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Part

2

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Laws and Regulations

Volume 144

Summary

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Contents

Part 2 contains:

- (1) Acts assented to, before their publication in the annual collection of statutes;
- (2) proclamations of Acts;
- (3) regulations made by the Government, a minister or a group of ministers and of Government agencies and semi-public agencies described by the Charter of the French language (R.S.Q., c. C-11), which before coming into force must be approved by the Government, a minister or a group of ministers;
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- (6) rules of practice made by judicial courts and quasi-judicial tribunals;
- (7) drafts of the texts mentioned in paragraph 3 whose publication in the *Gazette officielle du Québec* is required by law before their adoption or approval by the Government.

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PROVINCE OF QUÉBEC

2ND SESSION

39TH LEGISLATURE

QUÉBEC, 30 NOVEMBER 2011

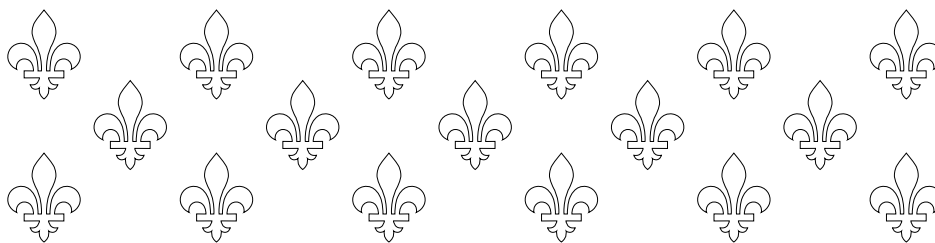
OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 30 November 2011

This day, at forty-seven minutes past three o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to sanction the following bills:

- 7 An Act to amend various legislative provisions mainly concerning the financial sector (*modified title*)
- 16 An Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences (*modified title*)
- 21 An Act to amend the Act respecting the marketing of agricultural, food and fish products
- 22 An Act to amend the Civil Code as regards the resiliation of a dwelling lease in certain cases

To these bills the Royal assent was affixed by His Excellency the Lieutenant-Governor.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 7
(2011, chapter 26)

**An Act to amend various legislative
provisions mainly concerning the
financial sector**

**Introduced 4 May 2011
Passed in principle 29 September 2011
Passed 30 November 2011
Assented to 30 November 2011**

**Québec Official Publisher
2011**

EXPLANATORY NOTES

This Act amends the Act respecting the Autorité des marchés financiers to provide that persons who report a failure to comply with an Act administered by the AMF will incur no civil liability for doing so, to allow certain formalities between the regulator and the regulated to be completed electronically, and to finetune certain aspects of the receivership process.

The Act respecting the distribution of financial products and services is amended to allow other persons besides the AMF to ask the Bureau de décision et de révision to impose a sanction on a representative, a firm or an independent partnership for a breach of that Act, to give the Bureau new powers to make orders, and to ensure that a decision of the discipline committee of a chamber may be appealed only once the decision imposing the penalty has been rendered. Changes are also made to the provisions that deal with the composition of the board of the Chambre de l'assurance de dommages and of the Chambre de la sécurité financière.

The Derivatives Act is amended to provide for better regulation of qualified persons and facilitate the use of cash collateral.

The Securities Act is amended to allow an insider, that is, a person who has privileged information, to trade in securities if the transactions are necessary in order to fulfill a contractual obligation and to prescribe that fraudulent trading in securities is an offence and that the disclosure of false information to the AMF is likewise an offence.

The Act respecting the caisses d'entraide économique, the Act respecting certain caisses d'entraide économique and the Act respecting the sociétés d'entraide économique, now obsolete, are repealed and technical and consequential amendments are made to a number of other Acts.

Finally, this Act contains technical and transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

– Automobile Insurance Act (R.S.Q., chapter A-25);

- Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2);
- Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2);
- Derivatives Act (R.S.Q., chapter I-14.01);
- Act respecting the Société d’habitation du Québec (R.S.Q., chapter S-8);
- Act respecting the Société nationale du cheval de course (R.S.Q., chapter S-18.2.0.1);
- Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);
- Securities Act (R.S.Q., chapter V-1.1);
- Act to amend the Act respecting the Autorité des marchés financiers and other legislative provisions (2008, chapter 7).

LEGISLATION REPEALED BY THIS ACT:

- Act respecting the caisses d’entraide économique (R.S.Q., chapter C-3);
- Act respecting certain caisses d’entraide économique (R.S.Q., chapter C-3.1);
- Act respecting the sociétés d’entraide économique (R.S.Q., chapter S-25.1).

Bill 7

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS MAINLY CONCERNING THE FINANCIAL SECTOR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

AUTOMOBILE INSURANCE ACT

1. Section 159 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing the second paragraph by the following paragraph:

“No person may be a director unless the person is a resident of Québec and represents an authorized insurer.”

2. Section 160 of the Act is repealed.

ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

3. Section 15.6 of the Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2) is amended by replacing “published” in paragraph 3 by “of the International Organization of Securities Commissions or the Multilateral Memorandum of Understanding on Cooperation and Information Exchange of the International Association of Insurance Supervisors, published” and by replacing “cet organisme” in that paragraph in the French text by “cet organisme de régulation”.

4. The Act is amended by inserting the following section after section 17:

“**17.1.** A person of good faith who reports a failure to comply with an Act referred to in section 7 to the Authority is not subject to any civil liability for doing so.”

5. Section 19.2 of the Act is amended by inserting “, the Business Corporations Act (chapter S-31.1)” after “the Winding-up Act (chapter L-4)” in paragraph 9.

6. The Act is amended by inserting the following section after section 19.5:

“**19.5.1.** A motion by the Authority for the appointment of a receiver must be served on the defendant at least 10 days prior to its presentation. The motion is heard and decided by preference.”

The motion is contested orally on the day of its presentation. The parties may adduce detailed affidavits in evidence to establish all the facts needed to support their allegations. The affidavits and all documents referred to must be served on the other party at least two clear juridical days before the day of presentation of the motion.”

7. Section 19.6 of the Act is amended by replacing the first paragraph by the following paragraph:

“**19.6.** At the Authority’s request, if it is imperative to do so, the Superior Court shall hear the motion without delay in the defendant’s absence. The defendant has 10 days after an order is rendered to file a notice of contestation with the Court.”

8. Section 19.14 of the Act is amended by replacing “this chapter” by “section 19.1”.

9. The Act is amended by inserting the following sections after section 19.15:

“**19.16.** The receiver may, at any time during the receivership mandate, request the approval of fees and expenses by filing with the Superior Court a summary statement of the fees and expenses, together with a notice to the Authority.

“**19.17.** Only the Authority may oppose the request and must do so by filing a notice of opposition with the Superior Court, together with a notice to the receiver, within 30 days after the notice referred to in section 19.16 is sent.

The receiver shall request the Superior Court, within the 10 days after a notice of opposition is filed, to set a hearing date and shall give the Authority notice of the date.

The Superior Court shall hear the parties’ oral arguments on the notice of opposition on the day of the hearing and shall then proceed to the taxation of the fees and expenses.”

10. The Act is amended by inserting the following section after section 25.1:

“**25.2.** The Authority may, in cases that are not expressly provided for in this Act or an Act referred to in section 7, require the use of a medium or technology it specifies for completing a formality under one of those Acts. It shall determine such requirements as to the form of documents and the manner in which they are to be sent or received as are necessary to allow the use of that medium or technology.

In the cases described in the first paragraph, signature requirements for technology-based documents sent to the Authority, including what may stand in lieu of a signature, are also determined by the Authority.”

11. Section 38.2 of the Act is amended

(1) by replacing “the second paragraph of section 115 and section” in the first paragraph by “sections 115.2 and”;

(2) by inserting “paragraph 7 of section 115.9 of the Act respecting the distribution of financial products and services,” after “under” in the second paragraph.

12. Section 50 of the Act is amended, in the first paragraph,

(1) by replacing “which may be renewed only once” by “, which may be renewed twice only”;

(2) by adding the following sentence at the end: “Their terms must be staggered so as to tend toward not more than a third of them expiring in the same year.”

13. The Act is amended by inserting the following section after section 57:

“**57.1.** The Council may, in exercising its functions, require any document or information relating to the administration of the Authority. The officers, employees and mandataries of the Authority must, on request, communicate such documents or information to the Council and facilitate their examination.”

14. Section 93 of the Act is amended by inserting the following paragraph after the first paragraph:

“The board shall exercise its discretion in the public interest.”

15. Section 115.9 of the Act is amended by replacing the second paragraph by the following paragraph:

“In such a case, the person concerned has 15 days after the decision is rendered to file a notice of contestation with the board.”

16. Section 115.12 of the Act is amended by replacing “The board may file an authentic copy of each of its decisions at the office of the clerk of the Superior Court of the district in which the residence or domicile of the person concerned is situated” in the first paragraph by “The board or any interested person may file an authentic copy of a decision of the board with the Superior Court in the district in which the residence or domicile of the person who is the subject of the decision is situated”.

17. Schedule 1 to the Act is amended by striking out “An Act respecting the caisses d’entraide économique (chapter C-3)”, “An Act respecting certain caisses d’entraide économique (chapter C-3.1)”, “An Act respecting the disclosure of the compensation received by the executive officers of certain legal persons (chapter I-8.01)” and “An Act respecting the sociétés d’entraide économique (chapter S-25.1)”.

ACT RESPECTING THE CAISSES D’ENTRAIDE ÉCONOMIQUE

18. The Act respecting the caisses d’entraide économique (R.S.Q., chapter C-3) is repealed.

ACT RESPECTING CERTAIN CAISSES D’ENTRAIDE ÉCONOMIQUE

19. The Act respecting certain caisses d’entraide économique (R.S.Q., chapter C-3.1) is repealed.

ACT RESPECTING THE DISTRIBUTION OF FINANCIAL PRODUCTS AND SERVICES

20. Section 115 of the Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2) and section 115.1 of the Act, enacted by section 76 of chapter 7 of the statutes of 2008, are replaced by the following sections:

“115. If it is brought to the knowledge of the Bureau de décision et de révision that a firm, any of its directors or officers, or a representative has, by an act or omission, contravened or aided in the contravention of a provision of this Act or the regulations, or that it is necessary in order to protect the public, the Bureau may, once the facts have been established, cancel, revoke or suspend the firm’s or the representative’s registration or certificate or subject it to restrictions or conditions. The Bureau may also, in all cases, impose an administrative penalty not exceeding \$2,000,000 for each contravention.

For the purposes of the first paragraph, before making a request to the Bureau, an interested person within the meaning of section 93 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) must notify the Authority and obtain confirmation from the Authority that it does not itself intend to make such a request. The Authority must inform the interested person in writing of its decision within 10 days after being notified.

“115.1. The Bureau de décision et de révision may prohibit a person from acting as a director or officer of a firm on the grounds set out in article 329 of the Civil Code or when a sanction has been imposed on the person under this Act, the Derivatives Act (chapter I-14.01) or the Securities Act (chapter V-1.1).

The prohibition imposed by the Bureau may not exceed five years.

The Bureau may, at the request of the person concerned, lift the prohibition on such conditions as it considers appropriate.

“115.2. If a firm fails to comply with section 81, 82, 83 or 103.1 or to file documents as required under this Act or the regulations, the Authority may suspend the firm’s registration, subject it to restrictions or conditions or impose an administrative monetary penalty not exceeding \$5,000 for each contravention. The Authority may cancel the registration of a firm that fails to comply with section 82 or, for the second or subsequent time, fails to comply with section 81, 83 or 103.1.

For the purposes of the first paragraph, the Authority may determine, by regulation, the amounts that may be imposed as a penalty for failure to file documents as required under this Act or the regulations, as well as the conditions subject to which a penalty may be imposed.

“115.3. The Authority may, for the purposes or in the course of an investigation, request the Bureau de décision et de révision

(1) to order the representative or firm or any other person or entity actually or potentially under investigation not to dispose of funds, securities or other property in their possession;

(2) to order the representative or firm or any other person or entity actually or potentially under investigation to refrain from withdrawing funds, securities or other property on deposit with or under the control or in the safekeeping of another person; or

(3) to order any other person or entity not to dispose of funds, securities or other property referred to in subparagraph 2.

An order issued under the first paragraph is effective for a renewable period of 120 days as of the time the party concerned is notified.

The party concerned must be given at least 15 days’ notice of any hearing during which the Bureau de décision et de révision is to consider an extension. The Bureau may order the extension if the representative, firm, other person or entity does not request to be heard or fails to establish that the reasons for the initial order have ceased to exist.

“115.4. If the person or entity named in an order under subparagraph 3 of the first paragraph of section 115.3 has put a safety deposit box at the disposal of a representative, firm or other person or entity or has allowed the use of a safety deposit box, the person or entity must immediately notify the Authority.

On the Authority’s request, the person or entity named in the order must open the safety deposit box in the presence of an agent of the Authority, draw

up an inventory of the contents in triplicate, and give one copy to the Authority and another to the representative, firm, other person or entity under investigation.

“**115.5.** An order issued under section 115.3 that names a bank or a financial institution applies only to the agencies or branches specified.

“**115.6.** An order issued under section 115.3 also applies to funds, securities and other property received after the order becomes effective.

“**115.7.** The representative, the firm and any person or entity directly affected by an order issued under section 115.3, if in doubt as to the application of the order to particular funds, securities or other property, may apply to the Bureau de décision et de révision for clarification.

“**115.8.** An order issued under section 115.3 is admissible for publication in the same register as that in which rights in the funds, securities or other property covered by the order are required to be published or admissible for publication.

Likewise, the order may be published in a register kept outside Québec if such orders are admissible for publication under the Act governing the register.

“**115.9.** Following a failure to comply with an obligation under this Act, the Authority may request the Bureau de décision et de révision to issue one or more of the following orders in order to remedy the situation or deprive a representative, a firm or other person or entity of the profit realized as a result of the non-compliance:

(1) an order requiring a representative or firm or any other person or entity to comply with

(a) any provision of this Act;

(b) any decision of the Authority under this Act; or

(c) any regulation, rule or policy of a self-regulatory organization, or any decision rendered by the self-regulatory organization on the basis of such a regulation, rule or policy;

(2) an order directing a representative or firm or any other person or entity to submit to a review of practices and procedures and institute such changes as may be directed by the Authority;

(3) an order rescinding any insurance- or annuity-related transaction entered into by a representative or firm or any other person or entity, and directing the representative, firm, other person or entity to refund any part of the money paid on entering into the transaction;

(4) an order directing a representative or firm or any other person or entity to produce compliant financial statements or an accounting in such a form as may be determined by the Bureau;

(5) an order directing a legal person to hold a shareholders' meeting;

(6) an order directing a representative or firm or any other person or entity to rectify a register or other record;

(7) an order directing a representative or firm or any other person or entity to disgorge to the Authority amounts obtained as a result of the non-compliance.

“115.10. In addition to imposing a measure by order, the Bureau de décision et de révision may require the person or entity named in the order to repay to the Authority the costs incurred in connection with the inspection or investigation that established non-compliance with a provision of this Act, according to the tariff set by regulation.”

21. Section 146.1 of the Act is amended by replacing “The first paragraph of section 115 applies” and “The second paragraph of that section” by “Sections 115, 115.1 and 115.3 to 115.9 apply” and “Section 115.2”, respectively.

22. Section 230 of the Act is repealed.

23. Section 288 of the Act is amended

(1) by replacing “two of whom shall be appointed by the Minister to represent the general public for a term of three years” in the first paragraph by “including eight from the industry and five who qualify as independent members”;

(2) by striking out “to represent the general public” in the second paragraph.

24. Section 289 of the Act is amended by replacing “The board members of the Chambre de la sécurité financière, except those appointed by the Minister, shall be elected by” in the first paragraph by “The members of the board of the Chambre de la sécurité financière who are not appointed by the Minister shall be elected, according to the procedure set out in the Chamber’s internal management by-law, by”.

25. Section 290 of the Act is replaced by the following sections:

“290. The members of the board of the Chambre de l’assurance de dommages who are from the industry shall be elected, according to the procedure set out in the Chamber’s internal management by-law, by damage insurance agents, damage insurance brokers and claims adjusters.

The board members who qualify as independent members shall be appointed by the Minister, on a recommendation of the board.

The situations that the board must examine in order to determine whether a board member qualifies as an independent member shall be specified in the Chamber's internal management by-law.

The board shall send the Minister any document required by the Minister for the purpose of appointing an independent member.

“290.1. The terms of the members of the board of the *Chambre de l'assurance de dommages* who are appointed by the Minister shall be determined by the Minister and may not exceed three years. They may be renewed consecutively twice only.

The board members' terms must be staggered so as to tend toward not more than a third of them expiring in the same year.

“290.2. Any member of the *Chambre de la sécurité financière* may, if eligible, run for a seat on the Chamber's board.

In the case of the *Chambre de l'assurance de dommages*, only an officer of an insurer or of a firm registered for the damage insurance or claims adjustment sector may, if eligible, run for a seat on the Chamber's board.

A member or an officer may run for one seat only.

“290.3. The eligibility requirements shall be set out in the Chamber's internal management by-law.

In the case of the *Chambre de l'assurance de dommages*, the elected board members must include officers of insurers or firms from each of the following groups:

(1) insurers that distribute their products mainly through damage insurance agents;

(2) firms, other than insurers, that are registered for the damage insurance sector and pursue their activities through damage insurance brokers;

(3) insurers that distribute their products mainly through damage insurance brokers; and

(4) firms, other than insurers, that are registered for the claims adjustment sector.

The number of officers of insurers who are elected as board members under subparagraph 1 of the second paragraph by agents referred to in that subparagraph

must be in the same proportion to all elected board members as those agents are to the Chamber's total membership.

The number of officers of firms who are elected as board members under subparagraph 2 of the second paragraph by brokers referred to in that subparagraph must be in the same proportion to all elected board members as those brokers are to the Chamber's total membership. At least one of those board members must be an officer of a firm comprising 15 or fewer brokers.

The number of officers of insurers or firms from those referred to in subparagraphs 3 and 4 of the second paragraph who are elected as board members by claims adjusters must be in the same proportion to all elected board members as claims adjusters are to the Chamber's total membership.

All elected board members must hold a certificate in the damage insurance or claims adjustment sector, except one board member out of those elected under subparagraph 1 of the second paragraph, who may not be an officer holding such a certificate."

26. Section 293 of the Act is replaced by the following section:

"293. All the members of a Chamber are entitled to vote."

27. Section 294 of the Act is replaced by the following section:

"294. In the case of representatives in insurance of persons and mutual fund dealer representatives, the election shall be held on the basis of regions delimited by the internal management by-law of the *Chambre de la sécurité financière*.

In all other cases, the election is held in accordance with the rules determined by the internal management by-law of the Chamber concerned."

28. Section 297 of the Act is amended by replacing "candidates elected to" by "members of the board of".

29. Section 299 of the Act is amended

(1) by replacing "of a Chamber" by "of the *Chambre de la sécurité financière*";

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

"The same holds for the members of the board of the *Chambre de l'assurance de dommages* who are from the industry."

30. Section 305 of the Act is amended by adding " , unless otherwise provided in its internal management by-law" at the end.

31. Section 312 of the Act is amended by replacing “in the first paragraph of section 290” in the fifth paragraph by “in section 290”.

32. Section 379 of the Act is amended by inserting the following paragraph after the first paragraph:

“However, a decision under which a penalty is to be imposed may not be appealed until the penalty has been imposed.”

33. Chapter III of Title VII of the Act, comprising sections 403 to 407, is repealed.

DERIVATIVES ACT

34. Section 2 of the Derivatives Act (R.S.Q., chapter I-14.01) is amended by replacing “particularly in” in paragraph 5 by “particularly through rules applicable to derivatives clearing and to”.

35. Section 3 of the Act is amended

(1) by inserting “the business of” after “engage in” in the portion before paragraph 1 of the definition of “dealer”;

(2) by inserting “, a contract for difference” after “a futures contract” in the definition of “derivative”;

(3) by inserting “a trade repository,” after “an information processor,” in the definition of “regulated entity”;

(4) by adding the following definition at the end:

““trade repository” means an entity that centrally collects and maintains over-the-counter derivatives data.”

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

7. Titles III and IV of this Act and Chapter III.1 of Title I of the Act respecting the Autorité des marchés financiers (chapter A-33.2) do not apply to activities or transactions in over-the-counter derivatives involving accredited counterparties only or in any other case specified by regulation.

However, Chapter III.1 of Title I of the Act respecting the Autorité des marchés financiers does apply if a derivative is offered or entered into in the circumstances described in section 150, 151 or 153.

Sections 94 to 114 and Division III of Chapter I and Divisions I and II of Chapter II of Title V do not apply to the entities referred to in paragraph 1 or

2 of the definition of “accredited counterparty” in section 3 or to the Business Development Bank of Canada.”

37. Section 9 of the Act is amended by adding “or that the derivative otherwise departs from this Act, unless the cause of invalidity is set out in the terms of the derivative” at the end.

38. The Act is amended by inserting the following after section 11:

“CHAPTER III

“MARGIN OR SETTLEMENT DEPOSIT

“**11.1.** An instrument under which a person is required to pay an amount of money to a party to a derivative, including as a margin or settlement deposit, and which allows that party, in all circumstances described in the instrument, to extinguish or reduce, by means of a set-off, its obligation to repay that amount to the person is enforceable against third persons without further formality.

Such an instrument is governed by the law expressly designated in it or the designation of which may be inferred with certainty from the terms of the instrument.

“**11.2.** For the purposes of section 11.1, the following are considered to be derivatives:

(1) an exchange, securities lending or securities redemption contract, including any contract governing such a contract; and

(2) a contract between a clearing house and one of its members, and the rules governing their relationship.”

39. Section 12 of the Act is amended by inserting “, a trade repository” after “an information processor” in the first paragraph.

40. Section 18 of the Act is amended

(1) by replacing “26” by “25”;

(2) by adding “or trade repositories” at the end.

41. Section 22 of the Act is amended by inserting “of an amendment to its operating rules” after “self-certification” in the second paragraph.

42. Section 82 of the Act is amended by replacing “the derivative authorized by the Authority” in the second paragraph by “the marketing of the derivative authorized by the Authority, subject to the conditions prescribed by regulation”.

43. The Act is amended by inserting the following sections after section 82:

“82.1. A qualified person must maintain a corporate and organizational structure enabling the person to carry on activities effectively and must have adequate human, financial and technological resources to that end.

“82.2. A qualified person must have appropriate business policies and procedures in place and good governance practices, especially as regards the independence of directors and the auditing of financial statements.

“82.3. A qualified person must take the necessary measures to ensure the security and reliability of the person’s transactions and activities.

“82.4. A qualified person must offer derivatives to the public through a dealer, or register with the Authority as a dealer.

“82.5. A qualified person must notify the Authority, in accordance with the rules prescribed by regulation, of any change in the information submitted when applying for qualification.

“82.6. A qualified person must notify the Authority and the person’s counterparties, including those waiting to trade in a derivative, within the time prescribed by regulation, of any change that may affect the trading of a derivative or existing transactions in a derivative.

“82.7. A qualified person is responsible for the property entrusted to the person by counterparties, and must segregate the counterparties’ property from the person’s own property and maintain separate accounting records.”

44. Section 83 of the Act is amended

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

“83. A qualified person must, before marketing a derivative, obtain the authorization of the Authority. The Authority may refuse to give, or impose restrictions or conditions on, its authorization if it considers it necessary for the protection of the public.”;

(2) by replacing “A derivative is authorized” in the second paragraph by “The marketing of a derivative is authorized”.

45. The Act is amended by inserting the following section after section 83:

“83.1. On the request of the Authority or of any interested person, the Board may, if it considers that a qualified person is not in compliance with this

Act, revoke or suspend the rights conferred by qualification or impose restrictions or conditions on the exercise of those rights.”

46. Section 90 of the Act is amended, in the first paragraph,

(1) by inserting the following subparagraph after subparagraph 1:

“(1.1) an accredited counterparty;”;

(2) by inserting the following subparagraph after subparagraph 5:

“(5.1) a trade repository;”;

(3) by inserting the following subparagraph after subparagraph 7:

“(7.1) a qualified person;”.

47. Section 105 of the Act is amended by inserting “15 days” before “notice” in the first paragraph.

48. Section 115 of the Act is amended by replacing the second paragraph by the following paragraph:

“The Authority may also inspect the affairs of a regulated entity or a qualified person to verify compliance with this Act or with any decision of the Authority, or to verify how the entity or person exercises the functions and powers delegated by the Authority.”

49. Section 115.1 of the Act is amended by replacing “or adviser” by “, adviser or qualified person” and by replacing “, at the dealer’s or adviser’s expense, to conduct” by “to conduct, at their expense;”.

50. Section 123 of the Act is amended by replacing “Canadian bank or” by “bank or a”.

51. Section 126 of the Act is replaced by the following section:

“126. An order issued under section 119 is admissible for publication in the same register as that in which rights in the funds, securities or other property covered by the order are required to be published or admissible for publication.

Likewise, the order may be published in a register kept outside Québec if such orders are admissible for publication under the Act governing the register.”

52. Section 134 of the Act is amended

(1) by replacing “that a dealer, an adviser, a representative, a market participant, a recognized regulated entity, a qualified person or a person granted an exemption under this Act has failed to comply with” in the first paragraph

by “that a person has, by an act or omission, contravened or aided in the contravention of” and by replacing both occurrences of “offender” in that paragraph by “person”;

(2) by striking out the second paragraph;

(3) by adding “for each contravention” at the end of the third paragraph.

53. The Act is amended by inserting the following section after section 135:

“**135.1.** The Board may prohibit a person from acting as a director or officer of a regulated entity, dealer, adviser or qualified person on the grounds set out in article 329 of the Civil Code or if a penalty has been imposed on the person under this Act, the Act respecting the distribution of financial products and services (chapter D-9.2) or the Securities Act (chapter V-1.1).

The prohibition may not exceed five years.

The Board may, on the request of the person concerned, lift the prohibition on such conditions as it considers appropriate.”

54. The Act is amended by inserting the following section after section 146:

“**146.1.** No person shall represent that the person is registered under this Act unless the representation is true.

No registered person shall represent that the person is registered without specifying the category of registration.”

55. Section 148 of the Act is amended by adding the following paragraph after paragraph 5:

“(6) to provide false documents or information, or access to false documents or information, to the Authority or a staff member of the Authority in the course of activities governed by this Act.”

56. Section 152 of the Act is amended

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

“**152.** A person who, by any means, makes a misrepresentation

(1) about the offering or trading of a derivative,

(2) in the risk information document or in any other information required to be given to the customer under section 70, or

(3) in any document sent or register kept under this Act,

is guilty of an offence.”;

(2) by striking out “and section 153” in the second paragraph.

57. Section 153 of the Act is repealed.

58. Section 154 of the Act is amended by replacing “qu’une prime” in the French text by “d’une prime”.

59. Section 155 of the Act is amended by inserting “or who has not had the derivative authorized as required under section 82 or 83” after “section 82”.

60. Section 157 of the Act is amended by inserting “or does not have the derivative authorized as required under section 82 or 83” after “section 82”.

61. Section 175 of the Act is amended, in the first paragraph,

(1) in subparagraph 1,

(a) by inserting “or prohibiting” after “rules concerning”;

(b) by replacing “and manipulation” by “, manipulation and conflicts of interest”;

(2) by adding “and restrictions relating to the ownership and control of an exchange, a clearing house or an alternative trading system” at the end of subparagraph 9;

(3) by adding “, including derivatives clearing rules” at the end of subparagraph 11;

(4) by replacing “and the public” in subparagraph 12 by “, the public or a trade repository that is not recognized as such”;

(5) by inserting the following subparagraph after subparagraph 21:

“(21.1) prescribe the conditions on which the Authority may authorize the marketing of a derivative for the purposes of sections 82 and 83;”;

(6) by inserting the following subparagraph after subparagraph 22:

“(22.1) prescribe rules relating to the activities of qualified persons;”.

ACT RESPECTING THE SOCIÉTÉ D’HABITATION DU QUÉBEC

62. Section 90.1 of the Act respecting the Société d’habitation du Québec (R.S.Q., chapter S-8) is amended by striking out “the Act respecting the sociétés d’entraide économique (chapter S-25.1),”.

ACT RESPECTING THE SOCIÉTÉ NATIONALE DU CHEVAL DE COURSE

63. Section 1 of the Act respecting the Société nationale du cheval de course (R.S.Q., chapter S-18.2.0.1) is amended by replacing the second paragraph by the following paragraph:

“The sole purpose of the Société is to develop the immovable identified in subparagraph 1 of the first paragraph of section 12.”

64. Section 2 of the Act is amended by adding the following paragraph at the end:

“On the expiry of their terms, the members of the board of directors remain in office until they are replaced or reappointed.”

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

“**11.** The Société shall send the Minister its financial statements, together with the auditor’s report, within 30 days after the end of its fiscal year.”

66. Section 13 of the Act is amended

(1) by striking out the second sentence of the first paragraph;

(2) by adding “and the sums required for that purpose shall be taken out of the Consolidated Revenue Fund” at the end of the second paragraph.

ACT RESPECTING THE SOCIÉTÉS D’ENTRAIDE ÉCONOMIQUE

67. The Act respecting the sociétés d’entraide économique (R.S.Q., chapter S-25.1) is repealed.

ACT RESPECTING TRUST COMPANIES AND SAVINGS COMPANIES

68. Section 3 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01) is amended by striking out “, by the Act respecting the sociétés d’entraide économique (chapter S-25.1),”.

69. Section 329 of the Act is amended by replacing “section 9” by “section 12”.

SECURITIES ACT

70. The Securities Act (R.S.Q., chapter V-1.1) is amended by inserting the following section after section 10.1:

10.1.1. An instrument under which a person is required to pay an amount of money to a securities intermediary within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002) or to a clearing house, including as a margin or settlement deposit, and which allows the intermediary or clearing house, in all circumstances described in the instrument, to extinguish or reduce, by means of a set-off, its obligation to repay that amount to the person is enforceable against third persons without further formality.

Such an instrument is governed by the law expressly designated in it or the designation of which may be inferred with certainty from the terms of the instrument.”

71. Section 30 of the Act is amended by replacing “or any amendment thereto” by “; any other document, prescribed by regulation, standing in lieu of a prospectus or any amendment to the prospectus or to such a document.”

72. Section 187 of the Act is amended, in the first paragraph,

(1) by replacing “except in the following cases” in the portion before subparagraph 1 by “except if he can prove that”, by replacing “avails himself” in subparagraph 2 by “is availing himself” and by adding “or” at the end of that subparagraph;

(2) by adding the following subparagraph after subparagraph 2:

“(3) he is required to do so under a contract the terms of which are set out in writing and which was entered into before he became aware of the information.”

73. Section 192.1 of the Act is amended

(1) by striking out “and the person specifies the category of registration”;

(2) by adding the following paragraph:

“No registered person shall represent that the person is registered without specifying the category of registration.”

74. Section 195 of the Act is amended by adding the following paragraph after paragraph 5:

“(6) to provide false documents or information, or access to false documents or information, to the Authority or a member of the personnel of the Authority in the course of activities governed by this Act.”

75. Section 197 of the Act is amended by striking out subparagraph 4 of the first paragraph.

76. The Act is amended by inserting the following section after section 199:

“199.1. A person who directly or indirectly engages or participates in any transaction or series of transactions in securities or any trading method relating to a transaction in securities, or in any act, practice or course of conduct is guilty of an offence if the person knows, or ought reasonably to know, that the transaction, series of transactions, trading method, act, practice or course of conduct

(1) creates or contributes to a misleading appearance of trading activity in, or an artificial price for, a security; or

(2) perpetrates a fraud on any person.”

77. Section 204.1 of the Act is amended by replacing “or 197” by “, 197 or 199.1”.

78. Section 214 of the Act is amended by adding the following paragraph at the end:

“For the purposes of this section, a reference to a prospectus includes a document, prescribed by regulation, standing in lieu of a prospectus.”

79. Section 253 of the Act is amended by replacing “a bank or an authorized foreign bank listed in Schedule I, II or III to the Bank Act (Statutes of Canada, 1991, chapter 46), a loan and investment society or trust company” by “a financial institution”.

80. Section 256 of the Act is replaced by the following section:

“256. An order issued under section 239 or 249 is admissible for publication in the same register as that in which rights in the funds, securities or other assets covered by the order are required to be published or admissible for publication.

Likewise, the order may be published in a register kept outside Québec if such orders are admissible for publication under the Act governing the register.”

81. Section 273.1 of the Act is amended

(1) by replacing “that a reporting issuer, an issuer having made a distribution pursuant to a prospectus exemption under section 43 or prescribed by regulation, or a person registered pursuant to section 148 or 149, has failed to comply with” in the first paragraph by “that a person has, by an act or omission, contravened, or aided in the contravention of,”;

(2) by striking out the second paragraph;

(3) by adding “for each contravention” at the end of the third paragraph.

82. Section 273.3 of the Act is amended by adding “, the Act respecting the distribution of financial products and services (chapter D-9.2) or the Derivatives Act (chapter I-14.01)” at the end of the first paragraph.

83. Section 323.5 of the Act is repealed.

84. Section 331.1 of the Act, amended by section 138 of chapter 58 of the statutes of 2009, is again amended by replacing “on the conditions” in paragraph 14 by “in the circumstances and on the other conditions”.

85. Section 338 of the Act is amended by striking out the second paragraph.

ACT TO AMEND THE ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS AND OTHER LEGISLATIVE PROVISIONS

86. Section 76 of the Act to amend the Act respecting the Autorité des marchés financiers and other legislative provisions (2008, chapter 7) is repealed.

TRANSITIONAL AND FINAL PROVISIONS

87. The Bureau de décision et de révision may exercise its powers under the following provisions in respect of a contravention or a failure to comply committed before 30 November 2011:

(1) sections 115, 115.1, 115.3 and 115.9 of the Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2), as enacted by section 20;

(2) sections 134 and 135.1 of the Derivatives Act (R.S.Q., chapter I-14.01), as enacted by sections 52 and 53; and

(3) sections 273.1 and 273.3 of the Securities Act (R.S.Q., chapter V-1.1), as enacted by sections 81 and 82.

88. A member of the board of the Chambre de l’assurance de dommages in office on 30 November 2011 remains in office until the member’s replacement by a member appointed by the Minister of Finance or elected by the members of the Chamber.

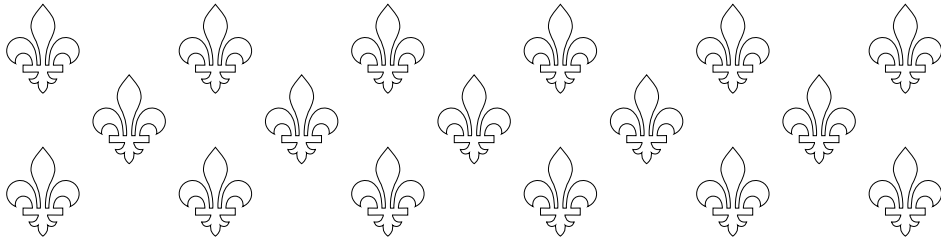
All board members from the industry must be elected by 30 November 2012. The board must also, by that date, recommend to the Minister of Finance candidates who qualify as independent members.

Any vacancy on the board between 30 November 2011 and the date the board members are replaced, including a vacancy in a seat reserved for a member appointed by the Minister of Finance, is filled by the board.

89. Any person exempted from obtaining qualification under section 82 of the Derivatives Act must, before (*insert the date that occurs 30 days after the date of coming into force of section 42*), file an application for qualification with the Authority.

Despite any stipulation to the contrary, the exemption referred to in the first paragraph terminates on the date on which the Authority makes a decision on the application for qualification.

90. This Act comes into force on 30 November 2011, except section 20 insofar as it enacts the second paragraph of section 115.2 of the Act respecting the distribution of financial products and services, and sections 42 to 44 and 59 to 61, which come into force on the date or dates to be set by the Government.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 16
(2011, chapter 27)

An Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences

**Introduced 12 May 2011
Passed in principle 4 October 2011
Passed 29 November 2011
Assented to 30 November 2011**

EXPLANATORY NOTES

This Act amends various provisions concerning health and social services mainly with respect to private seniors' residences.

A private seniors' residence is given a new definition in the Act respecting health services and social services and new operating rules for such a residence are introduced, including the obligation to hold a temporary certificate of compliance to begin operating one. The provisions relating to maintaining or renewing a certificate of compliance are amended.

Health and social services agencies are granted the power to evacuate and relocate persons lodged in a private seniors' residence in certain circumstances and following a specific procedure. Rules are set governing leases when a residence is evacuated or when the operator of a residence wishes to cease activities.

Moreover, specific amendments are made to the duration of laboratory permits and the name of certain health and social services institutions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting land use planning and development (R.S.Q., chapter A-19.1);
- Building Act (R.S.Q., chapter B-1.1);
- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Election Act (R.S.Q., chapter E-3.3);

- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (R.S.Q., chapter L-0.2);
- Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Tobacco Act (R.S.Q., chapter T-0.01);
- Act to amend various legislative provisions concerning specialized medical centres and medical imaging laboratories (2009, chapter 29).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly (R.R.Q., chapter S-4.2, r. 5).

Bill 16

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING HEALTH AND SOCIAL SERVICES IN ORDER, IN PARTICULAR, TO TIGHTEN UP THE CERTIFICATION PROCESS FOR PRIVATE SENIORS' RESIDENCES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING MEDICAL LABORATORIES, ORGAN AND TISSUE CONSERVATION AND THE DISPOSAL OF HUMAN BODIES

1. Section 37 of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (R.S.Q., chapter L-0.2) is amended by adding the following paragraph at the end:

“However, a medical imaging laboratory permit is granted for a period of 24 months. It is renewed for the same period if its holder fulfills the conditions prescribed under the first paragraph. The same applies to any other laboratory permit determined by government regulation.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

2. Section 84 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended

(1) by replacing “, psychosocial or family difficulties, alcoholism or other problems of addiction” in the first paragraph by “or psychosocial or family difficulties, or because of an alcohol, gambling or drug addiction or any other addiction”;

(2) by replacing “suffering from and, mainly on referral, persons suffering from alcoholism or other problems of addiction” in the second paragraph by “with an impairment and, mainly on referral, persons with an addiction”.

3. Section 86 of the Act is amended by replacing paragraph 3 by the following paragraph:

“(3) rehabilitation centres for persons with an addiction;”.

4. The Act is amended by inserting the following section after section 87:

“87.1. Only an institution that operates both a child and youth protection centre and a rehabilitation centre for young persons with adjustment problems

or a rehabilitation centre for mothers with adjustment problems, to the exclusion of all other missions, may use “youth centre” in its name.”

5. Section 124 of the Act is amended by replacing “who suffer from alcoholism or other problems of addiction” by “with an addiction”.

6. Section 338 of the Act is replaced by the following section:

“338. Every community organization or provincial group that receives a subsidy in one of the cases described in section 336 or 337 must, within three months after the end of its fiscal year, send its activity report and its financial report to the authority from which it received the subsidy.”

7. Section 346.0.1 of the Act is amended

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

“346.0.1. Each agency must, for the purpose of identifying the private seniors’ residences in its region, establish and maintain a register of those residences.”;

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

“For the purposes of this Act, a private seniors’ residence is all or part of a congregate residential facility occupied or designed to be occupied mainly by persons 65 years of age or over; in addition to leasing rooms or apartments, the operator of the residence offers various services included in at least two of the following categories of services, defined by regulation: meal services, personal assistance services, nursing care services, domestic help services, security services or recreation services. The cost of those services may be included in the rent or paid in another manner.”;

(3) by replacing the first sentence of the third paragraph by the following sentence: “Each agency collects the following information to establish the register and keep it up to date: the name and address of the operator, the number of the certificate of compliance issued to the operator under this subdivision, or the number of the operator’s temporary certificate of compliance if the operator does not hold a certificate of compliance, the period of validity of the certificate concerned, the name and address of the person in charge of the residence if that person is not the operator, the address and physical description of the residence, certain information concerning the building, the municipal permits the operator holds and any other permit required to carry on the operator’s activities, certain characteristics of the residence, the services offered by the operator of the residence, the facilities available and, if applicable, the category of private seniors’ residence to which the residence belongs.”;

(4) by adding the following paragraphs at the end:

“The Government may, by regulation, define the categories of services listed in the second paragraph, specify the information that must be collected and kept up to date by an agency under the third paragraph, prescribe any other information to be collected and kept up to date and determine whether it is public information. It may also provide for categories of private seniors’ residences including at least one category of residences offering services for independent elderly persons and one category of residences offering services for semi-independent elderly persons.

For the purposes of the second paragraph,

(1) services offered indirectly by the operator of a private seniors’ residence, in particular through a legal person or a partnership controlled by or that controls the operator or through another resource with which the operator has entered into an agreement for that purpose, are considered to be offered by the operator;

(2) a facility operated by an institution or a building, a part of a building or a dwelling offering the services of an intermediate resource or a family-type resource, which remains subject to the other provisions applicable to it under this Act, is not a private seniors’ residence.”

8. Sections 346.0.2 to 346.0.5 of the Act are replaced by the following sections:

“346.0.2. No person may begin operating a private seniors’ residence without having obtained a temporary certificate of compliance from the agency for the region where the residence will be situated.

“346.0.3. To obtain a temporary certificate of compliance, a person must apply in writing to the agency using the form provided by the agency.

The agency shall issue a temporary certificate of compliance if, in addition to providing the information required under the third and fourth paragraphs of section 346.0.1, the person possesses the qualifications, fulfills the conditions and provides the documents and other information prescribed by government regulation.

However, the agency must refuse to issue a temporary certificate of compliance to an applicant if the applicant or, if applicable, one of the directors or officers of the applicant is charged with or convicted of an indictable or other offence related to the abilities and conduct required to operate a private seniors’ residence, unless, in the case of a conviction, a pardon has been obtained.

“346.0.4. From the beginning of the period of validity of the temporary certificate of compliance, the operator of a private seniors’ residence is subject to this subdivision and the regulations.

Not later than one year after the beginning of the period referred to in the first paragraph, the operator must obtain from the agency a certificate of compliance attesting that the operator meets the health and social criteria prescribed under paragraph 2 of section 346.0.6.

“346.0.4.1. The agency shall begin the certification process at the very beginning of the period of validity of the temporary certificate of compliance.

For the purpose of carrying out the verifications required by that process, the agency may enter into an agreement with a body recognized by the Minister.

Such an agreement sets out the conditions for the verifications.

“346.0.4.2. At the end of the one-year period specified in section 346.0.4, an agency must refuse to issue a certificate of compliance if the operator of a private seniors’ residence does not meet the health and social criteria prescribed under paragraph 2 of section 346.0.6.

An agency may also refuse to issue a certificate for any of the reasons listed in section 346.0.11.

In exceptional circumstances, an agency may extend the one-year period referred to in the first paragraph, in particular if the failure to meet a health and social criterion is attributable to a cause beyond the operator’s control. The agency may attach conditions to the extension.

“346.0.4.3. Both the certificate of compliance and the temporary certificate of compliance must state the name of the operator of the private seniors’ residence, the address of the residence, the category to which the residence belongs and the period of validity of the certificate concerned.

“346.0.5. The operator of a private seniors’ residence who holds a certificate of compliance or a temporary certificate of compliance must publicly display its certificate in the residence at all times.

“346.0.5.1. On 1 April each year, the operator of a private seniors’ residence must file a return with the agency of the region concerned containing the information required under the third and fourth paragraphs of section 346.0.1.

“346.0.5.2. Before directing an elderly person to a private seniors’ residence or proposing such a residence, an institution must ensure that the operator of the residence holds a certificate of compliance or a temporary certificate of compliance.”

9. Section 346.0.6 of the Act is amended

(1) by replacing the introductory clause of the first paragraph by:

“**346.0.6.** In addition to the other regulatory powers conferred on it by this subdivision, the Government may prescribe, by regulation,”;

(2) by striking out subparagraph 1 of the first paragraph;

(3) by inserting the following subparagraphs after subparagraph 1 of the first paragraph:

“(1.1) the qualifications an applicant for a temporary certificate of compliance must possess, the conditions the applicant must fulfill and the information and documents the applicant must provide, in particular to enable the agency to verify compliance with the third paragraph of section 346.0.3;

“(1.2) the information and documents the operator of a private seniors’ residence must provide to the agency for the purposes of the certificate renewal process, including the information and documents it must provide to enable the agency to verify compliance with paragraph 4 of section 346.0.11;”;

(4) by replacing subparagraph 2.1 of the first paragraph by the following subparagraph:

“(2.1) the conditions that staff members and volunteers of a private seniors’ residence and any other person working in such a residence must fulfill, depending on their duties, in particular conditions relating to training and security, including conditions relating to judicial records, and the information and documents those persons must provide to the operator of the residence to enable the operator to verify whether those conditions have been fulfilled;”;

(5) by replacing subparagraph 3 of the first paragraph by the following subparagraphs:

“(3) the cases, conditions and circumstances in which this subdivision, one of its provisions or a regulatory provision does not apply to an operator of a private seniors’ residence;

“(3.1) the tools and procedures to be used to assess the autonomy of the elderly persons who reside or wish to reside in a private seniors’ residence;

“(3.2) the obligation of an operator of a private seniors’ residence that has more rooms and apartments than the number determined by regulation to establish a residence life committee, and the functions and composition of that committee;”;

(6) by replacing “a certificate of compliance” in subparagraph 4 of the first paragraph by “, if applicable, a certificate of compliance or a temporary certificate of compliance”;

(7) by replacing the second paragraph by the following subparagraphs:

“(6) any other standard applicable to the operation of a private seniors’ residence; and

“(7) the provisions of a regulation under this section whose violation constitutes an offence.”

10. Section 346.0.7 of the Act is replaced by the following section:

“346.0.7. The Government must include in the health and social criteria determined under paragraph 2 of section 346.0.6 the minimum number of persons required to be present at all times in a private seniors’ residence to ensure proper supervision, taking into account, as applicable, the category of the residence.

However, if an agency considers that, due to the physical layout of a private seniors’ residence or the type of clientele residing there, the minimum number of persons determined under paragraph 2 of section 346.0.6 does not ensure proper supervision, it may increase the minimum number of persons required to be present at all times in that residence.”

11. Section 346.0.8 of the Act is amended by replacing “whose operator holds a certificate of compliance in order to ascertain the extent to which that operator meets the conditions set out in section 346.0.4, has taken the corrective measures described in paragraph 2 of section 346.0.12 and avoids any practice or situation” by “in order to ascertain whether this subdivision and the regulations are being complied with, and whether the operator of the residence is avoiding practices or situations”.

12. Section 346.0.9 of the Act is amended

(1) by replacing “a certificate of compliance” in subparagraph 1 of the second paragraph by “a certificate of compliance or a temporary certificate of compliance and any other place, except a room or apartment, where the person has reason to believe that activities for which a certificate or a temporary certificate is required under this Act are carried on”;

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

“(2) to demand any information or documents relating to the administration of this Act for the purpose of inspecting or copying them.”

13. Sections 346.0.10 to 346.0.12 of the Act are replaced by the following sections:

“346.0.10. Subject to the third paragraph of section 346.0.4.2, a temporary certificate of compliance is valid for up to one year. It may not be renewed.

A certificate of compliance is valid for three years. It may be renewed for the same period.

Six months before the expiry date of a certificate of compliance, an agency must initiate the renewal process for the certificate with the certificate holder.

“346.0.11. The agency may revoke a temporary certificate of compliance or revoke or refuse to issue or renew a certificate of compliance if the holder

(1) no longer fulfills the conditions prescribed for the issue of a temporary certificate of compliance;

(2) fails to take the corrective measures ordered by the agency within the prescribed period, in particular further to recommendations formulated during the complaint examination process;

(3) fails to comply with a provision of this subdivision or the regulations, a condition imposed under the third paragraph of section 346.0.4.2 or a decision under the second paragraph of section 346.0.7;

(4) during the period of validity of the certificate, is charged with or convicted of an indictable or other offence related to the abilities and conduct required to operate a residence of the same category, or has a director or officer who is charged with or convicted of such an offence; or

(5) engages in practices or tolerates a situation that could pose a threat to the health or safety of the persons to whom the operator provides services.

“346.0.12. When an agency revokes a temporary certificate of compliance or revokes or refuses to issue or renew a certificate of compliance, it may prescribe the conditions that must be complied with by the operator of the private seniors’ residence concerned until the cessation of the activities of the residence. In such a case, it must prescribe a maximum period for terminating the activities of the residence.

Those conditions may include

(1) despite any inconsistent provision, the obligation to allow any person designated by the agency to enter the residence, including the rooms or apartments, at any time;

(2) the obligation to inform the agency in advance of the relocation of any resident, providing the resident’s name, the name of the person acting on the resident’s behalf, if any, and the address of the resident’s new residence;

(3) any other measure prescribed to ensure the welfare of every resident during that period.

The certificate ceases to have effect at the end of the period provided for in the first paragraph.

The costs, fees and expenses incurred by the agency to implement those conditions may be claimed from the operator of the private seniors' residence."

14. Section 346.0.13 of the Act is amended by replacing "Before refusing to issue a certificate of compliance, or suspending, revoking or refusing to renew such a certificate" by "Before refusing to issue a certificate of compliance or a temporary certificate of compliance, or revoking or, if applicable, refusing to renew such a certificate".

15. Section 346.0.14 of the Act is amended

(1) by replacing "suspending, revoking or refusing to renew a certificate of compliance" in the first paragraph by "revoking or refusing to renew, if applicable, a certificate of compliance or a temporary certificate of compliance";

(2) by replacing "suspend, revoke or refuse to renew the certificate of compliance" in the second paragraph by "revoke or, if applicable, refuse to renew the certificate".

16. Section 346.0.15 of the Act is amended by replacing "of a certificate of compliance" by "of a certificate of compliance or a temporary certificate of compliance".

17. Section 346.0.16 of the Act is amended by replacing "for a certificate of compliance has been rejected, or the holder of a certificate of compliance whose certificate has been suspended or revoked or for which renewal has been refused" by "for a certificate of compliance or a temporary certificate of compliance has been rejected, or the holder of a certificate whose certificate has been revoked or for which renewal has been refused, if applicable,".

18. The Act is amended by inserting the following sections after section 346.0.17:

"346.0.17.1. The operator of a private seniors' residence who wishes to cease activities, even with respect to only a part of the residence, must give at least six months' prior notice of that intention to the agency concerned.

The prior notice must state the date on which the operator plans to cease activities and the contact information of the residents concerned and of any persons acting on their behalf.

Failure by the operator to give the agency concerned prior notice, in accordance with this section, of the intention to cease activities renders without effect all notices that, under the rules set out in the Civil Code respecting the

lease of a dwelling, must be given to lessees prior to ceasing the activities of the private seniors' residence.

“346.0.17.2. In the case of the alienation of a congregate residential facility in which a private seniors' residence is operated or in the case of the extinction of the title of the lessor of that facility, section 346.0.17.1 also applies, with the necessary modifications, to the new lessor, who, with respect to the lessees of that residence, has the rights and obligations arising from their leases if the former operator of the residence did not give the agency concerned a prior notice of intention in accordance with that section before the alienation of the facility or the extinction of the lessor's title.”

19. Section 346.0.18 of the Act is amended by replacing “If the certificate of compliance of a certificate holder has been suspended or revoked or has not been renewed, the agency” by “When an agency revokes the temporary certificate of compliance or revokes or refuses to issue or renew the certificate of compliance of a certificate holder, it”.

20. Section 346.0.19 of the Act is amended

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

“346.0.19. The operator of a private seniors' residence who wishes to cease activities, whose temporary certificate has been revoked, who has been denied a certificate of compliance or whose certificate of compliance has been revoked or has not been renewed must return the certificate to the issuing agency.”;

(2) by replacing “of any refusal to issue or renew a certificate or of any suspension or revocation of a certificate” in the second paragraph by “of any revocation of a temporary certificate or any revocation or refusal to issue or renew a certificate of compliance”.

21. Section 346.0.20 of the Act is amended

(1) by inserting “or a temporary certificate of compliance” after “certificate of compliance”;

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

“The Government must, by regulation, identify which of the requirements referred to in the second paragraph of section 346.0.3 must be fulfilled in order for the agency to authorize the transfer requested. The third paragraph of that section also applies to a transfer request, with the necessary modifications.”

22. The Act is amended by inserting the following sections after section 346.0.20:

“346.0.20.1. No person may operate a congregate residential facility under a name that includes “private seniors’ residence” or any other word specified by government regulation, or otherwise purport, in any way, to be authorized to operate such a residence if the person does not hold a certificate of compliance or a temporary certificate of compliance.

“346.0.20.2. In addition to the powers provided for in section 346.0.11, an agency may evacuate and relocate the residents of a private seniors’ residence if the agency has reasonable grounds to believe that the operator of the residence is tolerating a situation or engaging in practices, including acts of negligence or violence, that present a danger to the health or safety of those persons.

Before proceeding, the agency must serve an evacuation order in writing on the operator, setting out the reasons for the evacuation, and allow the operator to submit observations within a period determined by the agency. It must also take the necessary means to inform the persons concerned and, to that end, it may require the operator to provide the contact information of the residents and, if applicable, of the persons acting on their behalf. If the danger is imminent, the reasons for the evacuation may first be transmitted verbally, and then in writing once the evacuation has been completed.

Once the evacuation order has been served, any person designated by the agency may enter the residence, including the rooms or apartments at any time, until the evacuation has been completed.

If the situation calls for the evacuation of all the residents, the holder’s certificate of compliance or temporary certificate of compliance ceases to have effect on the issue of the evacuation order and until the holder demonstrates to the satisfaction of the agency that the situation or practices described in the first paragraph have been remedied, unless the agency revokes the certificate under section 346.0.11.

The costs, fees and expenses incurred by the agency for the evacuation and relocation procedure may be claimed from the operator of the private seniors’ residence.

The first, second, third and fifth paragraphs also apply to a congregate residential facility where a private seniors’ residence is operated without a certificate.

“346.0.20.3. A resident evacuated under section 346.0.20.2 is exempted from paying rent for the evacuation period. Unless the agency revokes the temporary certificate of compliance or the certificate of compliance under section 346.0.11, as soon as the situation necessitating the evacuation and relocation is remedied to the satisfaction of the agency, the operator is required to notify the evacuated resident, if the resident informed the operator of the resident’s new address. The resident is then required to notify the operator within 10 days as to whether or not the resident intends to move back into the room or apartment. If the resident refuses to move back into the room or

apartment or did not inform the operator of the resident's new address or the resident's intention to move back into the room or apartment, the lease is resiliated by operation of law. The resident retains all other remedies under the lease against the operator, including the right to claim damages.

“346.0.20.4. Any resident bound by a lease of a dwelling to the operator of a private seniors' residence in respect of which the agency has revoked the temporary certificate of compliance or revoked or refused to issue or renew a certificate of compliance may, with at least 15 days' prior notice, resiliate the lease. The notice must state the date on which the resident plans to leave the room or apartment. The lease is resiliated by operation of law as of that date. The notice must be sent not later than 60 days after the activities of the residence cease.

A resident of a private seniors' residence referred to in the first paragraph also has the remedies provided for in article 1863 of the Civil Code against the operator.

An operator of a private seniors' residence may not claim compensation from a resident on the grounds of the resiliation of a lease under this section or section 346.0.20.3.

“346.0.20.5. The Minister must enter into a framework agreement with the Minister of Public Security to establish the procedures that Québec police forces will be called upon to follow in order to verify, for an agency or the operator of a private seniors' residence, compliance with the third paragraph of section 346.0.3 and paragraph 4 of section 346.0.11 and the security conditions prescribed by regulation.”

23. Section 346.0.21 of the Act is amended by adding the following paragraph at the end:

“For the purposes of section 346.0.20.1, the Government may specify, by regulation, the words that can only be used in the name of a resource offering lodging determined under the first paragraph.”

24. Section 438 of the Act is amended by inserting ““youth centre”,” after “containing the words”.

25. Section 489 of the Act is amended by striking out “or a certificate of compliance” in the first paragraph.

26. The Act is amended by inserting the following section after section 489.1:

“489.1.1. A person authorized in writing by the Minister or an agency to carry out an inspection under this Act may not be prosecuted for an omission or an act done in good faith in the performance of the duties of office.”

27. Section 505 of the Act is amended by inserting the following paragraph after paragraph 24:

“(24.1) prescribe the content of a form to be filled out following the death of a user that occurred in a facility operated by an institution or in a building or a dwelling where the services of an intermediate resource or a family-type resource are offered, or following the death of a resident of a private seniors’ residence and specify who is authorized to sign such a form and in what cases and circumstances and on what conditions the form must be forwarded to the coroner;”.

28. Section 531.1 of the Act is amended

(1) by replacing “without holding a certificate of compliance issued under this Act or who purports to hold such a certificate while not holding one” in the first paragraph by “without holding a certificate of compliance or a temporary certificate of compliance or who contravenes any of the provisions of section 346.0.20.1 or a regulation under that section”;

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

“Every person who contravenes the first paragraph is liable, for each day the offence continues, to a fine of \$300 to \$1,200 in the case of a natural person, or \$1,200 to \$4,800 in the case of a legal person. For a subsequent offence, the amounts are doubled.”

29. The Act is amended by adding the following sections after section 531.1:

“531.1.1. Every person who contravenes section 346.0.5.1 or a provision determined by a regulation made under paragraph 7 of section 346.0.6 commits an offence and is liable to a fine of \$300 to \$1,200 in the case of a natural person or \$600 to \$2,400 in the case of a legal person. For a subsequent offence, the amounts are doubled.

“531.1.2. An operator of a private seniors’ residence who fails to fulfill a condition prescribed by an agency under section 346.0.12 commits an offence and is liable, for each day the offence continues, to a fine of \$600 to \$2,400 in the case of a natural person, or \$2,400 to \$9,600 in the case of a legal person.

“531.1.3. An operator of a private seniors’ residence or a new lessor referred to in section 346.0.17.2 who contravenes section 346.0.17.1 commits an offence and is liable to a fine of \$600 to \$2,400 in the case of a natural person or \$2,400 to \$9,600 in the case of a legal person.”

ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS
CONCERNING SPECIALIZED MEDICAL CENTRES AND MEDICAL
IMAGING LABORATORIES

30. Section 34 of the Act to amend various legislative provisions concerning specialized medical centres and medical imaging laboratories (2009, chapter 29) is amended by replacing “30 September 2009” in subparagraph 1 of the first paragraph by “31 March 2010”.

CONSEQUENTIAL PROVISIONS

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

31. Section 118.1 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by replacing the second paragraph by the following paragraph:

“For the purposes of the first paragraph, “private seniors’ residence” has the meaning assigned to it by the second paragraph of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2).”

BUILDING ACT

32. Section 29 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing the second paragraph by the following paragraphs:

“However, despite the first paragraph, this chapter does apply to a private seniors’ residence within the meaning of section 346.0.1 of the Act respecting health services and social services (chapter S-4.2).

This chapter also applies to electrical installations, installations intended to use gas, and petroleum equipment installations located in buildings excluded by subparagraphs 2 and 3 of the first paragraph.”

ACT RESPECTING ADMINISTRATIVE JUSTICE

33. Section 119 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by replacing “of an application for or the suspension, revocation or non-renewal of a certificate of compliance” in paragraph 5.2 by “to issue a certificate of compliance or a temporary certificate of compliance or to the revocation or, if applicable, the non-renewal of such a certificate.”

34. Section 3 of Schedule I to the Act is amended by inserting “or a temporary certificate of compliance” after “certificate of compliance” in paragraph 12.1.

ACT RESPECTING THE DETERMINATION OF THE CAUSES AND CIRCUMSTANCES OF DEATH

35. Section 34 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) is amended by inserting “as a result of negligence or” after “occurred”.

36. Section 36 of the Act is amended by inserting “as a result of negligence or” after “occurred”.

37. Section 43 of the Act is amended by inserting “as a result of negligence or” after “occurred” in the first paragraph.

OTHER AMENDMENTS

38. “Residence for the elderly” is replaced wherever it appears by “private seniors’ residence”, with the necessary grammatical modifications, in the following provisions:

(1) section 120.0.1 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1);

(2) sections 134.1, 175, 178 and 631 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);

(3) section 58.5.1 of the Act respecting school elections (R.S.Q., chapter E-2.3);

(4) sections 135.1, 180, 305 and 551 of the Election Act (R.S.Q., chapter E-3.3);

(5) section 60, the provisions of subdivision 2.1 of Division II of Title I of Part III that are not amended by this Act, and sections 530.8 and 531.1 of the Act respecting health services and social services (R.S.Q., chapter S-4.2);

(6) section 2 of the Tobacco Act (R.S.Q., chapter T-0.01); and

(7) sections 1, 3, 17 and 26 and the title of the Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly (R.R.Q., chapter S-4.2, r. 5).

TRANSITIONAL AND FINAL PROVISIONS

39. In order to spread out the analysis of permit renewal applications under the second paragraph of section 37 of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (R.S.Q., chapter L-0.2), enacted by section 1, the Minister may, on the first renewal of such a permit after 30 November 2011 or, as the case may be, after the coming into force of a regulation made under that paragraph, renew the permit for

12 months or more but not for more than 24 months. To that end, the Minister may also extend the period of validity of such a permit in force on that date for a period of less than 12 months.

Until a regulation is made under the second paragraph of section 37 of that Act, a permit for a laboratory included in the specific diagnostic radiology laboratory class operating in the field of medicine, provided for in the Regulation respecting the application of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (R.R.Q., chapter L-0.2, r. 1), is considered to be subject to the second paragraph of that section 37.

Until the required amendments are made to the Regulation respecting the application of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies,

(1) the annual fees set out in the second paragraph of section 107 of that regulation for the issue or renewal of a laboratory permit are adjusted in proportion to the number of months for which a permit referred to in the first paragraph is renewed or extended; and

(2) despite section 106 of that regulation, any application for the renewal of such a permit must be filed three months before the permit expires.

40. A legal person or any other body that, on 12 May 2011, is carrying on its activities under a name containing the words “youth centre” may continue to exercise its activities under that name until it changes the name. From that date, the legal person or body is subject to section 87.1 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), enacted by section 4, and section 438 of that Act, as amended by section 24.

41. In order to spread out the analysis of certificate of compliance renewal applications under the Act respecting health services and social services, the period of validity of any certificate of compliance that expires in 2011 and whose registration number in the register of private seniors’ residence is an uneven number is increased to four years the first time the certificate is renewed following the expiry date. The period of validity of any certificate first issued in 2012 is also increased to four years regardless of its registration number.

The period of validity of a certificate referred to in the first paragraph is three years for any subsequent renewal.

42. The operator of a private seniors’ residence who, on (*insert the date of coming into force of this section*), does not hold a certificate of compliance must file an application for a temporary certificate of compliance with the agency of its region not later than (*insert the date that is one month after the coming into force of this section*) and obtain such a certificate from that agency within three months after filing the application. If the operator fails to obtain a temporary certificate, section 346.0.12 of the Act respecting health services

and social services (R.S.Q., chapter S-4.2) applies, with the necessary modifications.

The same applies to the operator of a drug addiction and pathological gambling resource offering lodging, referred to in the Regulation respecting the certification of drug addiction or pathological gambling resources, enacted by Order in Council 569-2010 (2010, G.O. 2, 1944), except a resource referred to in section 15 or 16 of chapter 46 of the statutes of 2009, in which case those sections remain applicable to the operator. However, an operator of a resource referred to in either of those sections must obtain a certificate in accordance with the Act respecting health services and social services not later than 1 July 2012, failing which section 346.0.12 of that Act applies, with the necessary modifications.

43. Despite section 42, an operator of a private seniors' residence who, having begun the certification process before 30 November 2011, does not hold a certificate of compliance on that date must obtain such a certificate not later than one year after that date; if the operator fails to obtain the certificate within that time, section 346.0.12 of the Act respecting health services and social services, enacted by section 13, applies, with the necessary modifications.

44. Until the coming into force of section 346.0.12 of the Act respecting health services and social services, enacted by section 13, when an agency revokes or refuses to issue or renew a certificate of compliance, it may prescribe the conditions that the operator of the private seniors' residence concerned must comply with until the cessation of the activities of the residence. In such a case, the agency must prescribe the maximum period for terminating the activities of the residence.

Those conditions may include

(1) despite any inconsistent provision, the obligation to allow any person designated by the agency to enter the residence, including the rooms or apartments, at any time;

(2) the obligation to inform the agency in advance of the relocation of any resident, providing the resident's name, the name of the person acting on the resident's behalf, if any, and the address of the resident's new residence;

(3) any other measure prescribed to ensure the welfare of every resident during that period.

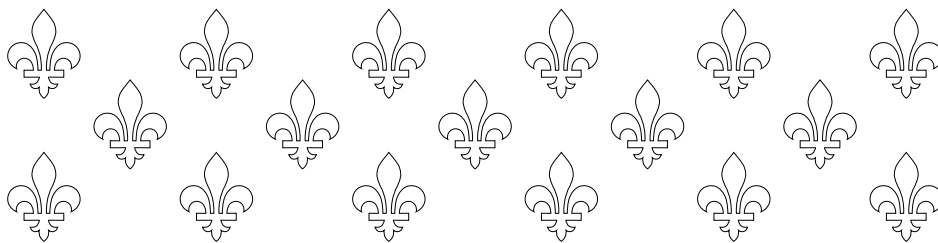
The certificate ceases to have effect at the end of the period provided for in the first paragraph.

The costs, fees and expenses incurred by the agency to implement those conditions may be claimed from the operator of the private seniors' residence.

45. Until the coming into force of paragraph 1 of section 7, a congregate residential facility where rooms or apartments intended for elderly persons are offered for rent and where security, housekeeping assistance and social activity assistance services are limited to either recreation services, meal services or security services is not considered a private seniors' residence within the meaning of section 346.0.1 of the Act respecting health services and social services, as it reads on 30 November 2011.

46. Until the coming into force of the regulation referred to in subparagraph 7 of the first paragraph of section 346.0.6, enacted by section 9, the operator of a private seniors' residence who contravenes any provision of the Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly (R.R.Q., chapter S-4.2, r. 5) commits an offence and is liable to a fine of \$300 to \$1,200. For a subsequent offence, the amounts are doubled.

47. With the exception of sections 1 to 6 and 18, sections 346.0.20.1 to 346.0.20.4, enacted by section 22, except with respect to temporary certificates of compliance, sections 24, 26, 30 to 32, 35 to 41 and 43 to 46, and section 531.1.3, enacted by section 29, which come into force on 30 November 2011, the provisions of this Act come into force on 30 November 2012, unless the Government sets an earlier date or dates for their coming into force.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 21
(2011, chapter 28)

**An Act to amend the Act respecting the
marketing of agricultural, food and fish
products**

**Introduced 2 June 2011
Passed in principle 26 October 2011
Passed 24 November 2011
Assented to 30 November 2011**

**Québec Official Publisher
2011**

EXPLANATORY NOTES

This Act empowers the Régie des marchés agricoles et alimentaires du Québec to decide on the payability of a sum of money under a joint plan, a marketing board by-law, a marketing agreement or an arbitration award in lieu of an agreement, and to order its payment.

It also empowers the Régie to provide, in arbitration awards the Régie makes in lieu of homologated marketing agreements, for the payment of penalties by any party bound by such an award that does not comply with the obligations it contains. It also sets out the manner of determining the penalties.

Lastly, it validates clauses providing for the payment of liquidated damages and other penalties included in arbitration awards that are in lieu of homologated agreements, and validates orders of the Régie on the payability of a sum of money that order its payment.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1).

Bill 21

AN ACT TO AMEND THE ACT RESPECTING THE MARKETING OF AGRICULTURAL, FOOD AND FISH PRODUCTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 35 of the Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1) is amended

(1) by adding the following sentence at the end: “The Régie may then exercise the powers set out in the second paragraph of section 117.”;

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

“The decision of the Régie is an arbitration award that is in lieu of and has the same effects as a homologated marketing agreement.”

2. Section 43 of the Act is amended

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

“The Régie may also decide on the payability of a sum of money under a plan, a by-law, a homologated agreement, an arbitration award in lieu of an agreement or a decision in lieu of an arbitration award, and order its payment.”;

(2) by replacing “the first paragraph” in the second paragraph by “the first and second paragraphs”.

3. Section 117 of the Act is amended by adding the following paragraph at the end:

“When the Régie makes an arbitration award, it may, at the request of one of the interested parties, include a penalty payable by any party bound by the award who does not comply with the obligations it contains and provide that the penalty be used for specific purposes. It may also require the payment of annual interest at the rate it sets. The Régie bases the penalty on, in particular, the volume, mass, quantity or value of the product marketed, or the area under cultivation or operation.”

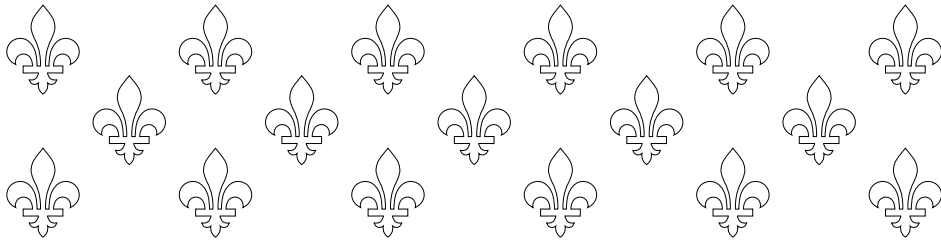
4. Section 118 of the Act is amended by adding the following sentence at the end of the first paragraph: “The Régie may then, at the request of one of the interested parties, exercise the powers set out in section 117.”

5. Clauses providing for the payment of liquidated damages or other penalties included in arbitration awards that are in lieu of homologated agreements or in decisions that are in lieu of arbitration awards are hereby validated, to the extent that they were ordered by the Régie des marchés agricoles et alimentaires du Québec in the absence of enabling legislation.

6. Orders of the Régie des marchés agricoles et alimentaires du Québec on the payability of a sum of money under a plan, a by-law, a homologated agreement, an arbitration award in lieu of an agreement or a decision in lieu of an arbitration award and ordering its payment are hereby validated, to the extent that they were made in the absence of enabling legislation.

The first paragraph does not apply to cases pending on 23 December 2010.

7. This Act comes into force on 30 November 2011.



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 22
(2011, chapter 29)

**An Act to amend the Civil Code as
regards the resiliation of a dwelling lease
in certain cases**

**Introduced 3 June 2011
Passed in principle 15 November 2011
Passed 29 November 2011
Assented to 30 November 2011**

**Québec Official Publisher
2011**

EXPLANATORY NOTES

This Act amends certain provisions of the Civil Code as regards the cancellation (resiliation) of a dwelling lease.

The Act provides that in a number of cases, a lease may be cancelled before the cancellation notice period expires not only if the parties so agree, as the current provisions provide, but also when the dwelling has been vacated by the lessee and is re-leased by the lessor during that period. This is to apply in cases where the lessee is allocated a dwelling in low-rental housing or, by reason of a decision of the court, is relocated in an equivalent dwelling corresponding to his or her needs, and where the lessee can no longer occupy the dwelling because of a handicap. This is also to apply where the lessee is an elderly person who has been permanently admitted to a residential and long-term care centre, a facility operated by an intermediary resource, a private seniors' residence where the nursing care and personal assistance services required by his or her state of health are provided, or to any other lodging facility, regardless of its name, where such care and services are provided.

The Act also amends the provisions governing the cancellation of a lease in cases where the lessee's safety, or the safety of a child living with the lessee, is threatened by reason of the spouse's violent behaviour or a sexual aggression. The current applicable provisions already provide that the cancellation takes effect if the dwelling is re-leased by the lessor during the cancellation notice period. However, the Act further specifies that, in such a case as well, the cancellation of the lease cannot take effect before the dwelling has been vacated by the lessee.

Furthermore, the Act provides that if a lessee dies while living alone in a dwelling, the cancellation of the lease takes effect before the cancellation notice period expires if the parties so agree or as soon as the dwelling is re-leased by the lessor during the cancellation notice period.

The notice period for all the preceding lease cancellation situations is reduced from three to two months.

Lastly, under new provisions introduced by the Act, if part of the rent covered the cost of services of a personal nature provided to the lessee or to a child of the lessee who lived with the lessee, the lessor,

on cancellation of the lease, will only be entitled to claim that part of the rent that relates to the services which were actually provided before the lessee vacated the dwelling or died.

LEGISLATION AMENDED BY THIS ACT:

- Civil Code of Québec.

Bill 22

AN ACT TO AMEND THE CIVIL CODE AS REGARDS THE RESILIATION OF A DWELLING LEASE IN CERTAIN CASES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 1892 of the Civil Code of Québec is amended by adding the following at the end of the second paragraph: “, and to services of a personal nature provided by the lessor to the lessee”.

2. The Code is amended by inserting the following article after article 1892:

“**1892.1.** The services listed in the form reproduced in Schedule 6 to the Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee (R.R.Q., chapter R-8.1, r. 3) are services of a personal nature provided to the lessee.”

3. The Code is amended by inserting the following article after article 1895:

“**1895.1.** If the lease includes services of a personal nature to be provided to the lessee, the lessor must specify, in the relevant schedule to the mandatory form, the part of the rent that relates to the cost of each of those services.”

4. Article 1938 of the Code is amended by adding the following sentences at the end of the second paragraph: “In all cases, if part of the rent covers services of a personal nature provided to the lessee, the person living with the lessee at the time of the lessee’s death, the liquidator of the succession or the heir is only required to pay that part of the rent that relates to the services which were provided during the lifetime of the lessee. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.”

5. Article 1939 of the Code is replaced by the following article:

“**1939.** If no one is living with the lessee at the time of his or her death, the liquidator of the succession or, if there is no liquidator, an heir may resiliate the lease by giving the lessor two months’ notice within six months after the death. The resiliation takes effect before the two-month period expires if the liquidator or the heir and the lessor so agree or when the dwelling is re-leased by the lessor during that same period.

If part of the rent covers the cost of services of a personal nature provided to the lessee, the liquidator or the heir is only required to pay that part of the

rent that relates to the services which were provided during the lifetime of the lessee. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.”

6. Article 1974 of the Code is replaced by the following article:

“1974. A lessee may resiliate the current lease if he or she is allocated a dwelling in low-rental housing or, because of a decision of the court, the lessee is relocated in an equivalent dwelling corresponding to his or her needs; the lessee may also resiliate the lease if he or she can no longer occupy the dwelling because of a handicap or, in the case of a senior, if he or she is permanently admitted to a residential and long-term care centre, to a facility operated by an intermediate resource, to a private seniors’ residence where the nursing care and personal assistance services required by his or her state of health are provided, or to any other lodging facility, regardless of its name, where such care and services are provided, whether or not the lessee already resides in such a place at the time of admission.

The resiliation takes effect two months after a notice is sent to the lessor, or one month after the notice is sent if the lease is for an indeterminate term or a term of less than 12 months. However, the resiliation takes effect before the two-month or one-month period expires if the parties so agree or when the dwelling, having been vacated by the lessee, is re-leased by the lessor during that same period. The notice must be sent with an acknowledgement from the authority concerned and, in the case of a senior, with a certificate from an authorized person stating that the conditions requiring admission to the facility have been met.

If part of the rent covers the cost of services of a personal nature provided to the lessee, the lessee is only required to pay that part of the rent that relates to the services which were provided before he or she vacated the dwelling. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.”

7. Article 1974.1 of the Code is amended

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

“The resiliation takes effect two months after a notice is sent to the lessor or one month after the notice is sent if the lease is for an indeterminate term or a term of less than 12 months. However, the resiliation takes effect before the two-month or one-month period expires if the parties so agree or when the dwelling, having been vacated by the lessee, is re-leased by the lessor during that same period.”;

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

“If part of the rent covers the cost of services of a personal nature provided to the lessee or to a child of the lessee who lives with the lessee, the lessee is

only required to pay that part of the rent that relates to the services which were provided before he or she vacated the dwelling. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.”

8. Article 1895.1 of the Civil Code, enacted by section 3, is applicable only to leases renewed or entered into after 30 November 2011.

9. For the purposes of article 1974 of the Civil Code, amended by section 6, nursing care includes care provided within the scope of the professional activities that nurses and nursing assistants are authorized to exercise under an Act or a regulation, and care provided within the scope of such activities by any person authorized to exercise them under an Act or a regulation.

Personal assistance services for the purpose of that section include

(1) assistance with and supervision of eating, personal hygiene, dressing, locomotion, transferring in and out of bed or in and out of a chair or a wheelchair, and using the toilet or a commode chair, including encouragement to carry out such activities;

(2) invasive care involved in assistance with activities of daily living or administering medication; and

(3) distribution of medication.

This section is applicable until a regulation is made under the Act respecting health services and social services (R.S.Q., chapter S-4.2) to define the expressions “nursing care” and “personal assistance services”.

10. This Act comes into force on 30 November 2011.

Treasury Board

Gouvernement du Québec

T.B. 210899, 13 December 2011

An Act respecting the Pension Plan
of Management Personnel
(R.S.Q., c. R-12.1)

Regulation — **Amendment**

Regulation to amend the Regulation under the Act
respecting the Pension Plan of Management Personnel

WHEREAS, under section 174 of the Act respecting the Pension Plan of Management Personnel (R.S.Q., c. R-12.1), amended by section 42 of chapter 24 of the Statutes of 2011, the rate of contribution applicable to the plan each year is determined according to the rules, terms and conditions prescribed by regulation, and the rate is based on the result of the three-year actuarial valuation referred to in the first paragraph of section 171 of the Act respecting the Pension Plan of Management Personnel and is adjusted from 1 January following the receipt by the Minister of the report of the independent actuary and, for the two subsequent years, from 1 January of each year;

WHEREAS, under subparagraph 18 of the first paragraph of section 196 of the Act, amended by section 43 of chapter 24 of the Statutes of 2011, the Government may, by regulation, establish, for the purposes of section 174, the rate of contribution applicable to the plan each year, according to the rules, terms and conditions prescribed by the regulation;

WHEREAS the Minister received the report of the independent actuary on 12 November 2010;

WHEREAS the rate of contribution must be increased;

WHEREAS, under the first paragraph of section 196 of the Act respecting the Pension Plan of Management Personnel, the Government makes the regulation after the Commission administrative des régimes de retraite et d'assurances has consulted the pension committee referred to in section 196.2 of the Act;

WHEREAS, under section 40 of the Public Administration Act (R.S.Q., c. A-6.01), the Conseil du trésor, after consulting the Minister of Finance, exercises the powers conferred on the Government by an Act that establishes a pension plan applicable to personnel of the public and parapublic sectors, except certain powers;

WHEREAS the Conseil du trésor made the Regulation under the Act respecting the Pension Plan of Management Personnel by its decision C.T. 202420 dated 24 May 2005;

WHEREAS it is expedient to amend the Regulation;

WHEREAS the pension committee has been consulted;

WHEREAS the Minister of Finance has been consulted;

THE CONSEIL DU TRÉSOR DECIDES:

THAT the Regulation to amend the Regulation under the Act respecting the Pension Plan of Management Personnel, attached hereto, is made.

GEORGES BOULET,
Le greffier du Conseil du trésor

Regulation to amend the Regulation under the Act respecting the Pension Plan of Management Personnel

An Act respecting the Pension Plan
of Management Personnel
(R.S.Q., c. R-12.1, s. 196, 1st par., subpars. 18
and s. 174; 2011, c. 24, ss. 42 and 43)

1. The Regulation under the Act respecting the Pension Plan of Management Personnel (R.S.Q., c. R-12.1, r. 1) is amended by replacing section 11 by the following:

“**11.** From 1 January 2012, the rate of contribution to the plan applicable to the portion of pensionable salary exceeding 35% of the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9) is obtained by adding to the rate of contribution required to finance the benefits accrued annually and administrative expenses of 11.55%, as determined by the most recent actuarial valuation

under the first paragraph of section 171 of the Act, a factor expressed in percentage to take into account part of the amortization of the surplus or deficit of the plan. The factor is 0.75% for the year 2012.

The rate of contribution applicable for the year 2012 is set at 12.30%.”.

2. This Regulation comes into force on 1 January 2012.

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Erratum

M.O., 2011

Environment Quality Act
(R.S.Q., c. Q-2)

Mandatory reporting of certain emissions of contaminants into the atmosphere — Amendment

Regulation to amend the Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere

Gazette officielle du Québec, Part 2, 16 December 2011,
Vol. 143, No. 50B, page 3756B.

On page 3756B, in the Ministerial Order, in the third paragraph, “9 June 2010” should read “5 October 2011”.

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Abbreviations : **A**: Abrogated, **N**: New, **M**: Modified

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