

NATIONAL ASSEMBLY

SECOND SESSION

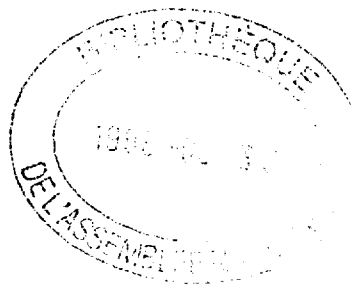
THIRTY-FIFTH LEGISLATURE

Bill 30

**An Act to amend the Act
respecting the Société d'habitation
du Québec**

Introduction

**Introduced by
Mr Rémy Trudel
Minister of Municipal Affairs**



**Québec Official Publisher
1996**

EXPLANATORY NOTES

This bill amends the Act respecting the Société d'habitation du Québec to confer on the Minister the authority to suspend the powers of the directors of housing agencies that receive financial assistance granted for the operation and maintenance of residential housing belonging to the Corporation, to one of its mandataries or to a housing agency if the directors fail in the duties incumbent upon them.

Provisional administration may also be ordered if the Minister has reason to believe that there has been a grievous offence, in particular malfeasance, breach of trust or other misconduct on the part of one or more of the directors or other officers of the agency, or that the agency has engaged in practices that are inconsistent with the objectives and standards of the housing program under which financial assistance is granted to it.

The bill provides that the Minister may entrust administrators he designates with the exercise of the powers and functions of the board of directors for the length of time he determines.

The essential terms and conditions required for the carrying out and termination of the provisional administration are also set out in this bill.

Bill 30

An Act to amend the Act respecting the Société d'habitation du Québec

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Société d'habitation du Québec (R.S.Q., chapter S-8) is amended by inserting, after section 85, the following division:

“DIVISION VI.1

“PROVISIONAL ADMINISTRATION

“85.1 The provisions of this division apply to agencies, hereinafter referred to as “housing agencies”, endowed with juridical personality which, pursuant to this Act or the regulatory instruments hereunder or to a housing program implemented under this Act or administered by or on behalf of the Corporation, receive financial assistance granted for the purposes of the operation and maintenance of residential immovables belonging to the Corporation, to one of its mandataries or to such a housing agency.

“85.2 The Minister may, after providing the directors of the housing agency concerned with the opportunity to present their observations, suspend the powers of the directors and appoint administrators to exercise the powers of the agency's board of directors, for such time as he determines, if he has reason to believe

(1) that the directors have been seriously remiss in the performance of the obligations imposed by the Civil Code of Québec on administrators of legal persons, of the obligations imposed on them under this Act or under a regulation hereunder, or of the obligations arising out of a housing program or agreement under whose terms the agency receives financial assistance;

(2) that there has been a grievous offence, in particular malfeasance or breach of trust on the part of one or more of the directors or other officers of the agency;

(3) that one or more of the directors or other officers of the agency has performed an act that is inconsistent with the rules of sound management applicable to an agency that receives financial assistance paid out of public funds;

(4) that the agency has engaged in practices that are inconsistent with the objectives and standards of the housing program under which financial assistance is granted to it.

“85.3 The provisions of the agency’s constituent Act or of an Act applicable to the agency are without effect during the provisional administration if the provisions require that the validity of an act performed by the board of directors is subject to the authorization or approval of the meeting of the members.

“85.4 The Minister may grant the following powers to provisional administrators:

(1) the power to terminate, without penalty, any contract binding on the agency that was entered into without a fixed term or whose term is not set to expire for more than three months;

(2) the power to reorganize the agency’s structure and its activities.

“85.5 The provisional administrators shall, within 180 days after their appointment, file a report with the Minister setting out their findings and recommendations. The report must contain any information the Minister requires.

“85.6 Upon receipt of the provisional administrators’ report, the Minister may take any of the following measures:

(1) extend or terminate the mandate of the provisional administrators, on the conditions he determines;

(2) dismiss from office the directors of the housing agency whose powers have been suspended and see to the appointment or election of new directors;

(3) appoint for the housing agency, on the conditions and for the duration he determines, a financial controller to oversee the use of public funds granted to the agency and, in particular, to countersign all of the agency's commitments or expenditures; or

(4) order, on the conditions he determines, the liquidation of the housing agency and for that purpose appoint a liquidator.

“85.7 The provisional administrators shall, at the end of their administration, give a final account to the Minister. The account shall give sufficient detail to enable its accuracy to be verified and shall be accompanied with the books and vouchers relating to their provisional administration.

“85.8 The costs, fees and expenses of the provisional administration shall be borne by the housing agency in whose respect they were incurred.

“85.9 No proceedings may be brought against the provisional administrators acting in the exercise of the powers and duties conferred on them under this division in respect of an act performed in good faith while exercising those powers and duties.

“85.10 No extraordinary recourse provided for in articles 828 to 846 of the Code of Civil Procedure (chapter C-25) may be exercised nor any injunction granted against the provisional administrators acting in the exercise of the powers and duties conferred on them under this division.

A judge of the Court of Appeal may, on a motion, summarily quash any judgment, writ, order or injunction delivered or granted in contravention of this section.”

2. This Act shall not be construed as preventing the minister responsible for the administration of the Act respecting the Société d'habitation du Québec from taking into consideration facts existing before the coming into force of this Act in examining the facts giving rise to the provisional administration of housing agencies.

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