



CHAPTER 44

An Act to amend the Quebec Municipal Commission Act

[Assented to, the 9th of May, 1941]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. Section 2 of the Quebec Municipal Commission Act (Revised Statutes, 1925, chapter 111A, enacted by the act 22 George V, chapter 56), as amended by the acts 23 George V, chapter 49, section 2, and 4 George VI, chapter 45, section 1, is again amended by inserting therein, after paragraph 3b thereof, the following paragraph:

“3c. The expression “secretary-treasurer” includes, when the case requires it, the clerk or the treasurer of a city or town;”

2. Section 38 of the said act, as amended by the acts 23 George V, chapter 50, section 4; 24 George V, chapter 35, section 2; 2 George VI, chapter 63, section 1, and 4 George VI, chapter 45, section 2, is again amended by replacing the words: “In such case”, in the first line of the second paragraph thereof, by the words: “During such period”.

3. Section 39 of the said act, as amended by the acts 23 George V, chapter 49, section 6; 23 George V, chapter 50, section 5; 24 George V, chapter 35, section 3, and 4 George VI, chapter 45, sections 3 and 4, is again amended by replacing the word: “term”, in the fourth line of paragraph *g* thereof, by the word: “conditions”.

R. S., c. 111A, s. 40, re-placed. **4.** Section 40 of the said act is replaced by the following:

Commission's right to purchase, in certain case. **"40.** The Commission may exercise, in the name of any municipality in default, the latter's right to become purchaser of immoveables situated in such municipality."

R. S., c. 111A, s. 44a, am. **5.** Section 44a of the said act, as enacted by the act 4 George VI, chapter 45, section 5, is amended:

a. By replacing the first paragraph and subparagraph 1 thereof by the following:

Consolidation of taxes. **"44a.** Any municipality in default may decree by resolution the consolidation of the arrears of taxes or, in the case of a corporation of the trustees for a parish or for a mission, of the assessments due, on the following conditions:

Conditions:
Arrears;

1. The resolution shall determine what arrears are subject to the consolidation and the date from which such arrears, with accrued interest, shall be consolidated;"

b. By inserting, after the word: "resolution", in the second line of paragraph 3 thereof, the words: ", unless the contrary is entailed thereby".

R. S., c. 111A, s. 45, am. **6.** Section 45 of the said act, as amended by the act 23 George V, chapter 49, section 7, is again amended by inserting therein, immediately after the first paragraph thereof, the following paragraphs:

Powers of the Commission in rendering its decision.

"At the request of the said municipality, the Commission may, in rendering its decision and by so specifying in the notice, order that certain provisions of this act shall continue to apply to such municipality or reserve to itself the power to disallow any decision of the council of such municipality. In the latter event, the secretary-treasurer of the municipality must transmit forthwith to the Commission an authentic copy of the minutes of each of the meetings of the council. No such power of disallowance may be exercised more than thirty days after the receipt of such copy. Disallowance annuls the decision in question from the date on which such disallowance is pronounced.

Ending of reserved powers.

The Commission may put an end to the reserved powers in the same manner as it may do to the declaration of default."

R. S., c. 111A, s. 46, am. **7.** Section 46 of the said act is amended by inserting therein, after the word: "provisions", in the third line thereof, the words: "of section 38,".

8. Division VIa of the said act, comprising sections 46a to 46z inclusive, is replaced by the following: R. S., c.111A, ss. 46a to 46z, replaced.

“DIVISION VIa

“SALE OF IMMOVEABLES FOR TAXES

“46a. In the case of a municipality in default, the Commission may order an officer of the municipality, or any person whom it designates, to sell such immoveables as it indicates on which the taxes exigible before the date stated in the notice of sale have not been paid at the time of the sale, with interest and costs. Order of Commission.

The order shall fix the fees of the person in charge of the sale. Such fees, with the disbursements for searches in the registry office and the registrar’s fees, shall be included in the costs. Fees.

“46b. The sale shall be by public auction, at the place mentioned in the order. Sale by public auction.

“46c. Within fifteen days of the order, the person designated shall give public notice of the day, hour and place of the sale. Such notice shall contain a description, according to the provisions of article 2168 of the Civil Code, of the immoveables the sale whereof is so ordered, stating the name of the owner according to the valuation roll, and it shall be posted up at the places where municipal notices are posted up. Notice.

If the publication of municipal notices is made in the newspapers, such publication of the aforesaid notice shall not be required and the person in charge of the sale shall post up the notice in two public places in the municipality. No publication in newspapers.

“46d. Such notice shall also be published twice in *Quebec Official Gazette*. The sale cannot be held before the expiration of the fifteen days following the date of the last publication. Publication in Quebec Official Gazette.

Such publication shall be free. Free.

Immediately upon the first publication of the notice, the person in charge of the sale must, by registered letter, transmit a copy of the notice to the registrar of the registration division in which each immoveable advertised for sale is situated. The registrar shall notify the interested parties in the manner indicated by the Civil Code. Copy of notice transmitted to registrar.

Failure to notify the registrar shall not render the proceedings null, but the person in default shall be liable for the damages resulting therefrom. Default.

Notice to school commissioners, etc.

“**46e.** Within six days from the date of the first publication, the person in charge of the sale shall, by registered letter, give notice of such sale to the corporation of school commissioners or school trustees of the municipality in which each immoveable advertised for sale is situated if the municipality in default is the municipal corporation, and to the municipal corporation if the municipality in default is a corporation of school commissioners or of school trustees.

Corporation may file claim.

The corporation receiving such notice may file a claim for the taxes due to it with the person in charge of the sale. The latter is authorized to add such amount to that owing, for taxes, to the municipality in default.

Notice to parish trustees in certain cases.

“**46f.** If the immoveables advertised for sale are burdened with an assessment for the construction or repair of churches, parsonages and cemeteries, the notice prescribed in the preceding section shall be given to the parish trustees.

Sale to highest bidder.

“**46g.** At the time fixed for the sale, the person designated by the Commission shall sell to the highest bidder the immoveables described in the notice upon which taxes which became exigible before the date fixed have not been paid, after making known the amount to be raised on each, including therein the costs of sale. The immoveables shall be put up and sold separately, in the order in which they are described in the notice.

Adjournment of sale.

“**46h.** If all the immoveables advertised cannot be sold on the day fixed, the sale shall be adjourned to the following juridical day by a verbal notice given to the persons present, and this may be done as often as necessary.

Owner may not bid.

“**46i.** The owner of the immoveable shall not bid or become purchaser and, during the delay for redemption, he may only recover the immoveable by exercising the right of redemption.

Adjudication in certain event.

If there be no outbid, the only bidder shall be purchaser.

Payment.

The purchaser must pay the price immediately.

Resale.

In default of immediate payment, the person in charge of the sale shall again put up the immoveable for sale.

Certificate of sale.

“**46j.** On payment by the purchaser of the amount of his purchase price, the person in charge of the sale shall draw up in duplicate a certificate over his signature and deliver one of such duplicates to the purchaser.

The purchaser shall thereupon be seized of the ownership of the immoveable adjudged, and may enter into possession thereof, subject to the right of redemption. He is, however, forbidden to remove any wood or constructions during the delay granted for redemption.

Seizin and possession.

“46k. The purchaser who cannot secure delivery of the immoveable may apply to a judge of the Superior Court of the district in which the immoveable is situated, by a petition served, with at least three days’ notice, upon any person refusing to relinquish the said immoveable, and obtain an order, addressed to the sheriff or to a bailiff, directing him to eject such person and to put the purchaser in possession, without prejudice to any recourse of the latter against such person for the damages and costs incurred.

Procedure where purchaser cannot secure delivery.

“46l. Within the eight days following the closing of the sale, the person in charge thereof shall transmit to the registrar, by registered letter, a list of the immoveables sold, with the name of the purchaser of each and a list of the immoveables not sold.

List transmitted to registrar.

“46m. The proceeds of the sale of each immoveable shall be transmitted by the person in charge of the sale to the Commission for distribution by the latter.

Distribution of proceeds.

If no certified statement has been produced of instalments due of assessments for the construction or repair of churches, parsonages and cemeteries, and if the proceeds of the sale do not exceed the amount of the municipal and school taxes, with interest and costs, the Commission shall itself make the distribution of the proceeds of the sale.

Distribution by Commission in certain case.

In other cases, the Commission shall transmit the proceeds of the sale to the prothonotary of the Superior Court for the district in which the immoveable is situated, for distribution according to law.

Distribution by prothonotary.

“46n. If the immoveable adjudged has not been redeemed within the delay hereinafter mentioned, the purchaser shall remain the absolute owner thereof. Upon production of the certificate of adjudication and proof of payment of the municipal and school taxes which have meanwhile become exigible in respect of the same immoveable, he shall be entitled, at the expiration of the said delay, to a definitive deed of sale. Such deed shall be granted in the name of the municipality by the mayor or the secretary-treasurer by notarial deed, or by deed under private signature before two witnesses.

Right of purchaser when immoveable not redeemed.

Effect of sale. “46o. A sale made in accordance with the above provisions shall convey the ownership of the immoveable adjudged. It shall vest in the purchaser all the rights of the original owner, and purge the immoveable from all privileges and hypothecs to which it may be subject, except instalments not yet due of constituted rents, of rents substituted for seigniorial rights, of special taxes, of school taxes and of assessments for the construction or repair of churches, parsonages and cemeteries.

Collocation of certain taxes, etc. Instalments owing of taxes payable to another municipality and of the assessments above mentioned can only be collocated after the taxes owed to the municipality in default, unless there has been lodged with the person in charge of the sale, at least six days before the sale, a certified statement of such instalments owing.

Registration of privileges, etc., cancelled. The registration of the deed of sale shall have the effect of cancelling the registration of the privileges and hypothecs affecting the immoveable and purged by the sale.

Certain rents purged. The adjudication of an immoveable to the municipality interested by reason of a privilege upon the said immoveable shall purge the latter from constituted rents, rents under an emphyteutic lease and rents substituted for seigniorial dues, from the date of the adjudication and as long as the immoveable shall remain the property of such municipality. Such rents shall again affect the immoveable, but for the future only, from the date on which the immoveable ceases to be the property of the municipality.

Prescription. “46p. The action to annul the sale of an immoveable made under the forgoing provisions, and the right to invoke any illegality, shall be prescribed by two years to be computed from the date of the adjudication.

Rescission of sale. Such a sale may be rescinded with the consent of the corporations interested, the owner and the purchaser.

Redemption. “46q. Any immoveable sold under the foregoing provisions may be redeemed by the owner, or his representatives, by paying to the secretary-treasurer of the municipality contemplated in section 46a the price of sale, including the cost of the certificate of adjudication and of the registration, with interest at ten per cent per annum, every fraction of a year counting as a full year.

Such right of redemption may be exercised, in respect of an immoveable situated in a city or town, only during the year following the date of the adjudication. In the case of any other immoveable, the delay shall be two years. Delay for redemption.

“**46r.** The redemption shall be evidenced by a certificate in triplicate, one of the triplicates being delivered to the owner and another sent to the registrar, all at the owner's cost. Certificate of redemption.

The registration of such certificate shall affect cancellation of the registration of the certificate of adjudication and shall reestablish the owner in the rights which he had in the immoveable at the time of the sale, subject to the privileges and hypothecs which then encumbered the immoveable and which have not been discharged through the distribution of the price. Registration.

The secretary-treasurer must give the purchaser notice of the redemption, by registered letter sent to his last known address, and, on demand, he must remit to the latter the amount collected, retaining two per cent for his fees, and deducting the municipal and school taxes which have become due since the adjudication and which are unpaid. Notice of redemption.

“**46s.** Any person may, without authorization and upon the same conditions, redeem the immoveable in the name of the person who was the owner thereof at the time of sale, and so acquire the right to be reimbursed, by the latter, the amount paid with interest at the rate of eight per cent per annum. Redemption in name of owner.

The certificate of redemption shall describe the person who effected it and, upon registration, shall give him a privilege for his claim ranking after municipal taxes, notwithstanding Article 2009 of the Civil Code. Effect of certificate of redemption.

“**46t.** The purchaser may claim from the owner, or the person who redeems in the name of the owner, the cost of necessary repairs and improvements made by him to the immoveable, even if they are then no longer existent, with interest at five per cent per annum. Cost of repairs.

The purchaser shall, for such claim, have a privilege upon the immoveable and a right of retention, in which rights the person redeeming in the owner's name shall be subrogated, *pleno jure*, upon paying the purchaser. Privilege.

“**46u.** In cities and towns, the adjudication shall be final and the right of redemption cannot be exercised for vacant lands which are building lots, of a municipal valuation not exceeding one thousand dollars, if the No redemption in certain cases.

notice of sale states what immoveables are to be so sold.

Bidding by
municipality
in default.

“**46v.** When immoveables are put up for sale under the foregoing provisions, the municipality concerned which is in default may bid upon and purchase such immoveables through the agency of a person authorized by the Commission, without being obliged to pay the purchase price forthwith.

Limitation.

The bid in the municipality’s name must not, however, in any case, exceed the amount of the taxes in principal, interest and cost, plus a sufficient sum to satisfy every privileged debt of a prior or equal rank to that of the taxes owing to the municipality.

Assessment
of immove-
ables so pur-
chased.

“**46w.** The immoveables so purchased shall be entered on the valuation roll in the name of the municipality and, during the delay for redemption, shall be assessed as any other immoveable. However, the taxes so imposed shall not be exigible from the municipality.

Redemption
price.

If the right of redemption is exercised, the redemption price must include the amount of the taxes so imposed on such immoveable from the date of the adjudication to the date of the redemption, or the instalments due on such taxes if they are payable by instalments.

Balance to be
added.

In addition, if the price of the adjudication to the municipality has not wholly accounted for the taxes and costs to be levied, the balance owing must be added, with the ten per cent interest, in fixing the amount payable to exercise the right of redemption.

Registration,
etc., free.

“**46x.** The registration of any document giving effect to the adjudication of an immoveable to the municipality concerned which is in default, and any cancellation resulting therefrom, shall be effected free of charge.”

Application.

9. The provisions of this act shall apply to all municipalities subjected, by a judgment or law, to the sections amended or replaced. The provisions of section 5 shall have effect as from the first of April, 1941.

Coming into
force.

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