

THIRTY-FIRST LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 7

**An Act to amend the Real Estate Tax
Refund Act**



First reading

Second reading

Third reading

M. MICHEL CLAIR

Minister of Revenue

L'ÉDITEUR OFFICIEL DU QUÉBEC

1980

EXPLANATORY NOTES

This bill provides for new measures to be introduced in the Real Estate Tax Refund Act to allow sub-lessees as well as co-lessees and co-owners to be eligible for real estate tax refunds from 1 January 1980.

The bill provides a new definition of the word "dwelling" in order to include certain non-subsidized dwellings and extend the scope of the definition where the dwelling is a room. Certain concordance provisions are proposed to give effect to the amendments mentioned earlier.

Finally, the bill modifies the concept of total revenue used as the basis for computing real estate tax refunds for the purpose of excluding any amount received under the subsidy program for children in day care centres established pursuant to the Act respecting health services and social services (R.S.Q., c. S-5) and the program established by the Act respecting child day care (1979, c. 85).

Bill 7

An Act to amend the Real Estate Tax Refund Act

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

1. Section 1 of the Real Estate Tax Refund Act (1979, c. 12) is amended by replacing paragraph *c* by the following paragraph:

“(c) “dwelling” means a dwelling situated in Québec in which a person ordinarily lives and which he designates as his principal place of residence, except

(i) a dwelling administered by a municipal housing bureau established under the Act respecting the Société d’habitation du Québec (R.S.Q., c. S-8) unless it is a dwelling situated in a housing cooperative administered in accordance with that act and the regulations made under that act, and if in this last case, no rent supplement is paid in respect of that dwelling;

(ii) a dwelling situated in a hospital centre or reception centre contemplated in the Act respecting health services and social services (R.S.Q., c. S-5); and

(iii) a room situated in a dwelling where less than three rooms are rented or offered for rent to persons dealing at arm’s length, within the meaning of the Taxation Act, with the lessor;”.

2. Section 2 of the said act is amended by replacing the first paragraph by the following paragraph:

“**2.** A person is entitled to a real estate tax refund for a year if, on 31 December of that year,

(a) he lives with his spouse in a dwelling which he himself or that spouse owns, leases, or sub-leases;

(b) he has no spouse and lives in a dwelling in which he supports another person with whom he lives and in whose respect he deducts, for the year, an amount under paragraph *b* of section 695 of the Taxation Act (R.S.Q., c. I-3), and of which he himself or that other person is the owner, lessee or sub-lessee; or

(c) he is not contemplated in paragraphs *a* and *b* and lives in a dwelling of which he is the owner, lessee or sub-lessee.”

3. Section 5 of the said act is replaced by the following section:

“5. The persons contemplated in section 2 are deemed to be the owners, lessees or sub-lessees of the dwelling where they live only when they are the owners thereof registered at the registry office or the lessees or sub-lessees thereof responsible for payment of the rent.

A person who pays a rent to another person who lives in the same dwelling and who is responsible, or would be so but for this paragraph, for payment of the rent in respect of that dwelling cannot be considered as a lessee or sub-lessee responsible for payment of the rent of the dwelling where he lives.”

4. Section 9 of the said act is amended by replacing paragraph *d* by the following paragraph:

“(d) any other amount received that is excluded in computing income for the purposes of the Taxation Act under paragraphs *a*, *b* and *c* of section 489, sections 491 and 494 to 496 of that act and the regulations made under section 488 of that act, except a work income supplement received under the Act respecting work income supplement (1979, c. 9) and an amount received under the program of subsidies for children in day care centres established pursuant to the Act respecting health services and social services (R.S.Q., c. S-5) or by the Act respecting child day care (1979, c. 85); and”.

5. Section 12 of the said act is replaced by the following section:

“12. (1) In the case of a person who, on 31 December in a year, lives in a dwelling of which he is the sole owner or of which he is co-owner if no other co-owner of that dwelling lives therein on that date, the real estate tax ascribed to that dwelling is an amount equal to the proportion of real estate tax for the year in respect of the immovable where that dwelling is situated, represented by the proportion between the area of the immovable used for that dwelling and the total area of that immovable.

(2) Where two or more persons, on 31 December in a year, live in one dwelling which they own as co-owners, the real estate tax ascribed to that dwelling, in respect of one of these persons, is an amount equal to the product obtained by multiplying the amount that would be computed under subsection 1 in respect of that dwelling if, on that date, that person were the sole owner of that dwelling and lived alone therein, by the proportion represented by the ratio between the share of that person in the ownership of that dwelling and the shares of all the persons who file, for the year, with the Minister, an application contemplated in section 15 concerning a real estate tax refund in respect of that dwelling and in respect of which a refund must be paid by the Minister."

6. Section 13 of the said act is replaced by the following section:

"13. (1) In the case of a person who, on 31 December in a year, lives in a dwelling of which he is the sole lessee or of which he is co-lessee if no other co-lessee of that dwelling lives therein on that date, the real estate tax ascribed to that dwelling is an amount equal to the proportion of real estate tax for the year in respect of the immovable in which that dwelling is situated, reduced, where such is the case, by the amount computed in accordance with section 12, represented by the proportion between the rent paid or payable to the owner of the building for the month of December of that year in respect of that dwelling and the aggregate of the rents paid or payable to that owner for that month in respect of the immovable and of a reasonable amount representing the rents that would actually have been paid to that owner for that month in respect of any part of that immovable that is not leased, other than that contemplated in section 12, if that part had been leased during that month.

(2) Where two or more persons, on 31 December in a year, live in one dwelling as co-lessees, the real estate tax ascribed to that dwelling in respect of one of such persons is an amount equal to the product obtained by multiplying the amount that would be computed under subsection 1 in respect of that dwelling if, on that date, that person were the sole lessee of that dwelling and lived alone therein, by the proportion represented by the ratio between the amount paid or payable by him for the month of December of that year in respect of that dwelling and the aggregate of the amounts paid or payable for that month in respect of that dwelling by such of those persons as file with the Minister an application contemplated in section 15 in respect of that dwelling and are entitled to a real estate tax refund in its respect for the year.

(3) Where a person who, on 31 December in a year, lives in a dwelling of which he is the sole sub-lessee, or of which he is sub-lessee with another person if no other sub-lessee lives therein on that date, the real estate tax ascribed to that dwelling is an amount equal to the proportion of the real estate tax for the year ascribed to the part of the immovable which is, on that date, leased from the owner of the immovable by the principal lessee and in which the dwelling is situated, if that part was, on that date, inhabited in totality by the principal lessee, represented by the ratio between the area of the dwelling and the area of that part.

(4) Where two or more persons, on 31 December in a year, live in a dwelling of which they are sub-lessees, the real estate tax ascribed to that dwelling is, in respect of one of such persons, an amount equal to the proportion of the amount that would be computed under subsection 3 in respect of that dwelling for the year if, on that date, that person were the sole sub-lessee of the dwelling and lived alone therein, represented by the ratio between the rent paid or payable by that person for the month of December of that year in respect of the dwelling and the aggregate of the rents paid or payable for that month by such of those persons as file with the Minister an application contemplated in section 15 for the year in respect of the dwelling and are entitled to a real estate tax refund in its respect for the year.”

7. Section 14 of the said act is replaced by the following sections:

“14. A person who, on 31 December in a year, owns an immovable in which is situated a dwelling inhabited by a person contemplated in section 2 and in respect of which a rent has been paid or is payable for the month of December of the year must send to him, not later than the last day of February of the following year, a certificate in respect of the real estate tax ascribed to that dwelling for the year in the form and containing the information prescribed by the Minister.

“14.1 A person who, on 31 December in a year, is the principal lessee of a dwelling inhabited by a person contemplated in section 2 and in respect of which a rent has been paid or is payable for the month of December of the year must furnish to the owner of the immovable where the dwelling is situated, not later than 31 January of the following year, a statement indicating his name, and given name if applicable, his complete address, and, in respect of each separate dwelling inhabited on 31 December of the year by the principal lessee or by one or more sub-lessees, as the case may be, the following information:

- (a) its address in full;
- (b) its area; and
- (c) the name and given name of each of the persons inhabiting it."

8. Section 43 of the said act is replaced by the following section:

"43. Every person who, under section 14, must furnish the certificate contemplated in that section within the period provided for therein or who, under section 14.1, must furnish the statement contemplated in the said section 14.1 within the period provided for therein and omits or refuses to do so, is guilty of an offence and is liable, on summary proceeding, in addition to the costs, to a fine of not less than \$25 nor more than \$100 for each day during which the omission or refusal continues."

9. Section 4 of this act applies in respect of real estate tax refunds for the year 1979 and subsequent years.

10. Sections 1 to 3 and 5 to 9 apply in respect of real estate tax refunds for the year 1980 and subsequent years.

11. This act comes into force on the day of its sanction.