

SECOND SESSION

THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 96

**An Act to amend the Act to promote conciliation between
lessees and property-owners, the Civil Code and other legislation**

First reading

M. GUY TARDIF

Ministre des affaires municipales

EXPLANATORY NOTES

The purpose of this bill is to render the Act to promote conciliation between lessees and property-owners permanent. The bill also makes a certain number of amendments to the said act; in particular, it broadens the jurisdiction of the Commission des loyers so as to include rooms and low rental housing.

Furthermore, this bill prolongs for another year the moratorium ordered in 1975 in respect of the conversion of immoveables into co-ownership, prohibits the sale of immoveables situated in certain housing complexes and grants certain rights to the lessees of lots intended for mobile homes. The bill also amends various provisions of the Civil Code dealing with the lease of things.

Section 1 provides concordance by placing rooms under the jurisdiction of the Commission des loyers.

Section 2 determines the rights of the lessee of a room where the lessor of such room is himself the lessee of the house and his lease expires.

Section 3 provides the concordance required in view of the permanent character that is to be given to the act.

Section 4 provides the concordance required in view of the jurisdiction that is to be granted to the Commission on the leasing of rooms.

Section 5 provides the concordance required in view of the amendments to be made to the Civil Code.

Section 6 limits actions in damages by lessees of rooms to cases of eviction occurring from the tabling of the bill.

Section 7 specifies that the act is not applicable to certain rooms.

Section 8 extends the jurisdiction of the Commission des loyers to low rental housing except for the fixing of the rental.

Section 9 is a concordance provision required in view of the permanent character that is to be given to the act.

Section 10 is a transitional provision.

Section 11 prolongs until 31 December 1978 the moratorium ordered in respect of the conversion of immoveables into co-ownership.

Section 12 prohibits the sale of immoveables situated in certain housing complexes and entitles the lessees of such immoveables to extend their leases.

Sections 13 to 19 determine the provisions of law applicable to lessees of immoveables held in co-ownership or situated in a housing complex.

Section 20 grants the right of pre-emption to the Société d'habitation du Québec for the purchase of certain immoveables.

Section 21 entitles the lessees of lots intended for mobile homes to the extension of right of their lease except where a lease is cancelled.

Sections 22 to 26 provide for the contents of the notice of increase of rent.

Section 23 is a concordance provision required by the application to rooms of the obligatory provisions of the Civil Code respecting the lease of dwellings.

Section 24 enumerates the rooms to which such provisions are not applicable.

Sections 25, 27, 28, 29 and 30 are transitional provisions.

Bill 96

An Act to amend the Act to promote conciliation between lessees and property-owners, the Civil Code and other legislation

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1. Section 1 of the Act to promote conciliation between lessees and property-owners (1950/1951, chapter 20), amended by section 2 of chapter 17 of the statutes of 1951/1952, is again amended:

(a) by replacing paragraph *e* by the following:

“*e.* “house”: a house, dwelling, apartment or a room habitually occupied as a place of abode.”

(b) by adding at the end the following paragraph:

“In the application of sections 19*a*, 20*a*, 23 to 25, 28*c* and 29*d*, the word “property-owner” includes the lessor of a room, even if he is not the owner thereof.”

2. Section 19 of the said act, replaced by section 3 of chapter 56 of the statutes of 1962, is amended by adding the following paragraph:

“However, in the case of the lease of a room and if the lessor of such room is himself lessee of the house, the lessee of such room may also be evicted when the lessor’s lease ends, without prejudice to his recourses.”

3. Section 20*a* of the said act, enacted by section 6 of chapter 17 of the statutes of 1951/1952, replaced by section 4 of chapter 75 of the statutes of 1973, amended by section 5 of chapter 76 of the statutes of 1974 and section 9 of chapter 84 of the statutes of 1975, is again amended by replacing the third paragraph by the following:

“The administrator may extend the lease for any period he deems fair and just to the parties.”

4. Section 20*e* of the said act, enacted by section 6 of chapter 76 of the statutes of 1974, is amended by replacing the first paragraph by the following:

“20*e*. The administrator who dismisses an application for retaking possession, conversion, subdivision or demolition of the immovable under section 23, 26*b*, 27, 27*a* or 27*b* or for cancellation of the lease under section 25 must extend the lease and fix the rent in accordance with section 20*a*.”

5. Section 21 of the said act, amended by section 7 of chapter 17 of the statutes of 1951/1952, is again amended by striking out the second paragraph.

6. Section 23 of the said act, amended by section 8 of chapter 17 of the statutes of 1951/1952, section 2 of chapter 9 of the statutes of 1952/1953, section 5 of chapter 56 of the statutes of 1962, section 7 of chapter 76 of the statutes of 1974 and by section 11 of chapter 84 of the statutes of 1975, is again amended by adding at the end the following paragraph:

“However, a lessee of a room may not exercise such recourse by reason of an eviction occurring before (*insert here the date of the coming into force of this bill*).”

7. Section 34 of the said act, amended by section 17 of chapter 17 of the statutes of 1951/1952, section 14 of chapter 9 of the statutes of 1952/1953, section 7 of chapter 79 of the statutes of 1968 and section 10 of chapter 75 of the statutes of 1973, replaced by section 22 of chapter 76 of the statutes of 1974, is again amended:

(a) by replacing paragraph 2 by the following:

“(2) to a room

(a) situated in an establishment for which a permit has been issued under the Hotels Act (Revised Statutes, 1964, chapter 205) and the Act respecting health services and social services (1971, chapter 48), or

(b) leased within the main residence of the lessor if two rooms or fewer are leased or offered for rent;”;

(b) by striking out paragraph 6; and

(c) by adding at the end of paragraph 7, the following paragraph:

“This paragraph does not apply to a room situated in such an immovable.”

8. The said act is amended by inserting after section 34*a* the following:

“34b. Sections 19a, 20, 20a, 20f, 23, 24, 24d, 24e, 24f, 29b, 29d and 29e, and subsection 7 of section 34, do not apply to low rental housing

(a) administered by a corporation constituted in accordance with section 55 of the Québec Housing Corporation Act (1966/1967, chapter 55);

(b) constructed under the Act to authorize the members of the council of the city of Montreal to carry out a plan for the elimination of slums and the construction of sanitary housing (1956/1957, chapter 23) and the Act further to facilitate the carrying out of a plan for the elimination of slums and the construction of sanitary dwellings in the city of Montreal (1956/1957, chapter 53); or

(c) owned by the Société d’habitation du Québec.

The lessor of such an immovable who does not intend to extend, at its expiry, the lease of a lessee must apply for authorization therefor to the administrator. Such authorization shall not be granted except for a reason provided in section 25. The application must be made within the delays provided for in articles 1631 and 1661 of the Civil Code.”

9. Section 38 of the said act, amended by section 16 of chapter 9 of the statutes of 1952/1953, section 6 of chapter 12 of the statutes of 1953/1954, section 6 of chapter 7 of the statutes of 1954/1955, section 3 of chapter 17 of the statutes of 1955/1956, section 2 of chapter 28 of the statutes of 1956/1957, section 9 of chapter 7 of the statutes of 1957/1958, section 2 of chapter 7 of the statutes of 1958/1959, section 2 of chapter 88 of the statutes of 1959/1960, section 6 of chapter 94 of the statutes of 1960/1961, section 13 of chapter 56 of the statutes of 1962, section 6 of chapter 60 of the statutes of 1963 (1st session), section 3 of chapter 68 of the statutes of 1964, section 2 of chapter 79 of the statutes of 1965 (1st session), section 3 of chapter 19 of the statutes of 1966, section 3 of chapter 83 of the statutes of 1966/1967, section 10 of chapter 79 and section 3 of chapter 80 of the statutes of 1968, section 2 of chapter 73 of the statutes of 1969, section 3 of chapter 60 of the statutes of 1970, section 2 of chapter 82 of the statutes of 1971, section 2 of chapter 67 of the statutes of 1972, section 12 of chapter 75 of the statutes of 1973, section 23 of chapter 76 of the statutes of 1974, section 14 of chapter 84 of the statutes of 1975 and section 6 of chapter 51 of the the statutes of 1976, is again amended by striking out the words and figure “, and it shall terminate on the first of July 1978” in the fourth and fifth lines.

10. In the case of a lease expiring after 30 June 1978, the rent fixed by an administrator or by the Commission des loyers under section 29b or 29d of the Act to promote conciliation between

lessees and property-owners, is extended until 30 June 1979, or until the end of such lease when it expires before such date, unless one party applies to the administrator for a new fixing of rent, by filing his application and by having it served on the other party not later than 31 May 1978.

11. (1) No person shall, from 1 January 1978, apply for authorization to register a declaration of co-ownership in respect of an immoveable by virtue of the Act to promote conciliation between lessees and property-owners or register a declaration of co-ownership on an immoveable occupied by a lessee, whatever may be the date of commencement of the construction work.

The administrator of rents, the Commission des loyers or the registrar shall *ex officio* reject an application for authorization or registration.

(2) No person shall, directly or indirectly, notify a lessee that the dwelling he occupies is the subject, by reason of a conversion into co-ownership, of a sale, promise of sale, offer of sale or of a right of occupancy or other similar right, unless the dwelling was sold by an authentic deed *en minute* and registered.

(3) The lessee who, on (*insert here the date of tabling of this bill*) occupies a dwelling situated in an immoveable on which a declaration of co-ownership is registered is entitled, without formality, to the extension of his lease until 30 June 1979.

However, such extension shall not occur when

(a) the lease is rescinded for cause under the Civil Code or section 25 or the first paragraph of section 26a of the Act to promote conciliation between lessees and property-owners;

(b) the lessee consents in writing to leave the dwelling; or

(c) the person registered as the owner on 1 March 1978 resumes possession of the dwelling in accordance with sections 23 and 24 of the Act to promote conciliation between lessees and property-owners.

12. (1) Within the meaning of this section, "housing complex" means several buildings situated near one another and administered as one entity by the same person or by related persons within the meaning of the Taxation Act (1972, chapter 23), if such immoveables or some of them have services, accessories or dependencies in common.

(2) From the (*insert here the date of tabling of this bill*), no person may, directly or indirectly, in a housing complex comprising more than twelve dwellings built for rental purposes, and used as such or offered for rent on such date, sell, promise to sell or offer

for sale an immovable comprised within such complex, or grant in respect of such immovable a right of occupancy or other similar right, unless it concerns a contract of lease of things.

This paragraph does not have the effect of prohibiting the sale of the whole housing complex in a single sales contract.

(3) No person shall from (*insert here the date of the tabling of this bill*), directly or indirectly sell, promise to sell or offer for sale a dwelling unit occupied by a lessee and situated on any of original lots three hundred and eighty to five hundred and seventy-eight of the official subdivision of original lot number one hundred and fifty-nine, lots three hundred and seventy-eight to four hundred and eighty-nine of the official subdivision of original lot number one hundred and sixty and lots eighty-eight to ninety-eight of the official subdivision of original lot number one hundred and twenty-two on the official plan and book of reference of the parish of Saint-Martin, in the registration division of Laval, nor confer in regard to such immovable any right of occupancy or use or other similar right, unless it concerns a contract of lease of things.

This subsection does not apply in the case of an agreement or a deed to which the Société d'habitation du Québec is a party, or which regards an immovable referred to in section 20.

(4) The lessee who, on (*insert here the date of tabling of this bill*), occupies a dwelling situated in a housing complex contemplated in subsection 2 or in an immovable contemplated in subsection 3 is entitled, without formality, to the extension of his lease until 30 June 1979.

However, such extension shall not occur where

(a) the lease is rescinded for cause under the Civil Code or under section 25 or the first paragraph of section 26a of the Act to promote conciliation between lessees and property-owners;

(b) the lessee consents in writing to leave the premises; or

(c) the person registered as owner on (*insert here the date of tabling of this bill*), resumes possession of the premises in accordance with sections 23 and 24 of the Act to promote conciliation between lessees and property-owners.

(5) The registrar is bound to refuse to register every deed or agreement effected in contravention of this section.

(6) This section does not apply to an immovable on which the construction work commenced after 31 December 1973.

13. In the case of an extension of lease under section 11 or 12, the lessor who intends, for the extension period, to increase the rent or otherwise alter the conditions of the lease must inform

the lessee in accordance with article 1631 or 1661 of the Civil Code, and the lessee shall proceed in accordance with section 19*a* of the Act to promote conciliation between lessees and property-owners.

14. A person other than a corporation who contravenes any subsection of section 11 or 12 is guilty of an offence and is liable to a fine not exceeding one thousand dollars.

A corporation which contravenes any of the said subsections is guilty of an offence and is liable to a fine not exceeding five thousand dollars.

Where a corporation is guilty of such an offence, any officer, director, employee or agent of such corporation, who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is deemed to have been a party to the offence and is liable to a fine not exceeding one thousand dollars.

Proceedings are instituted by the Procureur général or by a person generally or specially authorized for such purpose in accordance with the Summary Convictions Act (Revised Statutes, 1964, chapter 35).

15. If a person commits repeated offences against this act and proceedings were instituted before or after 16 December 1976 respecting the application of section 16, 16*a* or 16*b* of chapter 84 of the statutes of 1975 or section 16 as it existed before the coming into force of chapter 51 of the statutes of 1976, or of section 11 or 12 of this act, the Procureur général is entitled to obtain from the Superior Court a writ of interlocutory injunction ordering such person, his officers, representatives or employees, to cease, until the pronouncement of the judgment to be rendered in penal jurisdiction, the commission of acts similar to those contemplated in section 14 of this act or in section 16*e* of chapter 84 of the statutes of 1975.

After pronouncing judgment, the Superior Court shall issue its final judgment on the request for injunction.

The Procureur général is dispensed from the obligation of furnishing security to obtain a writ of injunction under this section. In all other respects, the provisions of the Code of Civil Procedure respecting writs of injunction apply.

16. A notice given in contravention of section 11 or 12 is without effect.

17. An agreement contravening section 11 or 12 is null of right.

18. Sections 11 to 17 have effect notwithstanding any law or agreement inconsistent therewith.

19. The cessation of the effect of sections 16 to 16*k* of chapter 84 of the statutes of 1975 shall not entail the loss of rights acquired under those sections, nor validate or legalize retroactively deeds declared null or illegal by those sections.

The recourses and penal proceedings respecting the application of those sections that have been exercised or that are under advisement before a court, an administrator or the Commission des loyers shall be continued, heard and decided according to the provisions of those sections, when the recourse or penal proceeding is based on one of those sections or where it regards the application of the Act to promote conciliation between lessees and property-owners to dwellings contemplated in those sections.

The prescription of any recourse or right to a penal proceeding contemplated in the second paragraph which has not been exercised on 31 December 1977 continues to run after such date. As long as that prescription is not acquired, that recourse or penal proceeding may be exercised, heard and adjudged according to the provisions of the sections mentioned in the first paragraph.

20. The Société d'habitation du Québec may substitute itself for any person who offers or agrees to purchase in good faith a building on any of lots 388, 389, 390, 392, 393, 394, 395, 396, 397, 400, 403, 404, 405, 406, 407, 408, 409, 410, 417, 418, 419, 420, 421, 423, 424, 425, 427, 429, 433, 436, 438, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 452, 453, 454, 456, 458, 502, 507, 509, 511, 512, 513, 514, 516, 517, 518, 521, 524, 525, 526, 527, 528, 529, 530, 531, 533, 534, 536, 538, 539, 541, 542, 552, 554, 559, 563, 564, 565, 566, 569, 570, 572, 573, 574 of the official subdivision of original lot 159, on the official plan and book of reference of the parish of St-Martin in the registration division of Laval, or on any of lots 405, 406, 434 and 459 of the official subdivision of original lot 160, on the official plan and book of reference of the parish of St-Martin, in the registration division of Laval.

The owner of such immovable must inform in writing the Société d'habitation du Québec of any offer to purchase or sell such immovable. The Société has 30 days from and after the receipt of such notice to make known its decision on availing itself of its right of pre-emption.

The Société may ask for the cancellation of a sale made in contravention of this section.

21. (1) From (*insert here the date of tabling of this bill*), the lessee of land intended for the installation of a mobile home

cannot be evicted from the land he occupies and is entitled, without formality, to the extension of his lease until 31 December 1978.

However, such extension does not occur where

- (a) the lease is rescinded in accordance with subsection 2; or
- (b) the lessee consents in writing to leave the premises.

(2) The lessor wishing to cancel the lease must apply to the administrator of rents in accordance with the Act to promote conciliation between lessees and property-owners, for a reason provided for in section 25 of such act, or to the competent court, for a reason provided for in the Civil Code.

(3) The lessor wishing to increase the rent or otherwise change the conditions of the lease must inform the lessee in writing. The notice must be given in accordance with articles 1631 to 1661 of the Civil Code. The lessee may apply to the administrator of rents in accordance with section 19a of the Act to promote conciliation between lessees and property-owners.

(4) This section does not apply to land used for the installation of a mobile home

- (a) used for resort purposes; or
- (b) during the first year in which it is rented.

22. Article 1631 of the Civil Code, replaced by section 1 of chapter 74 of the statutes of 1973 and amended by section 2 of chapter 75 of the statutes of 1974, is again amended by replacing the last paragraph by the following paragraphs:

“In the case of the lease of a dwelling, the notice must be in writing and indicate, if it is a notice of increase of rent, the rent in force, the rent requested and the reasons on which the increase is founded.

A notice of increase without sufficient foundation is valid nevertheless, unless the lessee proves that serious prejudice is thereby caused to him.”

23. Article 1650 of the said Code, replaced by section 1 of chapter 74 of the statutes of 1973 and amended by section 5 of chapter 75 of the statutes of 1974, is again amended by striking out paragraph 1 of the second paragraph.

24. The said Code is amended by inserting after article 1650 the following:

“**1650a.** Articles 1650 to 1665 apply to the lease of a room.

However, they do not apply to the lease of a room situated in an establishment for which a permit has been issued under the

Hotels Act (Revised Statutes, 1964, chapter 205) or the Act respecting health services and social services (1971, chapter 48), or to the lease of a room rented in the main residence of the lessor if two rooms or fewer are rented.

However, if the lessor of a room is himself the lessee of the house, the lessee of that room may be evicted therefrom when the lease of the lessor ends, without prejudice to his recourses.”

25. Article 1652 of the said Code, replaced by section 1 of chapter 74 of the statutes of 1973, is again replaced by the following:

“**1652.** Every stipulation inconsistent with articles 1610, 1612 to 1616, 1619, 1622, 1625, 1628, 1631, 1635, 1636 and 1643 to 1647 when they apply to the lease of a dwelling, or with articles 1653 to 1665, has no effect.”

26. Article 1661 of the said Code and paragraph 18 of Section II of the form appearing in the Schedule following article 1665 of the said Code, respectively replaced and enacted by section 1 of chapter 74 of the statutes of 1973 and amended by section 7 of chapter 75 of the statutes of 1974, are again amended by inserting after the second paragraph the following:

“The notice of increase of rent provided for in article 1660 must indicate the rent in force, the rent requested and the reasons on which the increase is founded.

A notice of increase with insufficient foundation is valid nevertheless, unless the lessee proves that serious prejudice is thereby caused to him.”

27. Articles 1650 to 1665 of the Civil Code apply, upon the coming into force of this act, to every lease contemplated in article 1650*a*, made, renewed or extended before that date.

However, articles 1654, 1664*b*, 1664*d*, 1664*e*, 1664*m* to 1664*r*, 1664*t* and 1664*u* apply only to a lease made, renewed or extended after the coming into force of this act.

28. Section 1 of the Act to prolong and amend the Act to promote conciliation between lessees and property-owners (1976, chapter 51) is amended by replacing the words and figure “, is prolonged until 30 June 1978” in the twenty-eighth and twenty-ninth lines by the words and figure “and chapter 51 of the statutes of 1976, is prolonged”.

29. Sections 11 to 18 and 21 have effect until 31 December 1978.

30. Sections 22, 25 and 26 become effective 1 March 1978.
March 1978.

31. This act shall come into force on the day of its sanction.