

THIRD SESSION

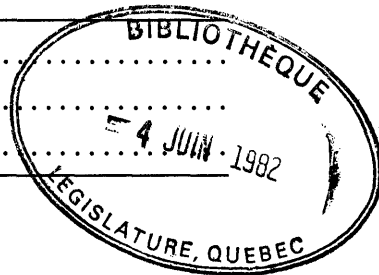
THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 76

**An Act to amend the Act
to preserve agricultural land**

First reading
Second reading
Third reading



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EXPLANATORY NOTES

This bill enacts various amendments to the Act to preserve agricultural land, to simplify its application in certain cases, to improve the administration of the Commission de protection du territoire agricole du Québec and to make certain technical adjustments.

Thus the bill proposes a new procedure of review of decisions and orders of the commission.

It specifies how persons in a designated agricultural region are prohibited from alienating a lot without the authorization of the commission if a right of alienation is retained on a contiguous lot or on a lot that would be contiguous were it not separated from the first by a public road, a railway, a public utility right of way, or the surface of a lot on which there exists a right recognized by law.

The bill enables the owner, in a designated agricultural region, of a vacant lot or a lot on which no right is recognized by law to build a residence on the lot before 31 December 1986 without requiring the authorization of the commission, if his title to the land has been registered before the effective date of a decree concerning the lot.

It allows, on the same conditions, the owner of several contiguous lots that are vacant or on which no acquired rights are recognized by law, and that are situated in the same municipality, to build one residence on those lots; if, on the same date, a person is the owner of several lots or a group of non-contiguous lots which are vacant or on which no acquired rights are recognized by law, he will not be entitled, on the same conditions, to build more than one residence in the same municipality.

The bill redefines "alienation" to include, in its definition under the Act, the expressions "declaratory act of ownership of property", "declaration of contribution to a partnership" and "voluntary partition or licitation".

The bill increases from seven to twelve the number of the members, including three vice-presidents, of the Commission de protection du territoire agricole du Québec.

The bill enacts, furthermore, that declarations, applications for authorization, applications for review, interventions, submissions and any document respecting the records of the commission must be addressed to the record office, and are filed therein from the date they are received.

It also provides that in a reserved area, only a natural person or the shareholders or partners whose principal occupation is agriculture may build a residence on the lot he, the corporation or the partnership owns, without the authorization of the commission.

The bill also specifies that the right to alienate a lot, subdivide it and use it for a purpose other than agriculture is extinguished on the conditions provided in the Act on that part of the surface of the lot on which the right exists and which was the subject of a deed of alienation.

The bill, finally, allows the alienation, subdivision or use for purposes other than agriculture of any lot which, on the conditions provided in the Act, is or becomes adjacent to a public road where sanitary water and sewer services are already authorized by municipal by-law, and eliminates that part of the surface area in respect of which there exists a right under the existing Act.

Bill 76

An Act to amend the Act
to preserve agricultural land

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

1. Section 1 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended

(1) by replacing paragraph 3 by the following paragraph:

“(3) “alienation” means any conveyance or any declaratory act of ownership of property, including sale with a right of redemption, emphyteutic lease, alienation for rent, declaration of contribution to a partnership, voluntary partition or licitation, transfer of a right contemplated in section 3 of the Mining Act (R.S.Q., chapter M-13) and transfer of timber limits under the Lands and Forests Act (R.S.Q., chapter T-9), except

(a) transmission owing to death;

(b) forced sale within the meaning of articles 1585 and 1591 of the Civil Code, including sale for unpaid taxes, redemption and any conveyance resulting from the Expropriation Act (R.S.Q., chapter E-24);

(c) giving in payment to the extent that it is an accessory clause to a deed of sale or deed of hypothec and that the person receiving in payment becomes the owner of the whole lot or of all of the lots concerned in the deed;”;

(2) by replacing paragraph 8 by the following paragraph:

“(8) “lot” means a parcel of land designated by a separate number on the official plan of the cadastre or on a subdivision plan prepared and deposited in accordance with articles 2174*b* and 2175 of the Civil Code, a parcel of land described in a deed of conveyance by

metes and bounds, or that part of a parcel of land designated by a separate number which remains after the separation of the parcels of land described in the deeds of conveyance by metes and bounds and the subdivisions, including those prepared and deposited in accordance with articles 2174*b* and 2175 of the Civil Code;”;

(3) by replacing paragraph 10 by the following paragraph:

(10) “subdivision” means the parcelling out of a lot by means of the deposit of a plan and book of reference pursuant in particular to article 2175 of the Civil Code or by means of the registration of a deed of alienation of part of that lot or of a real servitude affecting part of that lot;”.

2. Section 3 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“The commission may sue and be sued before the courts for purposes of the carrying out this Act.”

3. Section 4 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**4.** The commission is composed of not more than twelve members, including a president and three vice-presidents, appointed by the Government for a term of not more than five years. Once determined, their terms of office shall not be reduced.”

4. Section 5 of the said Act is amended by replacing the last paragraph by the following paragraph:

“It may have offices and hold its sittings anywhere in Québec.”

5. Section 15 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“All declarations, applications for authorization, applications for review, interventions, submissions and any documents respecting the records of the commission must be addressed to the record office, and are filed therein on the date of receipt.”

6. Section 18 of the said Act is replaced by the following section:

“**18.** At the request of an interested party, the commission may, for cause, review or revoke any decision or order, after giving any person concerned the opportunity to make representations.

The application for review must be filed in the record office of the commission within sixty days from the date on which a decision or order was rendered. The commission may, for cause, extend that

time limit upon request provided that not more than six months have elapsed since the date on which the decision or order was rendered.

Where a decision or an order whose review is applied for was not rendered after the holding of a hearing or a public hearing, the commission must hold a public hearing to review the decision or the order if an interested party so requests.

Any decision or order vitiated by a clerical error or by any other error of form may be corrected at any time *ex officio* or upon request by the commission; the same applies to any decision which, through obvious oversight, grants more than was applied for or fails to rule on a part of the application."

7. Section 29 of the said Act is replaced by the following section:

"29. No person may, in a designated agricultural region, except with the authorization of the commission, effect the alienation of a lot while retaining a right of alienation on a contiguous lot or on a lot that would otherwise be contiguous if it were not separated from the first by a public road, a railway, a public utility right of way, or the surface of a lot in respect of which there exists a right recognized in virtue of Division IX.

The surface of a lot in respect of which a right is recognized in virtue of Division IX is not deemed contiguous."

8. Section 31 of the said Act is replaced by the following section:

"31. In a designated agricultural region, the owner of a vacant lot or lot in respect of which rights are not recognized in virtue of Division IX may, without the authorization of the commission, if his land title is registered before the date of the coming into force of a decree affecting the lot and contemplated in section 22 or 25, erect thereon one residence, provided that he does so before 31 December 1986 and uses for that purpose an area not exceeding one half-hectare.

Where, on the same date, a person is the owner of several contiguous lots which are vacant or in respect of which rights are not recognized in virtue of Division IX and are situated in the same municipality, he may, on the same conditions, erect one residence on those lots and use for that purpose an area not exceeding one half-hectare.

Where, on the same date, a person is the owner of several lots or a group of non-contiguous lots which are vacant or in respect of

which rights are not recognized in virtue of Division IX, he shall not, on the same conditions, erect more than one residence in the same municipality.

This section does not exempt the lot or the contiguous lots on which the owner may build a residence from the application of sections 28 to 30.”

9. Section 40 of the said Act is amended by replacing the first paragraph by the following paragraphs:

“**40.** In a reserved area, a natural person whose principal occupation is agriculture may, without the authorization of the commission, erect on his lot a residence for himself, for his child or for his employee.

An agricultural operations corporation or partnership may also erect on its lot a residence for a shareholder or member whose principal occupation is agriculture.”

10. Section 102 of the said Act is replaced by the following section:

“**102.** The right recognized by section 101 subsists notwithstanding the interruption or abandonment of the use other than agriculture. It is extinguished, however, by the fact that that part of the surface in respect of which the right exists is left uncropped for over one year from the time when the provisions of this Act requiring the authorization of the commission were made applicable to that lot. It is also extinguished on the same conditions governing the part of the surface of that lot in respect of which it exists and which has been alienated.”

11. Section 103 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**103.** A person may, without the authorization of the commission, enlarge that part of the surface of a lot in respect of which there exists a right recognized by section 101.”

12. The second paragraph of section 105 of the said Act is repealed.

13. The said Act is amended by inserting, after the title of Division X, the following section:

“**106.** The commission or any person, whenever it or he sees fit, may file any decision or order for registration by producing two certified copies thereof.

On the filing of the decision or order, the registrar is required to register it and to make the required entry of it in the index of immoveables opposite all the lots contemplated by the said decision or order.”

14. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (*insert here the reference to the chapter number of the Canada Act in the compilation of the Acts of the Parliament of the United Kingdom for 1982*).

15. This Act will come into force on the date fixed by government proclamation, except the provisions excluded by the proclamation, which will come into force on any later dates fixed by government proclamation.