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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 123

## **An Act to amend the Code of Civil Procedure**

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### **Introduction**

**Introduced by  
Mr Gil Rémillard  
Minister of Justice**

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## EXPLANATORY NOTES

*This bill amends the Code of Civil Procedure in respect of three aspects of appeal.*

*First, it establishes that motions for leave to appeal to the Court of Appeal must be served on the adverse party and filed with the office of the court within thirty days of the judgment in first instance but that their presentation may lie to a judge of the Court of Appeal as soon as possible after the motion is served and filed.*

*Moreover, the bill provides, in respect of appeals submitted to a judge of the Court of Appeal for authorization, that the judgment authorizing the appeal will henceforth stand for the inscription in appeal.*

*Finally, the bill grants to judges of the Court of Appeal seized with a decision of the Superior Court relative to an extraordinary recourse the power to order the suspension of any proceedings the execution of which is not suspended by such appeal.*

## ACT AMENDED BY THIS BILL:

- Code of Civil Procedure (R.S.Q., chapter C-25).

# Bill 123

## An Act to amend the Code of Civil Procedure

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Article 494 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing the first two paragraphs by the following paragraphs:

**“494.** An application for leave to appeal in the cases contemplated in paragraph 4 of article 26 and in article 511 must be presented by motion accompanied by a copy of the judgment and of the documents of the contestation, if they are not reproduced in the judgment. It must indicate the duration of the proof and hearing in first instance, the conclusions sought by the appellant and a summary statement of the grounds which the appellant intends to set up.

The motion must be served on the adverse party and filed with the office of the court within thirty days of the date of judgment; it must be presented to a judge of the Court of Appeal as soon as possible.

If the application is granted, the judgment authorizing the appeal shall stand for the inscription in appeal. The clerk of appeals shall transmit a copy of the judgment without delay to the judge whose judgment is appealed from and to the office of the court in first instance; he shall also transmit a copy, without delay, by registered or certified mail, to the parties or their attorneys.”

**2.** Article 499 of the said Code is amended by replacing the first paragraph by the following paragraph:

**“499.** Within ten days following receipt at the Appeals Office of the inscription or, as the case may be, within ten days following

receipt by the respondent of the copy of the judgment authorizing the appeal, the respondent must file a written appearance with the Appeals Office.”

**3.** Article 834.1 of the said Code is amended by adding, at the end, the following paragraph:

“In the same manner, a judge of the Court of Appeal may, at any time after the filing of an inscription in appeal, order the suspension of any proceedings the execution of which is not suspended by the appeal.”

**4.** Article 850 of the said Code is repealed.

**5.** This Act comes into force on 1 July 1989.