



CHAPTER 104

An Act to amend Articles 2174a and 2175 of the Civil Code

[Assented to, the 4th of April, 1931]

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

1. Article 2174a of the Civil Code, as contained in C. C., art. article 5846 of the Revised Statutes, 1888, is amended by ^{2174a, am.} adding thereto, after the word: "whenever", in the fourth line thereof, the words: "the cancellation of a numbering or".

2. Article 2175 of the Civil Code, as contained in article ^{Id., art.} 5847 of the Revised Statutes, 1888, and as amended by the ^{2175, am.} acts 5 George V, chapter 77, section 2; 6 George V, chapter 35, section 2, and 14 George V, chapter 74, section 1, is again amended:

a. By adding thereto, after the word: "into", in the third line of the first paragraph thereof, the word: "city,";

b. By adding thereto, after the second paragraph thereof, the following paragraph:

"The registrar cannot register in the books any transfer, ^{Procedure} sale or assignment of a property or portion of a property, ^{for transfer,} designated upon a plan and book of reference and subdivided ^{etc., of} into city, town or village lots, without there having ^{property.} previously been prepared a plan and book of reference for such subdivision according to article 2175 of the Civil Code, or in compliance with the acts 38 Victoria, chapter 15, section 2; 48 Victoria, chapter 26; 53 Victoria, chapter 53; 1 George V (1911), chapter 48; 5 George V, chapter 77; 15 George V, chapter 77, or 21 George V, chapter 104."

In case when procedure has not been complied with.

3. 1. In the case where a property designated upon a plan and book of reference, before the date fixed by the proclamation provided for by section 6 of this act, has been, in whole or in part, subdivided and sold as city, town or village lots, without there having previously been prepared a plan and book of reference according to article 2175 of the Civil Code, or in compliance with the acts 38 Victoria, chapter 15, section 2; 48 Victoria, chapter 26; 53 Victoria, chapter 53; 1 George V (1911), chapter 48; 5 George V, chapter 77, or 15 George V, chapter 77, the Minister of Colonization, Game and Fisheries may, on petition addressed to him by a majority of the persons interested, permit a plan and a book of reference of the subdivision of such property or portion of a property to be made, provided that the following formalities be observed:

Making of plan and book of reference;

a. A plan shall be made, bearing numbers as ordinary subdivisions, also a book of reference corresponding therewith, which shall be signed and certified as correct by the majority of the parties interested, and addressed, with a copy of such plan and book of reference, to the Minister of Colonization, Game and Fisheries, who shall keep the original, and remit such copy, certified by him, to the registrar of the registration division in question;

Index to immoveables;

b. The registrar shall then prepare his index to immoveables for such property or portion of a property for which a cadastre has been thus made, in his index book for the subdivisions;

Renewal of hypothecs by proclamation;

c. On certificate of the registrar of the deposit of the plan and book of reference of such subdivision so made, the Lieutenant-Governor in Council shall issue a proclamation, by which he shall order that all the hypothecs particularly affecting any of the lots mentioned in the said plan and book of reference, and not including the hypothecs affecting the whole property so subdivided, be renewed within a delay of one year, to be computed from the day fixed in such proclamation, and, in default of such renewal being made, any person who has not conformed to the provisions of this section shall lose his rank or priority of hypothec. Such proclamation shall be published once in the *Quebec Official Gazette* and in a daily newspaper of the cities of Montreal and Quebec and in a local newspaper if any there be;

Publication of proclamation;

Notice of proclamation to creditors.

d. The registrar shall then immediately transmit, by registered letter, to each creditor having a hypothec particularly affecting one of the lots mentioned on the said plan and in the said book of reference, whose name is entered

in the register of addresses, a notice informing him of the issuing of the said proclamation and of the contents thereof. If the name of the creditor is not entered in the register of addresses, the registrar shall then send the letter by registered mail to the residence of the creditor indicated in the deed of hypothec.

2. The cost of such plan, book of reference and notice shall be borne by the persons interested. ^{Costs.}

4. 1. In the case mentioned in subsection 1 of section 3 of this act, when one or more owners of such properties so subdivided into city, town or village lots are unable to obtain the signature of the majority of the owners interested, they may nevertheless, in their personal names, address the petition therein mentioned to the Minister of Colonization, Game and Fisheries, setting forth that it has been impossible, for the reasons given, to obtain the consent provided for by the said subsection 1 of the said section 3. ^{Petition in certain case.}

The Minister, on such proof as he deems sufficient of the facts set forth in the petition, shall publish a notice for four consecutive weeks in the *Quebec Official Gazette*, calling upon all the parties interested to state, either verbally or in writing, the reasons they advance against the petition; such reasons to be stated, as aforesaid, at the time therein mentioned, and subsequent to the last publication of the notice. ^{Notice.}

If the Minister considers that he may grant the petition, with or without amendment, after having examined the reasons, if any there be, advanced on the one side or the other, or heard the interested parties who have appeared before him, he may permit a plan and book of reference of the subdivision of such property or portion of a property to be made, provided that the following formalities be observed: ^{If petition be granted.}

a. A plan shall be made, bearing numbers as ordinary subdivisions, also a book of reference corresponding therewith, which shall be signed and certified as correct by the signatories to the petition and all other interested parties consenting thereto, and addressed, with a copy of such plan and book of reference, to the Minister of Colonization, Game and Fisheries, who shall keep the original and remit such copy, certified by him, to the registrar of the registration division in question; ^{Making of plan.}

b. The registrar shall then prepare his index to immovables for such property or portion of a property for which a cadastre has been thus made, in his index book for the subdivisions; ^{Index to immovables.}

Renewal of hypothecs by proclamation.

c. On certificate of the registrar of the deposit of the plan and book of reference of such subdivision so made, the Lieutenant-Governor in Council shall issue a proclamation, by which he shall order that all the hypothecs particularly affecting any of the lots mentioned in the said plan and book of reference, and not including the hypothecs affecting the whole property so subdivided, be renewed within a delay of one year, to be computed from the day fixed in such proclamation; and, in default of such renewal being made, any person who has not conformed to the provisions of this section shall lose his rank or priority of hypothec. Such proclamation shall be published once in the *Quebec Official Gazette* and in a daily newspaper of the cities of Montreal and Quebec and in a local newspaper if any there be.

Notice of proclamation to creditors.

d. The registrar shall then immediately transmit, by registered letter, to each creditor having a hypothec particularly affecting one of the lots mentioned on the said plan and in the said book of reference, whose name is entered in the register of addresses, a notice informing him of the issuing of the said proclamation and of the contents thereof. If the name of the creditor is not entered in the register of addresses, the registrar shall then send the letter by registered mail to the residence of the creditor indicated in the deed of hypothec.

Costs.

2. Such costs as are absolutely necessary for the preparation of such plan, book of reference and notice under this section shall be borne by all the interested persons, without distinction between those who have approved and those who have disapproved of the petition, in the proportion to the municipal valuation of their respective subdivisions mentioned in the said plan and book of reference.

Provisions not applicable.

5. Sections 3 and 4 of this act shall apply only to facts prior to the date fixed by the proclamation provided for in section 6 of this act, and must not be interpreted as permitting in the future the making of plans and books of reference otherwise than in conformity with the provisions of article 2175 of the Civil Code.

Coming into force.

6. Sections 1, 3, 4 and 5 of this act shall come into force on the day of its sanction and section 2 shall come into force on the day which it may please the Lieutenant-Governor in Council to fix by proclamation.