



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 87

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

Introduction

**Introduced by
Mr André Bourbeau
Minister of Municipal Affairs**

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EXPLANATORY NOTES

The object of this bill is to amend the Act respecting the Régie du logement and the Civil Code so as to determine the cases where the conversion of a rental residential immovable to divided co-ownership is prohibited and cases where it can be authorized. The bill also proposes measures to protect tenants against harrassment, repossession of the dwelling by the owner and unwarranted vacating of the dwelling during the performance of work.

The bill replaces subdivision 3 of Division II of Chapter III of Title I of the Act respecting the Régie du logement and, in so doing, in the case of an immovable containing a dwelling or having contained a dwelling during the preceding ten years,

— prohibits, in the municipalities of the Communauté urbaine de Montréal, the conversion of any such immovable to divided co-ownership, unless an exception is granted;

— empowers the council of other municipalities to pass a by-law to restrict conversions or make them subject to certain conditions;

— requires, where conversions are permitted, prior authorization from the Régie du logement.

The bill requires any owner wishing to convert his immovable to notify his tenants and provide prospective buyers with an expert's report and an information circular. It makes restrictions as to the type of work that can be undertaken during the conversion. It gives tenants the right to remain in their dwelling for an indefinite time and a right of first refusal when the dwelling is sold.

The proposed amendments to the Civil Code are designed to make temporary vacation of the premises during the performance of work subject to the agreement of the tenant or, failing that, to the authorization of the Régie, and require three months' notice and an indemnity for any reasonable expenses incurred by the tenant.

Finally, the bill restricts the repossession of a dwelling by the owner of an undivided portion of an immovable, regardless of the number of dwellings it contains.

ACTS AMENDED BY THIS BILL

- The Act respecting the Régie du logement (R.S.Q., chapter R-8.1)
- The Civil Code

Bill 87

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 28 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), amended by section 11 of chapter 63 of the statutes of 1987, is again amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) pertaining to any of the matters contemplated in Division II, except in section 54.5, in the third and fourth paragraphs of section 54.6 and in section 54.10.”

2. Subdivision 3 of Division II of Chapter III of Title I of the said Act is replaced by the following subdivision:

“§ 3.— *Conversion of a rental residential immovable to divided co-ownership*

“**51.** Without the authorization of the Régie, no immovable comprising or having comprised, in the ten years preceding the application for authorization, at least one dwelling may be converted to divided co-ownership.

Conversion is prohibited if the immovable is owned by a housing cooperative, a non-profit organization or a municipal housing corporation and was built, acquired, restored or renovated within the scope of a government housing-assistance program.

Conversion is prohibited in the municipalities of the Communauté urbaine de Montréal, unless an exception is granted pursuant to section 54.11 by a resolution of the council of the municipality in which the immovable is situated.

In any other municipality, conversion may be restricted or made subject to certain conditions by a by-law adopted pursuant to section 54.12. This paragraph does not apply to an immovable in which all the dwellings are occupied by undivided co-owners.

“52. Where the owner of an immovable intends to convert it to divided co-ownership, he must send each of his lessees a notice of intent conformable to the model provided in Schedule I and transmit a copy thereof to the Régie, before he approaches the municipality or the Régie regarding the conversion and before he has any prospective purchaser visit the dwelling or directs the carrying out of any reading, appraisal or other activity preparatory to the conversion.

The lessee must be given twenty-four hour’s notice of any such visit or activity.

“53. From the date of the notice of intent until such time as a majority of voting rights in the general meeting of co-owners are held by occupant co-owners, no work may be performed without the authorization of the Régie except maintenance work, urgent and necessary repairs for the preservation of the immovable and work performed in the dwelling occupied by a co-owner.

Where the Régie is called upon to authorize work, it must consider the immediate usefulness of the work for the lessee. If the Régie authorizes the work, it may impose such conditions as it deems just and reasonable and, if temporary vacation of the premises by the lessee is necessary, it shall grant him an indemnity payable on the date he vacates the premises.

“54. From the date of the notice of intent, the right to retake possession of the dwelling cannot be exercised against the lessee unless the lease was transferred to him after the sending of the notice of intent or unless he became a lessee after the authorization to convert was granted.

“54.1 An application for authorization to convert an immovable to divided co-ownership must be produced by the owner within six months after the date of the notice of intent or, where such is the case, after the date of the resolution of the council granting an exception or the date of the certificate of the municipality attesting that the conversion project is consistent with the municipal by-law, whichever

occurs last. The application must be accompanied with the resolution or the certificate, where applicable.

“54.2 The Régie shall refuse to authorize the conversion where the immovable has already undergone work with a view to preparing it for conversion and evicting a lessee or where possession of a dwelling has already been retaken illegally. In any such case, no new application may be produced until three years have elapsed from the date of refusal.

The Régie shall not refuse to grant authorization on the ground that the notice of intent has a formal defect or was not sent to the lessee if the owner proves that the lessee was in no way adversely affected thereby.

“54.3 Where the Régie authorizes a conversion, it may impose such conditions as it deems just and reasonable. It must identify, in its decision, the lessees against whom the right to retake possession cannot be exercised.

“54.4 No declaration of co-ownership may be registered unless the authorization of the Régie is appended thereto.

If the declaration of co-ownership is not registered within one year of the authorization, the authorization is of no effect. The Régie may, for reasonable cause, extend the time for registration so long as the application for an extension is submitted before the expiry of that time.

“ 54.5 The owner must, before the first sale of each dwelling, provide the prospective purchaser with an expert’s report and, where the immovable comprises five or more dwellings, an information circular.

The expert’s report must contain

(1) an appraisal of the wear of the common parts of the immovable and of their conformity with structural solidity, sanitation and safety standards;

(2) an indication of major repairs likely to be needed within five years and an estimate of the cost thereof;

(3) the identification of mechanical systems shared by two or more dwellings;

(4) an indication of the soundproofing and insulation levels of the dwelling and of the immovable, if known;

(5) a general appraisal of the compliance of the building with safety and fire prevention standards.

The information circular must contain

- (1) the name of the owner and of any person who prepared the principal documents pertaining to the carrying out and administration of the conversion project;
- (2) a plan of the overall project;
- (3) a statement of any existing rights of emphyteusis or superficies;
- (4) information as to the management of the immovable, including a budget forecast and a statement of any leases granted by the owner on the exclusive or common parts.

The budget forecast must be prepared by a qualified person on the basis of a whole year of occupancy of the immovable. It must indicate, for each fraction, the annual expenses to be paid including, where such is the case, the contribution to the contingency fund. The budget forecast must be accompanied with the most recent balance sheet and statement of revenues and expenditures as well as a document containing the latest available information as to debts and claims.

A copy of the authorization of the Régie and a summary of the declaration of co-ownership or, if it is unavailable, a summary of the draft declaration, must be appended to the information circular.

“54.6 The first sale of a dwelling cannot be made to any person other than the lessee unless it was first proposed to the lessee at the same price and on the same terms and conditions as those agreed with the other person.

The lessee must, within one month after receiving the offer to sell, inform the owner in writing of his decision to accept or refuse the offer; otherwise, the lessee is deemed to have refused the offer.

If the deed of sale is not signed within two months after the acceptance of the offer or within any longer period agreed by the parties, the owner may sell the dwelling without being required to offer it anew to the lessee, unless the deed of sale was not signed for a reason beyond the lessee's control.

The offer to sell made to the lessee must be conformable to the model provided in Schedule II, accompanied with the expert's report and, where the immovable comprises five or more dwellings, the information circular.

“54.7 If the sale is made in violation of the lessee’s right of preemption, the lessee may, within one year from the time he is aware of the sale, apply to the Superior Court for its annulment.

“54.8 Any interested party, including the Régie, may apply to the Superior Court for the cancellation of the registration of a declaration of co-ownership if it was effected without the authorization of the Régie and for the annulment of any agreement subsequent to the registration.

“54.9 The lessee may recover damages for his final departure from the dwelling as a result of an illegal retaking of possession or because of work effected with a view to preparing the immovable for conversion and evicting the lessee, whether or not he had agreed to leave the dwelling.

The lessee may also demand punitive damages.

“54.10 The purchaser of a fraction in a rental residential immovable converted to divided co-ownership may, within three years after the signing of the deed of sale, claim a reduction of his obligations from the seller, if the expert’s report, the information circular or the deed of sale contains false, misleading or incomplete information on a substantial element, or if the seller failed to provide him with the expert’s report or the information circular. The court shall dismiss the application if the seller proves that the purchaser was in no way adversely affected thereby.

“54.11 The council of a municipality of the Communauté urbaine de Montréal having a planning advisory committee established under the Act respecting land use planning and development (R.S.Q., chapter A-19.1), and the council of the city of Montréal may, by by-law,

(1) prescribe the procedure for applying for an exception to the prohibition to convert an immovable to divided co-ownership and the fee exigible for the consideration of such an application;

(2) designate sectors or classes of immovables, or any combination of the two, in respect of which an exception may be granted.

The council of a municipality where such a by-law is in force may grant the exception if it is satisfied of the advisability thereof, taking account in particular of

(1) the vacancy rate in rental dwellings;

(2) the availability of comparable dwellings;

- (3) the housing needs of certain categories of persons;
- (4) the physical characteristics of the immovable;
- (5) the fact that the immovable was built, purchased, restored or renovated within the scope of a municipal housing-assistance program, where such is the case.

Not less than 15 days before the sitting at which the council is to rule on the application for the exception, the clerk or the secretary-treasurer of the municipality shall, at the applicant's expense, publish a notice in accordance with the Act governing the municipality. The notice must indicate the date, time and place of the sitting of the council and the nature of the exception applied for; it must designate the immovable by means of the name of the thoroughfare and the number of the immovable or, failing that, the cadastral number; it must indicate that any interested party may be heard by the council with respect to the application.

The council shall render its decision after receiving the opinion of the planning advisory committee, where such is the case.

A copy of the resolution whereby the council renders its decision must be sent to the applicant.

54.12 To meet rental housing needs, the council of a municipality that does not belong to the Communauté urbaine de Montréal may, by by-law,

- (1) designate sectors or classes of immovables, or any combination of the two, where conversion to divided co-ownership is prohibited;
- (2) make such conversion subject to conditions which may vary according to the sector, the class of immovable, or any combination of the two.

3. Section 91 of the said Act is amended by adding the word and figure "or 54.9" after the figure "39" in paragraph 3.

4. The said Act is amended by inserting, after section 112, the following section:

112.1 Every person who, with a view to converting a rental residential immovable to divided co-ownership or evicting a lessee from his dwelling, harasses a lessee in such a manner as to limit his right to peaceful enjoyment of his dwelling is guilty of an offence and is liable, in addition to costs, to a fine of not less than five thousand dollars nor more than twenty-five thousand dollars."

5. Section 116 of the said Act is amended by inserting the words and figure “section 112.1 of this Act or” after the word “under” in the first line of the second paragraph.

6. Sections 136.1 and 136.2 of the said Act are repealed.

7. The said Act is amended by adding, after section 147, the following schedules:

“SCHEDULE I

“NOTICE OF INTENT TO CONVERT
A RENTAL RESIDENTIAL IMMOVABLE TO DIVIDED CO-OWNERSHIP
(ACT RESPECTING THE RÉGIE DU LOGEMENT, SECTION 52)

.....
(date)

.....
(name of lessee)

.....
(address of lessee)

As the owner of the immovable situated at

.....
(address of immovable)

and in which you are the lessee of a dwelling, I hereby notify you of my intent to convert the immovable to divided co-ownership and to apply to the Régie du logement for the authorization required for the conversion.

.....
(signature of owner)

.....
(name of lessor, if different)

.....
(address of lessor)

MANDATORY PARTICULARS

From the moment the notice of intent is given,

• the lessee is entitled to remain on the premises and shall not be evicted from his dwelling by way of retaking of possession unless the lease was transferred to him after the sending of the notice or unless he became a lessee after the Régie du logement authorized the owner of the immovable to proceed to the conversion;

• only maintenance work or urgent repairs necessary for the preservation of the immovable may be carried out without the authorization of the Régie du logement. If the Régie authorizes the carrying out of work requiring temporary vacation by the lessee, it shall fix the amount of indemnity that the owner will be required to pay to the lessee to compensate him for reasonable expenses incurred by him by reason of the vacation;

• the prohibition against the lessor’s retaking possession of a dwelling and carrying out repairs shall cease if the owner notifies the lessee in writing that he no longer intends to convert the immovable or if no application is filed with the Régie within the prescribed time;

• twenty-four hour’s notice must be given to the lessee where the lessor intends to make or carry out readings, appraisals or other activities prior to the conversion or to have the dwelling visited by a prospective purchaser.

No declaration of divided co-ownership may be registered in respect of a rental residential immovable unless the Régie du logement has given its prior authorization to the owner to proceed with the conversion. The authorization must contain the names of the lessees against whom the right to retake possession can no longer be exercised by the lessor or any subsequent purchaser of the dwelling.

Before selling a dwelling for the first time, the owner is required to offer it to the lessee at the same price and on the same conditions as those agreed with another purchaser. The form to be used by the owner for the offer to the lessee is that prescribed by law.

If necessary, the lessee may obtain further information from the Régie du logement.

“SCHEDULE II

“OFFER TO SELL

(ACT RESPECTING THE RÉGIE DU LOGEMENT, SECTION 54.6)

.....
(name of lessee)

.....
(address of lessee)

As a lessee having a right of first refusal in respect of the following dwelling.....

..... ,
you are hereby offered to purchase the said dwelling at the same price and on the same conditions as agreed with

.....
(name of third party having promised to purchase the immovable)

.....
(address)

and which I intend to accept should you refuse the offer.

The price is and the conditions are the following:

.....
.....
.....

You have one month, after receiving this offer, to inform me in writing of your decision to purchase or not to purchase the dwelling. No answer on your part shall be considered as a refusal to purchase.

In conformity with the Act respecting the Régie du logement, you will find enclosed

- an expert's report;
- an information circular (if the immovable comprises five dwellings or more).

If you accept the offer made to you, you will have two months from the acceptance to sign the deed of sale, unless we agree on a longer period of time.

.....
(Signature of owner)

.....
(Date)

.....
.....
(Address of owner)

MANDATORY PARTICULARS

• Neither the current owner nor any subsequent purchaser may retake possession of a dwelling in respect of which the lessee is identified in the authorization of the Régie du logement as one of the persons against whom the right to retake possession cannot be exercised.

• If necessary, a lessee may obtain further information from the Régie du logement.”

3. Articles 1653 to 1653.2 of the Civil Code of Lower Canada are replaced by the following articles:

“**1653.** Major improvements or major repairs other than urgent repairs shall not be made in a dwelling before the lessor has informed the lessee thereof and, if temporary vacation by the lessee is necessary, before the lessor has offered him an indemnity equal to any reasonable expenses he will have to incur by reason of the vacation.

“**1653.1** The notice must indicate

- (1) the nature of the work;
- (2) the date on which it is to begin and its duration;
- (3) where required, the necessary period of vacation and the amount of the indemnity offered to the lessee;
- (4) any other conditions under which the work will be carried out if it is of such a nature as to substantially reduce the enjoyment of the premises.

The notice must be given at least ten days before the date on which the work is to begin or, if a period of vacation of more than one week is required, at least three months before that date.

“**1653.1.1** The indemnity to which the lessee is entitled by reason of temporary vacation is payable on the date he vacates the premises. If the indemnity proves inadequate, the lessee may be reimbursed for any reasonable expenses incurred beyond the amount of the indemnity.

“**1653.1.2** If the notice of the lessor provides for temporary vacation, the lessee shall, within ten days after receiving the notice,

notify the lessor of his intention to vacate or to remain on the premises; failing such notice, the lessee is deemed to have refused to vacate the premises.

If the lessee refuses to vacate the premises, the lessor may, within ten days after the refusal, apply to the court for a ruling on the expediency of the vacation. The court may impose conditions it considers just and reasonable.

“1653.1.3 A lessee who consents to vacate the dwelling temporarily or who has received a notice that does not contemplate the vacation of the dwelling may, within ten days after receiving the notice, apply to the court to have any immoderate condition modified or suppressed. The court may impose conditions it considers just and reasonable.

“1653.1.4 The application of the lessor or of the lessee is heard and decided by preference. It suspends the carrying out of the work unless the tribunal orders otherwise.

“1653.1.5 The lessee cannot contest the nature or the expediency of the work.

The lessor has the burden of proving that the conditions are reasonable.

“1653.2 No notice is required and no contestation is allowed where the improvements or repairs made have been the subject of an agreement between the lessor and the lessee within the scope of a government housing preservation and restoration programme.”

9. Article 1659 of the said Code is amended by adding, at the end, the following paragraph:

“The owner of an undivided portion of an immovable cannot retake possession of any dwelling therein unless

(1) there is only one other owner, the latter being the owner’s spouse or cohabitant;

(2) the immovable comprises four dwellings or less and the title of the owner was registered before (*insert here the date of introduction of this bill*) or, where the owner signed a promise to purchase or to sell for which a deposit or advance was given before that date, before 1 July 1988.”

10. No immovable situated in a municipality other than a municipality in the Communauté urbaine de Montréal may be converted to divided co-ownership before 1 July 1988, unless the municipality has passed a by-law under section 54.12.

This section does not apply to an immovable in which all the dwellings are occupied by undivided co-owners.

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