

NATIONAL ASSEMBLY

SECOND SESSION

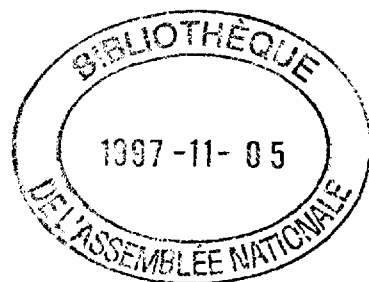
THIRTY-FIFTH LEGISLATURE

Bill 163

**An Act to amend the Public Curator Act
and other legislative provisions relating
to property under the provisional
administration of the Public Curator**

Introduction

**Introduced by
Mr André Boisclair
Minister of Relations with the Citizens and Immigration**



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EXPLANATORY NOTES

This bill proposes various measures the main purposes of which are to provide for the recovery and management, by the Public Curator, of property not claimed by its owners or other interested parties whose last known domicile was in Québec and to facilitate the exercise by owners or other interested parties of their right to claim the property or the value of the property from the Public Curator.

To that end, the bill proposes major changes to the existing provisions of the Public Curator Act, redefines the scope of property that may be considered to be unclaimed within the meaning of that Act, and sets out clearly, for each type of property, the period at the end of which the property may be considered to be unclaimed and the time from which that period begins to run.

The bill also defines the obligations of the debtors or holders of the property concerned and delimits their rights, in particular as relate to the procedure for transferring the property and reporting information concerning the property and interested parties to the Public Curator, the notices to be given to interested parties, the effects of extinctive prescription on the obligation to transfer property and the interest attached to the obligation to transfer. The bill also provides that debtors or holders must maintain in their establishment an up-to-date list of the property they have in their possession as debtor or holder.

In addition, the bill confers inspection powers on the Public Curator and on persons authorized by the Public Curator which allow for the recovery of unclaimed property, and redefines the rules of management of unclaimed property by the Public Curator so as to quicken its liquidation and the transfer of any balance to the Minister of Finance while preserving the right of interested parties to claim the value of the property from the Public Curator. The bill also provides for the establishment of an audit committee to advise the Public Curator concerning the efficient management and use of financial resources and of the property entrusted to the Public Curator.

The bill also establishes a revised method of financing the activities of the Public Curator, determines the extent of the powers of the Public Curator to make agreements to facilitate the application of the law and introduces new penalties.

Lastly, the bill amends the Public Curator Act to bring it into harmony with the Civil Code and amends other legislation to ensure that special rules relating to unclaimed property prescribed in the legislation are consistent with the general rules introduced by amendment to the Public Curator Act. The bill also contains transitional amendments.

LEGISLATION AMENDED BY THIS BILL :

- Civil Code of Québec;
- Savings and Credit Unions Act (R.S.Q., chapter C-4.1);
- Highway Safety Code (R.S.Q., chapter C-24.2);
- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Professional Code (R.S.Q., chapter C-26);
- Cooperatives Act (R.S.Q., chapter C-67.2);
- Act respecting racing (R.S.Q., chapter C-72.1);
- Public Curator Act (R.S.Q., chapter C-81);
- Act respecting collective agreement decrees (R.S.Q., chapter D-2);
- Deposit Act (R.S.Q., chapter D-5);
- Act respecting threatened or vulnerable species (R.S.Q., chapter E-12.01);
- Forest Act (R.S.Q., chapter F-4.1);
- Winding-up Act (R.S.Q., chapter L-4);
- Act respecting commercial fisheries and aquaculture (R.S.Q., chapter P-9.01);
- Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29);

- Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30);
- Animal Health Protection Act (R.S.Q., chapter P-42);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1);
- Marine Products Processing Act (R.S.Q., chapter T-11.01).

Bill 163

AN ACT TO AMEND THE PUBLIC CURATOR ACT AND OTHER LEGISLATIVE PROVISIONS RELATING TO PROPERTY UNDER THE PROVISIONAL ADMINISTRATION OF THE PUBLIC CURATOR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PUBLIC CURATOR ACT

- 1.** Section 8 of the Public Curator Act (R.S.Q., chapter C-81) is amended by replacing, in the French text, the words “d’incapacité d’agir” in the first line of the first paragraph by the words “d’empêchement”.
- 2.** Section 12 of the said Act is amended by replacing subparagraph 1 of the second paragraph by the following subparagraph:

“(1) supervision of the administration of tutorships and curatorships to persons of full age, of certain tutorships to minors and of tutorships to absentees;”.
- 3.** Section 13 of the said Act is amended by replacing the words “curator to property of” in the second line of paragraph 4 by the words “tutor to”.
- 4.** Section 14 of the said Act is amended by replacing the word “institute” in the tenth line of the first paragraph by the words “apply for the institution of”.
- 5.** Section 18 of the said Act is amended by replacing, in the French text, the word “conseil” in the fourth line by the word “conseiller”.
- 6.** Section 20 of the said Act is amended by replacing the words “six months” in the first line of the second paragraph by the words “two months”.
- 7.** The said Act is amended by inserting, before section 24, the following:

“§1. — *General provisions*”.
- 8.** Section 24 of the said Act, amended by section 3 of chapter 64 of the statutes of 1996, is replaced by the following section:

“24. In addition to property otherwise entrusted by law to the administration of the Public Curator, the Public Curator shall assume provisional administration of

(1) the property of an absentee, unless another administrator has been designated by the absentee or appointed by the court;

(2) property found on the body of an unknown person or on an unclaimed body, subject to the Act respecting the determination of the causes and circumstances of death (chapter R-0.2);

(3) the property of a dissolved legal person, subject to the provisions of the Civil Code relating to the dissolution and liquidation of legal persons;

(4) the property of a succession that is situated in Québec, until the heirs, or a third person designated in accordance with the testamentary dispositions of the deceased or by the court, become able to hold the office of liquidator of the succession or until the Public Curator, in particular in cases where the State is seized of the property, is empowered to act in that capacity;

(5) property without an owner which the State appropriates for itself, lost or forgotten property held by the State and property that becomes property of the State by permanent forfeiture, unless, in the latter case, the law provides otherwise, in particular in respect of property referred to in Division III.2 of the Act respecting the Ministère de la Justice (chapter M-19);

(6) unclaimed property within the meaning of section 24.1;

(7) property deposited or abandoned in a detention centre or in an institution to which the Act respecting health services and social services (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5) applies, if the property is not claimed within one year after the departure or death of the depositor;

(8) property, unless provisional administration is otherwise provided for by law or in the act constituting the administration, entrusted to an administrator of the property of another who dies, resigns, is placed under tutorship or curatorship or otherwise becomes unable to exercise the administrator's functions, until another administrator is appointed;

(9) the property of a dissolved general partnership, limited partnership or association not endowed with legal personality, where the property devolves to the State or, in the case of a partnership, where the liquidation has not been completed within five years of the filing of the notice of dissolution;

(10) property situated in Québec, other than property referred to in paragraphs 1 to 9, whose owner or other interested party is unknown or untraceable.”

9. The said Act is amended by inserting, after section 24, the following heading and sections :

“§2. — *Provisions specific to unclaimed property*

“24.1. The following property is considered to be unclaimed property, whenever the owner or other interested party is domiciled in Québec :

(1) deposits of money with a savings and credit union, a savings company, a trust company or any other institution authorized by law to receive deposits of funds, where the interested party has made no claim, engaged in no transaction or given no instruction in respect of the deposits and related accounts within the three years following the date on which the sums deposited became payable ;

(2) the value of cheques or bills of exchange certified or accepted by a financial institution or of draft issued by such an institution in relation to which the interested party has made no demand for payment within the three years following the date of certification, acceptance or issue ;

(3) sums deriving from the repayment or redemption of debt securities, stock, shares or other participation in a legal person, partnership or trust, and the interest, dividends or other income, including patronage dividends, attaching to the securities or interest for which the interested party has made no claim, engaged in no transaction or given no instruction within the three years following the date on which they became payable ;

(4) funds, securities and other property received in any capacity whatsoever by a securities adviser or broker in the name or on behalf of a third person and for which the interested party has made no claim, engaged in no transaction or given no instruction within the three years following their date of receipt by the adviser or broker ;

(5) funds, securities and other property held in a fiduciary capacity by any person authorized by law to hold property in trust for which the interested party has made no claim, engaged in no transaction or given no instruction within the three years following the date on which they became payable ; sums of money required to be accounted for separately and kept in a separate account by their holder in trust, held in trust or in any other manner indicating that sums of money are kept on behalf of a third person are, in particular, considered to be property held in trust ;

(6) funds, securities and other property deposited in a safety deposit box with a financial institution, where the contract to lease the safety deposit box has been expired for three years and, during that period, the interested party has made no request for renewal of the contract or access to the safety deposit box ;

(7) funds, securities and other property held by a financial institution as pledge holder or custodian for which the interested party has made no claim,

engaged in no transaction or given no instruction within the three years following the date on which, by reason of the extinction of the secured obligation or otherwise, the property became payable;

(8) insured amounts owing under a life insurance contract for which the interested party has made no claim, engaged in no transaction or given no instruction within the three years following the date on which the amounts became payable; any amount payable on the death of the insured person is presumed to be due and payable at the latest on the date of the one hundredth birthday of the insured person;

(9) amounts payable under a pension or retirement contract or plan, other than benefits under the Act respecting the Québec Pension Plan (chapter R-9) or under a similar plan within the meaning of that Act for which the interested party has made no claim, engaged in no transaction or given no instruction within the three years following the date on which the amounts became payable; the amounts are presumed to be payable at the latest on the seventieth birthday of the annuitant or employee; where property to which this section applies constitutes the assets of a retirement savings plan, the property may not be considered separately from the amounts payable under the plan;

(10) interest, dividends and other income produced by property referred to in paragraphs 1 to 9, insofar as the act or the law provides that the income is payable to the interested party;

(11) property determined by regulation, subject to the conditions prescribed.

“24.2. An interested party is deemed to be domiciled in Québec if the party’s last known address was in Québec or, where the address is unknown, if the act constituting the party’s rights was made in Québec.

“24.3. The property referred to in section 24.1 is also considered to be unclaimed if the property is situated in Québec and the law of the place of domicile of the interested party does not provide for provisional administration.”

10. Section 25 of the said Act is repealed.

11. Section 26 of the said Act is replaced by the following sections:

“26. A debtor or holder of property that becomes unclaimed property within the meaning of this Act shall, within six months preceding the latest date by which the property must be transferred to the Public Curator pursuant to section 26.1, give the interested party at least three months’ written notice describing the property and indicating to the interested party that the property will be transferred to the Public Curator if it is not claimed within the allotted time.

The debtor or holder is not, however, required to give the notice if the debtor or holder cannot, by reasonable means, ascertain the interested party’s

address, if the value of all the property not claimed by the interested party is less than \$100, or in other cases determined by regulation.

“26.1. Every debtor or holder shall, once a year, transfer to the Public Curator any property that has remained unclaimed after notices were given to interested parties, and any unclaimed property for which a notice was not required.

In addition, the debtor or holder shall file with the Public Curator, at the time the property is transferred, a statement containing a description of the property and all information necessary, as prescribed by regulation, to determine the identity of the interested parties, their place of domicile and the nature and source of their rights. The statement must contain a declaration by the debtor or holder that the required notice was given to the interested parties or indicate, where such notice was not required, the reasons why it was not required.

In addition to the information required of the debtor or holder, the regulation shall prescribe the form of the statement describing the property transferred and require any document in support of the statement. The regulation may determine the procedure pertaining to the transfer of the property and the filing of the related statement; the regulation may also determine, according to classes of debtors or holders, the yearly period during which property must be transferred and statements filed.

“26.2. No debtor or holder is exempt from the obligation to provide the information or documents required pursuant to section 26.1 by reason of the fact that the information or documents is protected by professional secrecy.

Where, however, the debtor or holder files with the Public Curator a written statement that such information or documents is protected by professional secrecy, the Public Curator may only, for the purposes of sections 32 and 54, release the identity and professional domicile of the debtor or holder and indicate in general terms the source of the rights involved, in particular the trust account of the debtor or holder.

“26.3. Nominative information concerning an interested party released pursuant to section 26.1 shall be released in such a manner as to preserve its confidentiality. Such information shall, for the purposes of the Act respecting the protection of personal information in the private sector (chapter P-39.1), be deemed to have been required by the Public Curator within the meaning of subparagraph 4 of the first paragraph of section 18 of that Act.

“26.4. The debtor or holder owes interest on unclaimed property or the value thereof from the latest date by which the debtor or holder is required to transfer the property to the Public Curator.

The interest shall be paid according to the terms and conditions prescribed by regulation, at the rate fixed for claims of the State under section 28 of the

Act respecting the Ministère du Revenu (chapter M-31), interest shall be capitalized daily.

“26.5. A debtor or holder may not require from the interested party the payment of any charge except a charge the amount of which is expressly stipulated in the act constituting the interested party’s rights or a charge the debtor or holder is otherwise authorized by law to claim.

The debtor or holder is entitled, upon transferring unclaimed property to the Public Curator, to the repayment of such charges, and may deduct the charges from the amounts the debtor or holder is required to transfer to the Public Curator.

“26.6. The obligation imposed on the debtor or holder of unclaimed property to transfer the property to the Public Curator shall not be lessened or altered by any prescription having run in favour of the debtor or holder during the time required for the property to be considered to be unclaimed within the meaning of this Act; no such prescription may be set up against the Public Curator.

“26.7. Every debtor or holder of unclaimed property must keep in the establishment of the debtor or holder an up-to-date list of the property containing the name and last known address of the interested parties and, where applicable, the date on which the property was transferred to the Public Curator.

All entries relating to unclaimed property must remain on that list for a period of ten years.

“26.8. Every debtor or holder is relieved of all liability towards any interested party for injury that may result from the performance of the obligations that this Act imposes on the debtor or holder in relation to unclaimed property.

“26.9. The rules contained in this subdivision apply to the Government, to government departments and bodies and to any legal person established in the public interest, whether they have rights to assert in property to which this subdivision applies or are debtors or holders.

The departments and bodies referred to in the first paragraph of section 14 of the Financial Administration Act (chapter A-6) are, however, exempted, if the property they owe or hold consists of sums of money, from transferring those sums to the Public Curator.”

12. The heading of Division VI of Chapter II of the said Act is replaced by the following heading:

“INQUIRY AND INSPECTION”.

13. Section 27 of the said Act is amended

(1) by inserting the words “to any minor or” after the word “generally,” in the third line of the first paragraph;

(2) by replacing the words “authorized by him to hold an inquiry have” in the first and second lines of the second paragraph by the words “specially authorized by the Public Curator to hold an inquiry have, for the purposes of the inquiry,”.

14. The said Act is amended by inserting, after section 27, the following section:

“27.1. The Public Curator may authorize any person to act as an inspector to determine whether the provisions of this Act relating to unclaimed property are being complied with.

A person authorized to act as an inspector may

(1) enter, at any reasonable time, the establishment of a debtor or holder of unclaimed property or any other place where such property is kept on behalf of the debtor or holder;

(2) require the persons present to provide any information concerning the unclaimed property or the interested parties, and to produce any book, register, account, record or other related document;

(3) examine and make copies of documents containing information relating to the unclaimed property or the interested parties.

Every person who has custody, possession or control of the documents referred to in this section must, on request, give access to them to the person conducting the inspection and facilitate their examination.”

15. Section 28 of the said Act is amended by striking out the last sentence of the first paragraph.

16. The said Act is amended by inserting, after section 28, the following section:

“28.1. The persons authorized by the Public Curator to act under sections 27.1 and 28 must, on request, identify themselves and produce a certificate of their authorization.

The persons authorized may not be prosecuted for anything done in good faith in the exercise of their functions.”

17. The said Act is amended by inserting, before Division I of Chapter III, the following division:

“DIVISION 0.I

“GENERAL PROVISION

“28.2. The rules of this chapter apply subject to the provisions of any other Act requiring the Public Curator to apply other rules for the administration of property entrusted to the Public Curator.”

18. Section 29 of the said Act is amended by adding, at the end, the following paragraph:

“A statement sent to the Public Curator by a debtor or holder of unclaimed property pursuant to section 26.1 shall stand in lieu of an inventory of the property described in the statement, subject to the Public Curator being satisfied of the accuracy of the statement.”

19. Section 30 of the said Act is amended by adding the following paragraph:

“The Public Curator is not, however, required to preserve in kind property over which the Public Curator has provisional administration.”

20. Section 31 of the said Act is amended

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

“31. The Public Curator must require registration in the land register of the registry office of the registration division in which the immovable is situated of a notice of the Public Curator’s capacity as administrator of any immovable entrusted to the Public Curator. The registrar is required to inform the Public Curator of any subsequent entry.”;

(2) by replacing, in the French text, the words “l’enregistrement” in the first line of the second paragraph by the words “l’inscription”.

21. Section 32 of the said Act is amended

(1) by replacing the figure “8” in the second line by the figure “5”;

(2) by adding the following paragraph:

“Where the property under the provisional administration of the Public Curator is property unclaimed by an interested party who was domiciled or was deemed to be domiciled in Québec at the time the Public Curator became the administrator of the property, the notice must also be published in a newspaper circulated in the locality where the last known address of the interested party is situated, or in the locality where the act constituting the

interested party's rights was made, if the locality is not the locality where the property was located."

22. Section 37 of the said Act is amended by replacing the words "sale by the Public Curator of property referred to in section 24 of this Act" in the first and second lines of the first paragraph by the words "alienation by onerous title by the Public Curator of property referred to in section 24 of this Act, in article 699 of the Civil Code or in any legislative provision under which the Public Curator is charged with acting as tutor, curator, liquidator or administrator of the property of another".

23. Section 40 of the said Act is replaced by the following section:

"40. The administration of the Public Curator ceases by operation of law

(1) when the tutorship or curatorship ends, or when a judgment orders the appointment of another tutor or curator;

(2) when the absentee returns, the administrator designated by the absentee appears, a tutor is appointed to the property of the absentee or a judgment declares the absentee dead;

(3) when the heirs, or a third person designated in accordance with the testamentary dispositions of the deceased or by the court, become able to hold the office of liquidator of the succession;

(4) in all other cases in which an interested party comes forward to claim the property under the administration of the Public Curator, or in which another administrator is appointed with respect to the property administered.

The administration of the Public Curator also ceases by operation of law, in the absence of any beneficiary of the administration and in all cases in which the property is administered on behalf of the State, once the liquidation of the property by the Public Curator has ended and all the operations to ensure the transfer of the sums of money administered or deriving from the liquidation have been completed."

24. Section 41 of the said Act is replaced by the following section:

"41. The Public Curator shall, on the termination of the Public Curator's administration, render an account of it and transfer the property to the persons entitled thereto.

Where the administration of the Public Curator ceases in circumstances described in the second paragraph of section 40, the rendering of account shall be effected, and the sums of money remaining upon the termination of the administration shall be transferred, to the Minister of Finance in the manner prescribed by regulation."

25. The said Act is amended by inserting, after section 41, the following section:

[[**“41.1.** All sums of money transferred to the Minister of Finance become property of the State and shall be deposited into the consolidated revenue fund.

A person who has a right in a sum of money so transferred to the Minister of Finance, or in the property from the liquidation of which the sums of money derive, may recover the sums of money from the Public Curator, with interest calculated at the rate fixed by regulation from the date of transfer. Subject to the provisions of the Civil Code relating to the petition of inheritance, the right is not subject to prescription, except where it relates to a sum of money amounting to less than \$500 at the time of transfer to the Minister of Finance, in which case the right to recover the sum of money is prescribed ten years after the date of transfer.

The Minister of Finance is authorized to take out of the consolidated revenue fund the amounts required to meet the payments to be made under this section.”]]

26. Section 42 of the said Act is amended by replacing the words “ten years” in the fifth line of the first paragraph by the words “six months”.

27. The said Act is amended by inserting, after section 42, the following section:

“42.1. It is incumbent upon persons who come forward to claim property or recover a sum of money from the Public Curator to establish their quality.”

28. Section 46 of the said Act is amended by replacing the word “government” in the first line by the words “Minister of Relations with the Citizens and Immigration”.

29. Section 54 of the said Act is amended

(1) by replacing the figure “8” in the fifth line of the first paragraph by the figure “5”;

(2) by adding, at the end of the second paragraph, the words “; it shall be kept in the register until the administration of the Public Curator ceases or, where the administration ceases in the circumstances described in the second paragraph of section 40, until the expiry of the period prescribed by regulation”.

30. Section 55 of the said Act is replaced by the following section:

“55. In addition to the reimbursement of expenses incurred, the Public Curator may require fees for representing persons, for administering property entrusted to the Public Curator, for supervising tutorships or curatorships and for performing other duties assigned by law to the Public Curator.

The fees shall be established by regulation. However, the fees relating to property the administration of which terminates in the circumstances described in the second paragraph of section 40, and the nature and amount of the expenses that may be required in connection with such property, shall be established by government order on the recommendation of the Minister of Relations with the Citizens and Immigration and the Minister of Finance.”

31. Section 58 of the said Act is replaced by the following sections:

“58. The fees, interest and other sums referred to in sections 55 to 57 shall be paid into the general fund of the Public Curator.

Expenditures made for the purposes of this Act shall be charged to the general fund; such expenditures shall, however, be charged to the working fund existing within the general fund only where the other sums making up the general fund are inadequate.

Any income in excess of expenditures in any fiscal year shall, once the amounts considered necessary to maintain the working fund of the Public Curator have been deducted, be paid into the consolidated revenue fund.

“58.1. The Government shall fix, by an order made on the recommendation of the Minister of Relations with the Citizens and Immigration and the Minister of Finance, the maximum amount of the sums that may be paid annually into the working fund of the Public Curator.”

32. Section 59 of the said Act is replaced by the following sections:

“59. The Public Curator shall deduct the fees and expenses, which the Public Curator may require under section 55, pertaining to property the administration of which ceases in the circumstances described in the second paragraph of section 40 from the sums of money the Public Curator is required to transfer to the Minister of Finance, together with the other fees and expenses that the Public Curator may require under section 55 but cannot recover. The Public Curator shall also deduct from such sums of money the cost of activities for which fees cannot be established, together with an annual allowance to support the financing of the Public Curator’s activities.

The amounts deducted pursuant to this section shall be deposited into the general fund of the Public Curator.

“59.1. A government order, made on the recommendation of the Minister of Relations with the Citizens and Immigration and the Minister of Finance, shall determine the criteria on the basis of which the fees and expenses of the Public Curator shall be considered not to be recoverable, the cost of the activities of the Public Curator for which fees may not be established, the annual allowance to support the financing of the Public Curator’s activities and, more generally, the terms and conditions governing the deductions made by the Public Curator pursuant to section 59.”

33. Section 60 of the said Act is repealed.

34. Section 61 of the said Act is amended

(1) by replacing the words “the sums taken from the consolidated revenue fund to the Public Curator” in the second and third lines of the first paragraph by the words “sums taken out of the consolidated revenue fund to the Public Curator for the maintenance of the working fund of the Public Curator”;

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

“Such advances are repayable out of the working fund of the Public Curator.”

35. Section 62 of the said Act is repealed.

36. Section 64 of the said Act is amended by replacing the word “Justice” in the first line of the first paragraph by the words “Relations with the Citizens and Immigration”.

37. Section 67 of the said Act is amended by replacing the word “Justice” in the second line of the first paragraph by the words “Relations with the Citizens and Immigration”.

38. The said Act is amended by inserting, after section 67, the following sections:

“67.1. The Minister of Relations with the Citizens and Immigration shall establish an audit committee charged with advising the Public Curator on the efficient management and use of the Public Curator’s financial resources and of the property under the Public Curator’s administration.

“67.2. The audit committee shall consist of three persons who are not members of the personnel of the Public Curator.

The members of the committee shall be appointed for a term of office of not more than three years. They shall remain in office upon the expiry of their term, until reappointed or replaced.

The committee shall meet at least two times each year. The quorum of the committee shall be two members.

“67.3. The members of the committee shall receive no remuneration, except in the cases, on the conditions and to the extent determined by the Government. The members are, however, entitled to reimbursement for expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“67.4. The Public Curator shall provide to the members of the committee an annual audit plan, an annual report and any information relevant to the

carrying out of the committee's mandate, in particular information concerning annual audit plans, financial statements, reports and recommendations submitted by the Auditor General and the auditor designated by the Government."

39. Section 68 of the said Act is amended

(1) by replacing the words "The Government may, by regulation" in the first line by the words "In addition to the regulatory powers otherwise conferred on it by this Act, the Government may, by regulation,";

(2) by inserting, after paragraph 4, the following paragraph:

"(4.1) determine the amounts payable under a pension or retirement contract or plan within the meaning of paragraph 9 of section 24.1 ;";

(3) by striking out paragraphs 10, 10.1 and 10.2.

40. Section 69 of the said Act is amended by replacing the words "section 26" in the first line by the words "sections 26, 26.1, 26.5 and 26.7".

41. The said Act is amended by inserting, after section 69, the following section:

"69.1. Any person who hinders the actions of the Public Curator or of a person authorized by the Public Curator in the exercise of a power conferred by section 27.1 or 28 is guilty of an offence and is liable to a fine of \$1,000 to \$2,000 for a first offence and of \$2,000 to \$5,000 for any subsequent offence."

42. Section 75.1 of the said Act is amended by adding the following paragraph:

"The Public Curator may also enter into an agreement concerning the administration of this Act with any person, partnership or association or with the Government, a government department or a government body."

43. Section 76 of the said Act is replaced by the following section:

"76. The Public Curator may, according to law, enter into an agreement with a government other than the Gouvernement du Québec or with a department or body of that government, for the administration of this Act or a similar Act, or relating wholly or partly to the provisional administration of property under the administration of that government, department or body.

The object of such agreements may, in particular, concern the delegation, to the Public Curator, of the administration of property that has not been claimed by its owner or other interested parties who are domiciled or are deemed to be domiciled in Québec pursuant to this Act."

44. Section 204 of the said Act is replaced by the following section:

“204. The sums of money deriving from the liquidation of property entrusted to the Public Curator for provisional administration before (*insert here the date of assent to Bill 163 of 1997*), shall, if the liquidation of the property is terminated as of that date, be transferred without delay to the Minister of Finance.

The sums of money deriving from any later liquidation of such property shall be transferred to the Minister of Finance upon its liquidation.”

45. Sections 205 and 206 of the said Act are repealed.

CIVIL CODE OF QUÉBEC

46. Article 698 of the Civil Code of Québec (1991, chapter 64) is amended by striking out the words “for a period of ten years from its opening” at the end of the first paragraph.

47. Article 701 of the said Code is replaced by the following article:

“701. The Public Curator, upon rendering account, transfers to the Minister of Finance the amounts constituting the residue of the succession, which then become the property of the State.

Heirs who establish their quality may, however, within ten years from the opening of the succession or from the day their right arises, recover those amounts from the Public Curator with interest calculated at the rate prescribed pursuant to the Public Curator Act from the time the amounts were transferred to the Minister of Finance.”

48. Article 702 of the said Code is amended by inserting the words “before the end of the liquidation” after the word “succession”.

SAVINGS AND CREDIT UNIONS ACT

49. Section 72 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1) is amended by adding the following paragraph:

“A member shall be presumed to have withdrawn if the property that the credit union owes to or holds for the member becomes unclaimed property within the meaning of the Public Curator Act (chapter C-81).”

50. Sections 243 to 247 of the said Act are repealed.

51. Section 314 of the said Act, amended by section 95 of chapter 69 of the statutes of 1996, is again amended

(1) by replacing the words “shall be transferred to the Minister of Finance and deposited into the consolidated revenue fund” in the first, second and third lines of the second paragraph by the words “shall be transferred to the Public Curator together with a statement of the sums indicating the name and last known address of the interested parties and the date on which such sums were transferred to the Public Curator”;

(2) by replacing the third and fourth paragraphs by the following paragraph :

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to sums so transferred to the Public Curator under the second paragraph.”

52. Section 325 of the said Act is amended

(1) by striking out the words “in accordance with section 314” in the second and third lines;

(2) by adding the following paragraph :

“The rules set out in section 314, adapted as required, apply to a winding-up by the Public Curator pursuant to this section.”

53. Section 580 of the said Act is repealed.

HIGHWAY SAFETY CODE

54. Section 209.21 of the Highway Safety Code (R.S.Q., chapter C-24.2), enacted by section 65 of chapter 56 of the statutes of 1996, is amended

(1) by replacing the words “continue his provisional administration” at the end of the second paragraph by the words “transfer the proceeds to the Minister of Finance”;

(2) by striking out the third paragraph.

CODE OF PENAL PROCEDURE

55. Article 139 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) is amended by replacing the second paragraph by the following paragraph :

“Where the person to whom the thing or the proceeds of the sale thereof must be returned is unknown or untraceable, a judge may order, on the application of the seizer or the prosecutor, that it be transferred to the Public Curator or the Minister of Finance, according to whether it is the thing or the proceeds of the sale thereof that must be so transferred, and that a statement describing the property and indicating, where applicable, the name and last known address of the interested party, be sent to the Public Curator.”

PROFESSIONAL CODE

56. Section 89 of the Professional Code (R.S.Q., chapter C-26) is amended by replacing the words “, must determine, by regulation,” in the second and third lines of the first paragraph by the words “must, subject to the provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property, determine by regulation”.

COOPERATIVES ACT

57. Section 38.1 of the Cooperatives Act (R.S.Q., chapter C-67.2), enacted by section 20 of chapter 67 of the statutes of 1995, is amended by adding, at the end of the first paragraph, the following sentence: “A member shall be presumed to have resigned if he has not done business with the cooperative or taken part in the activities of the cooperative for the last three years and there has been no communication from the member during that period.”

58. Section 185 of the said Act, amended by section 113 of chapter 67 of the statutes of 1995, is again amended

(1) by inserting, after the first paragraph, the following paragraph:

“The sums representing the shares that could not be repaid shall be transferred to the Public Curator together with a statement of the sums indicating the name and last known address of the interested parties and the date on which such sums were transferred to the Public Curator; the provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to sums so transferred to the Public Curator.”;

(2) by inserting the words “and such sums have been transferred” after the word “made” in the first line of the last paragraph.

59. Section 191 of the said Act is amended by replacing the words “curator *ex officio* to the property” in the first line by the words “*ex officio* the liquidator of the property”.

ACT RESPECTING RACING

60. Section 99 of the Act respecting racing (R.S.Q., chapter C-72.1) is amended by striking out the third paragraph.

61. Section 100 of the said Act is amended

(1) by inserting the words “transferred to the Minister of Finance and” after the word “be” in the first line of the second paragraph;

(2) by adding, at the end, the following paragraph:

“Where sums of money so transferred were seized but not confiscated, or where proceeds transferred are derived from the sale of things seized but not confiscated, a statement of the sums and proceeds indicating the name and last known address of the interested parties and the date on which the sums of money and proceeds were transferred to the Minister of Finance shall also be sent to the Public Curator. The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the sums and proceeds.”

ACT RESPECTING COLLECTIVE AGREEMENT DECREES

62. Section 22 of the Act respecting collective agreement decrees (R.S.Q., chapter D-2), amended by section 20 of chapter 71 of the statutes of 1996, is again amended

(1) by replacing the words “Use, for its general administration, up to the amount and on the conditions prescribed” in the first and second lines of subparagraph *o* of the second paragraph by the words “Use, for its general administration, up to the amount and subject to the other conditions prescribed”;

(2) by adding, at the end of subparagraph *o* of the second paragraph, the following: “Unclaimed amounts shall, however, if not claimed by the employees within three years following the date as of which the funds are payable, be transferred, after deduction of the amount prescribed by the regulation, to the Public Curator together with a statement of the funds indicating the name and last known address of the employees and the date on which the funds were transferred to the Public Curator; the provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the funds so transferred to the Public Curator.”

DEPOSIT ACT

63. Section 27 of the Deposit Act (R.S.Q., chapter D-5) is amended

(1) by replacing the words “within a period of fifteen years from the date of their receipt” in the second and third lines of the first paragraph by the words “within three years, following the deposit, from the date on which the interested party was entitled to demand the repayment or payment of the moneys so deposited”;

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

“A statement of such moneys indicating the name and last known address of the interested party and the date on which they were paid into the consolidated revenue fund shall be transferred without delay to the Public Curator.”

64. The said Act is amended by inserting, after section 27, the following section:

[[**“27.1.** All persons who have a right in the moneys paid into the consolidated revenue fund pursuant to section 27 may, after establishing their quality, recover the moneys from the Public Curator with interest calculated at the rate prescribed pursuant to the Public Curator Act (chapter C-81) from the time the sums of moneys were paid into the fund.

Subject to the provisions of the Civil Code relating to the petition of inheritance, this right is not subject to prescription, except where it relates to moneys amounting to less than \$500 when paid into the consolidated revenue fund, in which case the right to recover the moneys is prescribed ten years after the time of deposit.

The Minister of Finance is authorized to take out of the consolidated revenue fund the amounts required to meet the payments to be made pursuant to this section.”]]

ACT RESPECTING THREATENED OR VULNERABLE SPECIES

65. Section 36 of the Act respecting threatened or vulnerable species (R.S.Q., chapter E-12.01) is replaced by the following section:

“36. Where the owner of a thing seized by an inspector of plant life is unknown or untraceable, the thing shall be transferred to the Public Curator 60 days from the date of seizure with a statement describing the thing and indicating, where applicable, the name and last known address of the owner.

The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to a thing so transferred to the Public Curator.”

66. Section 39 of the said Act, amended by section 5 of chapter 11 of the statutes of 1997, is again amended by striking out subparagraph 6 of the first paragraph.

FOREST ACT

67. Section 196 of the Forest Act (R.S.Q., chapter F-4.1) is amended

(1) by replacing the word “confiscated” in the second line by the words “transferred to the Public Curator or the Minister of Finance according to whether timber or the proceeds of the sale are involved,”;

(2) by replacing the words “and shall subsequently be disposed of according to the Minister’s instructions” in the third and fourth lines by the words “; a statement containing a description of the timber or the proceeds of the sale and indicating, where applicable, the name and the last known address of the interested party shall, at the time of the transfer, be sent to the Public Curator”;

(3) by adding the following paragraph:

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the timber or proceeds of sale so transferred to the Public Curator or the Minister of Finance.”

WINDING-UP ACT

68. Section 20 of the Winding-up Act (R.S.Q., chapter L-4) is amended

(1) by replacing the words “deposit with the Minister of Finance” in the second line by the words “transfer to the Public Curator”;

(2) by replacing the words “attested before a justice of the peace” in the fourth line by the words “, attested before a justice of the peace, indicating, where applicable, the name and last known address of the interested parties and the date on which the money was transferred to the Public Curator”;

(3) by replacing the words “deposited shall be treated as a deposit under the Deposit Act (chapter D-5), and when claimed shall be paid over to the persons entitled thereto” in the fifth and sixth lines by the words “transferred shall be governed by the provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property”.

69. Section 21 of the said Act is amended by replacing the words “deposited with the Minister of Finance” in the seventh line by the words “transferred to the Public Curator”.

70. Section 22 of the said Act is amended by replacing the words “deposit the moneys with the Minister of Finance” in the first and second lines by the words “transfer the moneys to the Public Curator”.

ACT RESPECTING COMMERCIAL FISHERIES AND AQUACULTURE

71. Section 45 of the Act respecting commercial fisheries and aquaculture (R.S.Q., chapter P-9.01) is amended

(1) by replacing the word “confiscated” in the third line by the words “transferred to the Public Curator or to the Minister of Finance according to whether the property or the proceeds of the sale are involved”;

(2) by replacing the words “it is thereupon disposed of according to the instructions of the Minister” in the third and fourth lines by the words “a statement describing the property or the proceeds of the sale and indicating, where applicable, the name and last known address of the interested party shall be sent to the Public Curator at the time of the transfer”;

(3) by adding the following paragraph:

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the property or proceeds of sale so transferred to the Public Curator or to the Minister of Finance.”

AGRICULTURAL PRODUCTS, MARINE PRODUCTS AND FOOD ACT

72. Section 33.5 of the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) is amended

(1) by replacing the words “that has been seized shall be confiscated 90 days after the day it was seized if its owner or the person who had possession of it is unknown or cannot be found” in the first, second and third lines by the words “seized the owner or possessor of which is unknown or untraceable shall be transferred to the Public Curator 90 days from the date of seizure, together with a statement describing the thing and indicating, where applicable, the name and last known address of the interested party”;

(2) by striking out the words “, and shall be disposed of as the Minister may direct” in the third and fourth lines;

(3) by adding the following paragraph:

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the thing so transferred to the Public Curator.”

DAIRY PRODUCTS AND DAIRY PRODUCTS SUBSTITUTES ACT

73. Section 48.5 of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) is amended

(1) by replacing the words “that has been seized shall be confiscated 90 days after the day it was seized if its owner or the person who had possession of it is unknown or cannot be found” in the first, second and third lines by the words “seized the owner or possessor of which is unknown or untraceable shall be transferred to the Public Curator 90 days from the date of seizure, together with a statement describing the thing and indicating, where applicable, the name and last known address of the interested party”;

(2) by striking out the words “, and shall be disposed of as the Minister may direct” in the third and fourth lines;

(3) by adding the following paragraph:

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the thing so transferred to the Public Curator.”

ANIMAL HEALTH PROTECTION ACT

74. Section 55.22 of the Animal Health Protection Act (R.S.Q., chapter P-42) is amended

(1) by replacing the words “Where the owner, custodian or possessor of any seized animal, product or equipment is unknown or cannot be found, the animal, product or equipment shall be confiscated 90 days after the date of seizure” in the first, second and third lines by the words “Any animal, product or equipment seized the owner, custodian or possessor of which is unknown or untraceable shall be transferred to the Public Curator 90 days from the date of seizure, together with a statement describing the property and indicating, where applicable, the name and last known address of the interested party.”;

(2) by striking out the last sentence;

(3) by adding the following paragraph:

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the property so transferred to the Public Curator.”

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

75. The Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting, after section 147.0.5, the following section:

“147.0.6. A person who recovers from the Public Curator sums transferred to the latter by the Commission pursuant to the Public Curator Act (chapter C-81) and who can claim to have a right in respect of such sums under the pension plan from which the sums derive may request of the Commission that the years or parts of a year of service counted or credited before the sums were so transferred be counted or credited to that pension plan.

The Commission, upon receiving the request from the person, shall send the person a notice claiming the sums referred to in the first paragraph, plus accrued interest compounded annually at a rate determined by regulation pursuant to section 147.0.3 accruing from the date of transfer of the sums until the date of sending of the notice of claim. The person shall pay the Commission the amount claimed within 90 days following the date of sending of the notice of claim.”

SUPPLEMENTAL PENSION PLANS ACT

76. Section 238 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended

(1) by replacing the words “shall, if the member or beneficiary cannot be found, be remitted to the Public Curator” in the second and third lines by the words “that is not claimed within three years following the termination of the plan shall be transferred to the Public Curator, together with a statement

describing the amount due and indicating, where applicable, the name and last known address of the member or beneficiary”;

(2) by adding the following paragraph :

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the amount so transferred to the Public Curator.”

MARINE PRODUCTS PROCESSING ACT

77. Section 42 of the Marine Products Processing Act (R.S.Q., chapter T-11.01) is amended

(1) by replacing the words “that has been seized shall be confiscated 90 days after the day of seizure if its owner or the person who had possession of it is unknown or cannot be found” in the first, second and third lines by the words “seized the owner or possessor of which is unknown or untraceable shall be transferred to the Public Curator 90 days from the date of seizure, together with a statement describing the thing and indicating, where applicable, the name and last known address of the interested party”;

(2) by striking out the words “, and shall be disposed of as the Minister may direct” in the third and fourth lines;

(3) by adding the following paragraph :

“The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply to the property so transferred to the Public Curator.”

TRANSITIONAL AND FINAL PROVISIONS

78. Subject to the rules respecting prescription, the provisions of sections 24.2, 24.3 and 26 to 26.4, the second paragraph of section 26.5 and section 26.6 of the Public Curator Act are applicable to property that become unclaimed property within the meaning of section 24.1 of that Act before *(insert here the date of coming into force of section 9 of this Act)*.

However, the obligation imposed on debtors or holders of such property to transfer the property to the Public Curator together with the related statement, and the time from which the debtors or holders owe the Public Curator interest on such property, shall be postponed by as many days as is required so that the debtors or holders have a period of one year from *(insert here the date of coming into force of section 11 of this Act)* to give to the interested parties the notice required by section 26 of the Public Curator Act.

79. The sums constituting the reserve fund of the Public Curator on *(insert here the date of assent to this Act)* shall be deposited into the working fund of the Public Curator.

80. The maximum amount of the working fund of the Public Curator fixed by the Government pursuant to section 58.1 of the Public Curator Act may not, for the two years following (*insert here the date of assent to this Act*), be less than the amount of the sums from the reserve fund deposited into the working fund of the Public Curator pursuant to section 79.

After that date, any amount by which the working fund of the Public Curator exceeds the amount fixed by the Government shall be transferred to the Minister of Finance as repayment of all or part of advances that are outstanding on that date, and the balance, if any, shall be deposited into the consolidated revenue fund.

81. Nothing in this Act shall affect the right granted by section 205 of the Public Curator Act, as it read before (*insert here the date of coming into force of section 45 of this Act*), of an owner, heir or beneficiary referred to in that section to claim from the Public Curator any income accrued before 15 April 1990 in respect of property entrusted to the provisional administration of the Public Curator.

82. This Act comes into force on the date or dates to be fixed by the Government, except sections 44, 79 and 80 which come into force on (*insert here the date of assent to this Act*).