

THIRD SESSION

THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 41

**An Act to amend the Act to establish the Régie du logement
and to amend the Civil Code and other legislation**

First reading
Second reading
Third reading

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EXPLANATORY NOTES

The main object of this bill is to amend certain legislative provisions concerning the Régie du logement, to allow certain applications to be handled more quickly.

The proposed measures are designed

(a) to allow for the appointment of part-time commissioners where required by the circumstances, according to a procedure provided in the Act;

(b) to empower special clerks to decide certain applications concerning the recovery of rent or the resiliation of a lease where they are proceeded with by default, and to authorize the deposit of rents;

(c) to authorize commissioners to order the provisional execution of a decision despite a review or an appeal, in certain cases;

(d) to give power to the commissioners to adjudge costs attached to proceedings before the board and broaden the Government's regulation-making powers in this regard.

The bill also amends the Civil Code, to make the deposit of the whole or part of the rent subject to a leave from the tribunal, and to simplify the formulation of certain mandatory notices and the modalities of evidencing the extension of a lease in writing.

Finally, the bill proposes a certain number of technical amendments.

Bill 41

An Act to amend the Act to establish the Régie du logement
and to amend the Civil Code and other legislation

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

1. Section 6 of the Act to establish the Régie du logement and to amend the Civil Code and other legislation (1979, chapter 48) is amended by adding the following paragraph:

“In places where the Government considers it necessary because of the distance and where the number of demands does not appear to it to justify the appointment of a full-time commissioner, it may, notwithstanding section 13, authorize a part-time commissioner to devote his time to other work than that of the Régie.”

2. The said Act is amended by inserting, after section 30 the following sections:

“30.1 A member of the personnel of the board may be appointed as special clerk by the designated Minister, with the approval of the chairman of the board.

The special clerk has the powers of the commissioner in the cases where the Act expressly states it.

“30.2 The special clerk may decide

(1) every application the sole object of which is the recovery of the rent or the resiliation of the lease on the ground that the lessee has delayed payment of the rent for more than three weeks, or both the recovery of the rent and the resiliation of the lease on such ground if, at the time fixed for the hearing, one of the parties is absent even though he has been duly notified;

(2) the authorization to deposit the rent under article 1656 of the Civil Code.

“30.3 In the cases provided in paragraph 2 of section 30.2, the decision of the special clerk may be reviewed by a commissioner on the application of the lessee.

The application must be filed with the board within ten days of the date of the decision of the special clerk.

“30.4 The special clerk may refer to the commissioner any matter submitted to him if he considers that the interests of justice require it.”

3. Section 62 of the said Act is replaced by the following section:

“62. A party wishing to produce a witness may summon such witness by way of a writ of *subpoena* issued by the board and served within the time and in the manner provided in the rules of procedure.”

4. Section 73 of the said Act is replaced by the following section:

“73. Notwithstanding the Charter of human rights and freedoms (R.S.Q., chapter C-12), no advocate may act if the sole object of the application is the recovery of a debt not exceeding the jurisdiction of the Provincial Court in matters of recovery of small claims, exigible from a debtor resident in Québec by a person in his own name and account or by a tutor or curator in his official capacity.”

5. Section 74 of the said Act is replaced by the following section:

“74. Where a party is represented by a mandatary other than his spouse or an advocate, the mandatary must furnish to the board a written mandate, signed by the person he represents, indicating, in the case of a natural person, the causes preventing the party from acting himself. Such a mandate must be gratuitous.”

6. The said Act is amended by inserting, after section 79, the following section:

“79.1 At the time of the decision, the commissioner or the special clerk may adjudge the costs prescribed by regulation.”

7. Section 82 of the said Act is replaced by the following sections:

“82. Except where provisional execution is ordered, a decision is executory on the expiry of the time allowed for appeal or, as

the case may be, of the time allowed for review. A decision contemplated in Division II of chapter III is executory on being rendered.

In the case of a decision relating to an application concerning only the recovery of a debt contemplated in section 73, the decision is executory on the expiry of ten days from its date.

“82.1 The commissioner may, if he deems it expedient, order the provisional execution of the decision in whole or in part notwithstanding review or appeal, in the case of

- (1) major repairs;
- (2) eviction from premises where the lease is expired, resiliated or cancelled;
- (3) exceptional urgency.”

8. Section 90 of the said Act is amended by replacing the third paragraph by the following paragraph:

“Except where provisional execution is ordered, the application for review suspends the execution of the decision. However, the board may, on a motion, either order provisional execution when it has not been ordered, or bar or suspend it when it has been ordered.”

9. The said Act is amended by inserting, after section 90, the following section:

“90.1 The decision on the application for review is executory on the expiry of ten days from the date thereof unless immediate execution is ordered.”

10. Section 91 of the said Act is amended by adding the following paragraph:

“(4) for authorization to deposit the rent by a motion under article 1656 of the Civil Code.”

11. Section 93 of the said Act is replaced by the following section:

“93. The appeal must be brought within one month of the date of the decision, but one of the parties may, for reasonable cause, apply to the Court for leave to file an inscription in appeal of a case after the expiry of that time if no serious prejudice results thereby to the other party.”

12. Section 94 of the said Act is replaced by the following section:

“94. Except where provisional execution is ordered, an appeal suspends the execution of the decision.

The provisional execution of the whole or part of the decision may, on a motion, be ordered by a judge of the Provincial Court when such execution has not been ordered by the decision appealed from. It may, in the same manner, be barred or suspended when it has been ordered.”

13. Section 108 of the said Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) prescribing, where such is the case, the duties or costs exigible for any act performed by the board or by a party in the case of an application or a proceeding, and the duties or costs relating to the administration of the Act, establishing the standards, conditions and modalities applicable to the receipt, keeping and reimbursement of such duties or costs, and determining, where necessary, the maximum amount that a party may be bound to pay under section 79.1 for the whole or one or other of such acts.”

14. Section 144 of the said Act is replaced by the following section:

“144. The Government shall designate a minister responsible for the carrying out of Title I and section 136.2.”

15. Article 1651.1 of the Civil Code is amended by adding, at the end, the following paragraph:

“Where there is extension of a lease in writing and the parties agree to amend it, the lessor must remit to the lessee, before the beginning of the extension, either a duplicate of the written lease reproducing the mandatory particulars prescribed or a writing evidencing the amendments.”

16. Article 1651.4 of the said Code is replaced by the following article:

“1651.4 Every notice relating to the lease except that contemplated in article 1654.1 must be given in writing at the address indicated in the lease or in the writing contemplated in article 1651.1 or at the new address notified to the party after the making of the lease and drawn up in the same language as that of the lease or writing.”

17. Article 1656 of the said Code is amended by replacing the last paragraph by the following paragraph:

“The lessee may also deposit his rent at the tribunal if he gives the lessor a prior notice of ten days indicating the grounds for the deposit and if he obtains leave from the tribunal on a motion.”

The tribunal authorizes the deposit if, after hearing the lessee, it appears that he has a valid ground for making it. The tribunal fixes the amount and conditions of the deposit, if necessary.”

18. Article 1658.1 of the said Code is amended by replacing the last paragraph by the following paragraphs:

“The notice of increase of rent must indicate in dollars the increased rent or the amount of the increase expressed in dollars or as a percentage of the present rent.

When the rent is the subject of an application for fixing or for review, the increase may be expressed as a percentage of the rent to be determined by the tribunal.

The notice must, further, indicate, where such is the case, the term proposed for the extension of the lease.”

19. Article 1658.8 of the said Code, amended by section 1 of chapter 16 of the statutes of 1981, is again amended by striking out the last paragraph.

20. Section 19 does not apply to applications pending before the board on (*insert here the date of the coming into force of Bill 41*).

21. This bill will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on any later date or dates fixed by proclamation of the Government.