

NATIONAL ASSEMBLY

FIRST SESSION

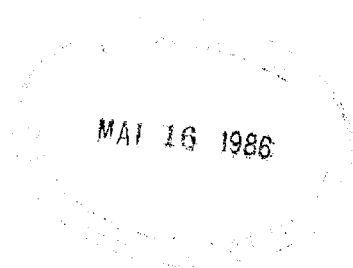
THIRTY-THIRD LEGISLATURE

Bill 72

An Act to amend the Code of Civil Procedure

Introduction

**Introduced by
Mr Herbert Marx
Minister of Justice**



**Québec Official Publisher
1986**

EXPLANATORY NOTES

This bill proposes amendments to the Code of Civil Procedure, mainly in the matter of seizure.

Thus, it doubles the amount in value of household furniture that may be withdrawn from seizure. It also doubles the basic amount of the unseizable portion of a debtor's salary and wages and allows the debtor to take account of a de facto spouse in computing that portion. Further, it provides that the principal residence of a debtor is exempt from seizure where the principal amount of the claim is less than \$5 000, with specified exceptions. It provides in addition that the execution of a writ of expulsion will not be possible on a Saturday or a non-juridical day without the authorization of a judge written and signed with his own hand.

Finally, the bill makes several other amendments to the Code of Civil Procedure with a view to promoting the better administration of justice.

ACT AMENDED BY THIS BILL:

— Code of Civil Procedure (L.R.Q., chapitre C-25)

Bill 72

An Act to amend the Code of Civil Procedure

THE PARLIAMENT OF QUEBEC ENACTS AS FOLLOWS:

1. Article 39 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended

(1) by inserting, after the word “Saint-François” in the second line of the first paragraph, the following: “, Mégantic”;

(2) by replacing the following: “753 and 834”, in the fourth line of the first paragraph, by the following: “734.0.1, 734.1, 753 and 834.1”;

(3) by replacing the words “district of Bedford” in the last two lines of the second paragraph by the words “districts of Bedford and Mégantic”.

2. Article 511 of the said Code is amended by inserting, after the figure “29” in the third line of the first paragraph, the words “and that the pursuit of justice requires that leave be granted”.

3. Article 552 of the said Code is amended

(1) by replacing the words “two thousand dollars” in the second line of subparagraph 2 of the first paragraph by the following: “\$4 000”;

(2) by replacing the words “two thousand dollars” in the fourth and fifth lines of the third paragraph by the following: “\$4 000”;

(3) by replacing the following: “\$2 000”, in the last line of the third paragraph, by the following: “\$4 000”.

4. Article 553 of the said Code is amended

(1) by replacing the figures “60” and “10” in the first line of subparagraph *a* of the first paragraph of paragraph 11 by the figures “120” and “20”, respectively;

(2) by replacing the figure “40” in subparagraph *b* of the first paragraph of paragraph 11 by the figure “80”;

(3) by adding, after the first paragraph of paragraph 11, the following paragraph:

“The person to whom the debtor is married or, if he is not married, the person with whom the debtor has been cohabiting for three years or for one year if a child has issued from their union is considered to be the spouse of the debtor.”

5. The said Code is amended by inserting, after article 553.1, the following article:

“553.2 An immovable serving as the principal residence of the debtor is also exempt from seizure where the principal amount of the claim under which it could be seized is less than \$5 000, except where

(1) the claim is secured by a pledge, privilege or legal or conventional hypothec on the immovable;

(2) the claim is a claim for support;

(3) the immovable is already validly under seizure.”

6. Article 565 of the said Code is amended by adding, at the end, the following paragraph:

“In no case may the writ be executed on a Saturday or on a non-judicial day, except with authorization of a judge written and signed with his own hand.”

7. Article 753 of the said Act, amended by section 12 of chapter 29 of the statutes of 1985, is again amended by replacing the words “an interlocutory” in the last line of the English text by the words “a provisional”.

8. Article 813 of the said Code is amended by inserting, after the word “Québec” in the first line of the first paragraph, the following: “or on the Divorce Act, 1985 (Statutes of Canada, 1986, chapter 4)”.

9. Sections 3 to 5 do not apply to a seizure for which the writ was issued before 1 August 1986.

10. Section 8 has effect from (*insert here the date of coming into force of the Divorce Act, 1985*).

11. This Act comes into force on the day it is assented to, except sections 3 to 6 and 9, which will come into force on 1 August 1986.