



## CHAPTER 99

### An Act to suspend the exigibility of hypothecary and other claims

[Assented to, the 13th of April, 1933]

**WHEREAS** through the present financial depression Preamble.  
certain debtors of hypothecary and privileged claims and certain vendors of immoveables with a right of redemption are unable, the ones to meet the payment of the capital of their debts at maturity, and the others to exercise the right of redemption within the period fixed; and whereas by reason of the difficulty of borrowing they are liable to lose their property and, in certain cases, the payments already made on capital account; and

Whereas it is expedient, in the public interest, to afford these debtors certain facilities for payment;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** From the date of the coming into force of this act, no Provisions applicable to instituting, etc., of certain action in recovery.  
action in recovery, in whole or in part, of the capital of a hypothecary claim or of the price of sale of an immoveable even when acknowledged by note or otherwise may be instituted or continued unless thirty days' notice, served by a bailiff, by the secretary-treasurer of the municipal corporation of the residence of the debtor, or by registered letter to his last known address, has been previously given to the debtor.

The above provision shall apply to the execution of Application.  
every judgment rendered before the coming into force of this act, in any action of the nature of those provided for in the preceding paragraph, except if the seizure of the immoveable has been effected by the sheriff entrusted with the writ of execution and at least the first insertion of

the notice provided for in Article 716 of the Code of Civil Procedure has been published in the *Quebec Official Gazette*.

Assimilated  
to sales.

Any sale in the form of a conditional lease, or with a resolatory clause, shall be assimilated to the sale above mentioned.

Granting of  
delay upon  
petition by  
hypothecary  
debtor, etc.

**2.** During such delay of thirty days, the hypothecary debtor or the purchaser of an immoveable may, by mere petition presented to a judge of the Superior Court of the district in which the immoveable affected is situated, or, in the absence of the former, to the Chief Justice or to the judge performing the duties of the latter, at Quebec or at Montreal, obtain a delay to pay the whole or part of the capital debt owed by him.

Granting of  
delay upon  
petition by  
vendor of  
immove-  
able.

**3.** The vendor of an immoveable with right of redemption may, by mere petition presented to a judge of the Superior Court of the district in which the immoveable affected is situated, or, in the absence of the former, to the Chief Justice or to the judge performing the duties of the latter, at Quebec or at Montreal, obtain an extension of the period fixed for the exercise of his right of redemption, and this even in the case where it is stipulated that the right of redemption may be exercised without legal proceedings, notwithstanding the provisions of Article 1548 of the Civil Code.

Service of  
petition.

**4.** The petition must be served by a bailiff or by the secretary-treasurer of the municipal corporation upon the hypothecary or privileged creditor or creditors or, as the case may be, upon the purchaser under right of redemption, and must be accompanied with a notice of the date, hour and place of its presentation. The delay for such notice is that of ordinary actions.

Delay.

Requiring of  
information  
by judge.

**5.** The judge to whom a petition is presented may require such information as he may deem necessary, by witnesses, affidavits or otherwise, and may, in his discretion, grant such delay as he may deem expedient, taking into consideration the interest of all the parties concerned. If a hearing is held it must be so held in the district wherein is situated the immoveable hypothecated or sold.

Judgment.

His judgment shall be final and without appeal.

Conditions  
for granting  
of delay.

**6.** No delay, however, shall be granted to the hypothecary debtor, to the purchaser of an immoveable, or to the vendor with right of redemption if he does not establish to the satisfaction of the judge:

a. That he has himself fully paid all municipal, school or other taxes and charges imposed on the immoveable and which are exigible, except those however of the current year;

b. That he has paid all fire insurance premiums due under the terms of the deed of hypothec or of sale;

c. That he has himself fully paid the interest due and accrued on the capital for which the delay for payment is sought;

d. That the debtor is unable to pay.

Likewise no such delay shall be granted if the creditor or the purchaser under right of redemption establishes that he cannot reasonably wait. No delay granted.

**7.** No delay granted by the judge shall extend beyond the 1st of May, 1934. Delay limited.

**8.** Any judgment granting a delay may be rescinded by a similar proceeding if it be established, to the satisfaction, that the circumstances justifying the delay have changed. Rescinding of judgment.

**9.** When a hypothecary debtor has obtained under this act a delay for the payment of his debt and when it concerns a debt the payment whereof has been guaranteed by any person, firm or corporation, such person, firm or corporation having guaranteed such payment shall not be held to his or its obligation during the period of the duration of the delay so accorded to the principal debtor. Obligation suspended during duration of delay.

**10.** Loan companies which are by law authorized to issue certificates or bonds on the credit of their operations and assets or upon hypothec shall not be obliged to reimburse their said certificates or bonds until the 1st of May, 1934, provided that the interest upon such certificates or bonds be paid regularly. Reimbursement by certain loan companies. Proviso.

**11.** This act shall not apply to:

Restriction.

a. Hypothecary or privileged claims constituted, nor to sales of immoveables with right of redemption entered into, on or after the 1st of March, 1933;

b. Hypothecs, mortgages or pledges entered into by a joint-stock company to guarantee the payment of bonds, debentures or debenture-stock;—and the holders of such bonds, debentures or debenture-stock, or any trustee for them, may exercise, according to the terms of the trust deed, the rights conferred upon them by law or by the deed, as if this act had never been in force;

c. Hypothecs constituted according to a coöperative plan and repayable, including interest, by monthly instalments not exceeding six dollars per month per one thousand dollars subscribed to the *caisse cooperative*.

Duration  
of certain  
provisions.

**12.** The provisions of the above sections 1 and 3 shall cease to be in force from the 1st of May, 1934.

Advocates'  
fees.

**13.** Fees not exceeding ten dollars in uncontested proceedings and fifteen dollars in contested proceedings may be claimed by advocates presenting the said petitions.

Coming into  
force.

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