



CHAPTER 111

An Act to amend the Civil Code and the Code of Civil Procedure respecting the payment by the insurer of the amount of insurance in certain cases

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

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

1. The Civil Code is amended by adding thereto, after C. C., art. Article 2593 thereof, the following article: 2593a, added.

"2593a. When a claim is made upon an insurer for payment of the sum provided for in a contract of insurance and the person whose life is insured has disappeared from the place of his domicile or residence, and has not been heard of for a period of seven years, the insurer, the beneficiary or the legal representative, may, whether an action has been instituted or not, obtain from the court a declaration of the presumption of the death of such person, provided, however, that no other litigious matter arise concerning the contract of insurance. In such case, the prescription starts to run only from the date of the said declaration. Declaration of presumption of death in certain case. Proviso. Prescription.

Such declaration of presumption of death may be obtained by following the formalities prescribed in Articles 1425a to 1425f of the Code of Civil Procedure." How declaration obtained.

2. The Code of Civil Procedure is amended by adding thereto, after Article 1425 thereof, the following section and articles: C. C. P., arts. 1425a-1425f, added.

"SECTION Va

"Declaration of presumption of death of an insured

Declaration
of presumption
of death ob-
tainable
upon peti-
tion.

"**1425a.** The declaration of presumption of the death of an insured contemplated by Article 2593a of the Civil Code is obtained upon petition to a judge of the Superior Court of the district in which the insured had his last domicile.

Serving of
petition.

"**1425b.** The petition shall be served in the manner ordered by the judge, unless, for sufficient reasons, he dispenses with the service.

Ordering of
proof, etc.,
by judge.

"**1425c.** The judge, upon such petition, may order such proof as he deems necessary, and, if the proof made establishes the claimant's right to receive payment of the sum provided for by the contract of insurance and the fact that the insured has disappeared from the place of his domicile or residence, and that he has not been heard of for a period of seven years, the judge may issue an order declaring that there is a presumption of death in the case of such insured person. Such order of the judge is, unless appealed, final and obligatory for all the parties concerned in the claim, and the judge may, as regards the payment of the sums due under the insurance and the costs, adjudicate as to him may seem just.

Appeal.

An appeal lies from the final judgment rendered by the judge in the same manner as from any final judgment of the Superior Court.

Freeing
from obliga-
tion.

"**1425d.** The payment made by the insurer in accordance with the above order frees him from any obligation respecting the payment of the sums due under the insurance.

Pending
actions, etc.,
suspended.

"**1425e.** Unless the judge orders otherwise, such petition shall have the effect of suspending any pending action or contestation with respect to the sums of money due under the insurance.

Jurisdiction
of judge.

"**1425f.** The jurisdiction given to a judge of the Superior Court by Article 1425a cannot, in any instance, be exercised by the prothonotary."

Coming into
force.

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