



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 30

(1996, chapter 57)

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

**Introduced 15 May 1996
Passage in principle 5 June 1996
Passage 20 December 1996
Assented to 23 December 1996**

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EXPLANATORY NOTES

This bill amends the Act respecting the Société d'habitation du Québec to confer on the Minister the authority to suspend the powers of the directors of housing agencies that receive financial assistance granted for the operation and maintenance of residential housing if they have failed to perform the duties incumbent upon them.

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

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

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

Bill 30

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

“DIVISION VI.1

“PROVISIONAL ADMINISTRATION

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

“85.2 The Minister may, after taking cognizance of facts revealed as a result of actions taken to ascertain compliance with the law, and after giving the directors of the housing agency concerned an opportunity to present their observations in writing on those facts within 15 days of receipt of a written notice of the Minister to that effect, suspend the powers of the directors from the date he determines, for a period not exceeding 120 days, and appoint provisional administrators to exercise the powers of the directors during the suspension, if the facts give him cause to believe

(1) that the directors have been seriously remiss in the performance of the obligations imposed by the Civil Code of Québec on administrators of a legal person, of the obligations imposed on them under this Act or under a regulation hereunder, or of the

obligations arising out of a housing program or agreement under the terms of which the agency receives financial assistance;

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

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

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

The decision of the Minister, with reasons, shall be sent with dispatch to the directors of the housing agency. In addition, a notice of the decision shall be published in the *Gazette officielle du Québec*.

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

“85.4 The provisional administrators shall, not less than 30 days before the date on which their term is to expire, file a report with the Minister setting out their findings and recommendations. The report must contain any information the Minister requires.

“85.5 The Minister may, after examining the provisional administrators’ report, and where he considers it warranted to remedy a situation described in subparagraphs 1 to 4 of the first paragraph of section 85.2 or to prevent the reoccurrence of a situation,

(1) extend the provisional administration for not more than 90 days, or terminate it, on the conditions he determines;

(2) order, on the conditions he determines, a reorganization of the agency’s structure and activities;

(3) dismiss from office one or more directors of the housing agency whose powers have been suspended and see to the appointment or election of new directors.

Any extension of the provisional administration may, for the same reasons, be renewed by the Minister provided that no extension exceeds 90 days.

If the provisional administrators' report does not establish the presence of a situation described in subparagraphs 1 to 4 of the first paragraph of section 85.2, the Minister shall immediately terminate the provisional administration.

Every decision of the Minister shall contain reasons and be sent with dispatch to the directors of the housing agency.

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

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

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

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

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

“85.10 In the annual report tabled by the Minister on the activities of his department, the Minister shall under a special heading report on the application of this division.”

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

Notwithstanding the first paragraph, the Minister may not, in examining the facts giving rise to the provisional administration of a housing agency, take into consideration facts existing before the coming into force of this Act if those facts, insofar as they concern the administration of the agency, are the subject of legal proceedings brought before the courts by the Société d'habitation du Québec.

3. This Act comes into force on 23 December 1996.