on such an immovable, except with the authorization of the Corporation. It also provides for the establishment of an administrative encumbrance to ensure that the social function of such an immovable is maintained.

In addition, the bill specifies certain regulatory powers relating to rental conditions and grants persons authorized to sign in the name of the Corporation the power to authorize another person to sign certain deeds or documents.

Finally, the bill releases the Corporation from the obligation to renew hypothecs held by it on certain immovables, and provides that, in the event of the public sale of a low-rental housing immovable, the administrative encumbrance affecting the immovable shall subsist.

ACTS AMENDED BY THIS BILL:

- Act respecting the Société d'habitation du Québec (R.S.Q., chapter S-8)
- Civil Code of Lower Canada
- Code of Civil Procedure (R.S.Q., chapter C-25)

Bill 189

An Act to amend the Act respecting the Société d'habitation du Québec and other legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 15.1 of the Act respecting the Société d'habitation du Québec (R.S.Q., chapter S-8) is amended

(1) by adding the words “adopted under subparagraph *l* of the first paragraph of section 86” after the word “Corporation” in the fifth line of the first paragraph;

(2) by inserting, after the first paragraph, the following paragraph:

“The president and chief executive officer, the secretary or a member of the personnel of the Corporation authorized to sign under the first paragraph may, by special written commission, authorize another person to sign a specified deed, document or writing in the name of the Corporation.”

2. Section 62 of the said Act is amended by replacing the words “paragraphs *c* and *d* of section 60” in the fifth line by the words “paragraph *b* of section 60 or the subsidies granted under paragraph *c* of that section.”

3. The said Act is amended by inserting, at the end of Division IV, the following subdivision:

“§ 6.—*Effects of financial assistance*

“**68.1** No low-rental housing immovable operated under an agreement between the Corporation and the owner of the immovable may be alienated, and no hypothec or servitude may be instituted on such an immovable, except with the authorization of the Corporation. This prohibition shall subsist, even after the expiration of the operating agreement, until the Corporation grants release of the administrative encumbrance established under section 68.6.

“**68.2** An owner who intends to alienate a low-rental housing immovable or to encumber it with a hypothec or servitude must, beforehand, give a notice of intention to the Corporation by registered mail.

The notice shall state the name of the owner of the immovable and his address, the name of the acquirer, assignee or future beneficiary, as the case may be, and his address, and shall include a description of the immovable that meets the requirements of article 2168 of the Civil Code of Lower Canada; in the case of a sale by licitation, the notice shall include the date and the place of the sale. In addition, the notice shall indicate the nature of the right in question, the conditions of the alienation, hypothec or servitude and the prestation agreed upon, if any. In the case of a sale, the price of the immovable shall not be greater than its market value.

“**68.3** The Corporation may acquire the low-rental housing immovable in preference to any other acquirer, on the conditions and for the prestation indicated in the notice given under section 68.2, less the amount of the subsidies paid by the Corporation for the construction and operation of the immovable.

Within 60 days of receipt of the notice, the Corporation must, by registered mail, inform the owner of its intention to exercise its right of pre-emption on the conditions and for the prestation indicated in the notice; if the Corporation fails to do so, it is deemed to have waived its right of pre-emption.

The Corporation must, where a hypothec or servitude is to be instituted, inform the owner, by registered mail, of its decision as regards the request for authorization, within 60 days of receipt of the notice.

“**68.4** Within 60 days after the expiration of the period provided for in section 68.3, the owner may, without the Corporation’s authorization, alienate the immovable in favour of the person mentioned in the notice given to the Corporation on the same

conditions and for the prestation required of that person or, with the Corporation's authorization, encumber the immovable with a hypothec or servitude. In the case of a transfer by onerous title, the proceeds of alienation must first be applied to the repayment of the amount of the subsidies paid by the Corporation for the construction and operation of the immovable.

The owner must forward a copy of the deed of alienation or of the deed instituting a hypothec or servitude to the Corporation within 15 days after registration.

The Corporation may, on request, extend the time limit provided for in the first paragraph to permit the completion of the alienation or the institution of the hypothec or servitude.

“68.5 The alienation of a low-rental housing immovable and any hypothec or servitude instituted on such an immovable in contravention of sections 68.1 to 68.4, are deemed null.

The Corporation may, if a low-rental housing immovable has been alienated or encumbered with a hypothec or servitude in violation of its right of pre-emption or without its authorization, apply to the Superior Court within one year from the time it becomes aware of the alienation, hypothec or servitude to demand that it be declared null.

“68.6 Every low-rental housing immovable within the meaning of section 68.1 is, by operation of law, encumbered with an administrative encumbrance for the protection of low-rental housing which shall subsist after the expiration of the operating agreement between the owner and the Corporation. The administrative encumbrance imposes on the owner the obligation to retain the immovable and prohibits him from changing its destination; it is subject to publicity and may be set up against third parties by the registration of a notice to that effect in the index of immovables. The Corporation may, however, grant release of the administrative encumbrance by means of a notice.

The filing of a notice granting release of the encumbrance removes the owner's obligation to obtain the authorization required by section 68.1 and extinguishes the Corporation's right of pre-emption.

“68.7 The Corporation may apply to the Superior Court for an injunction ordering any person not fulfilling his obligations under section 68.6 to take the steps required to restore the immovable to its former destination or to cease the commission of acts which are inconsistent with such destination.

The Corporation is dispensed from the obligation to furnish security to obtain an injunction under this section.

“68.8 The fifth paragraph of article 2131 of the Civil Code of Lower Canada does not apply to notices filed under section 68.6.

“68.9 The provisions of sections 68.1 to 68.8 take precedence over any stipulation to the contrary contained in an operating agreement between the Société d’habitation du Québec and a non-profit organization or a housing cooperative, even prior to (*insert here the date of introduction of this Act*).

“68.10 The provisions of sections 68.1 to 68.8 cease to apply to an owner of a low-rental housing immovable who holds a right of emphyteusis granted by a municipality or a public body on the land on which the immovable is situated, on the date on which that right is extinguished.”

4. Section 86 of the said Act is amended

(1) by replacing subparagraph *l* of the first paragraph by the following subparagraph:

“(l) adopt by-laws for its internal management and the conduct of its affairs and, if necessary, delegate certain powers conferred upon it by this Act to the president and chief executive officer, the secretary or another member of its personnel;”;

(2) by inserting the letter “*g*,” after the word “subparagraphs” in the first line of the second paragraph.

5. Article 2081*a* of the Civil Code of Lower Canada is amended by inserting the words “or the Société d’habitation du Québec” after the words “Québec Farm Credit Bureau” in the second paragraph.

6. Article 696 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by adding, after paragraph 4, the following paragraph:

“(5) the administrative encumbrance affecting a low-rental housing immovable.”

7. Section 3 has effect from (*insert here the date of introduction of this Act*).

8. This Act comes into force on (*insert here the date of assent to this Act*).