



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 401

**An Act mainly to improve the quality of
buildings, the regulation of divided
co-ownership and the operation of the
Régie du logement**

Introduction

**Introduced by
Madam Lise Thériault
Minister responsible for Consumer Protection and for
Housing**

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EXPLANATORY NOTES

This bill proposes measures intended mainly to improve the quality of buildings, the regulation of divided co-ownership and the operation of the Régie du logement.

The Building Act is amended to broaden, in particular, the regulatory powers of the Régie du bâtiment du Québec (the Board) in connection with the requirement to produce a certificate attesting to the conformity of construction work with the Construction Code, and the Board's power to require contractors and owner-builders to obtain plans and specifications from a recognized person or body is clarified.

A person who is required to obtain a certificate and the person who produces it are solidarily liable for the conformity of the work, or for the strength, safety or conformity of a building, facility or installation.

Regarding the guaranty plan for new residential buildings, the bill provides, in particular, that a plan manager must ensure that no withdrawal is made that would prevent the reserve account from providing for the reimbursement of the guaranty fund.

The Board is granted new regulatory powers to regulate the exercise of building inspector functions and to require the purchaser of a building to have it inspected prior to purchase.

The Board may order the suspension of construction work where the person carrying out the work or having it carried out does not hold the appropriate licence. A proceeding to contest such an order is heard and decided by preference by the Administrative Labour Tribunal.

The Civil Code is amended with respect to divided co-ownership. Among other requirements, a periodically updated maintenance log must be kept for every immovable held in divided co-ownership; the co-owners' annual contribution to the contingency fund must be fixed in accordance with a study establishing the sums necessary for the fund to be sufficient to pay for major repairs and the replacement of common portions; a builder or developer must protect the deposits paid by buyers of a fraction of co-ownership; and a developer who

has underestimated amounts in a budget forecast must pay certain amounts to the syndicate.

The rights and powers of a syndicate of co-owners are modified. The syndicate is in particular given the right to obtain the plans and specifications of the building that are in the possession of an architect or engineer directly from the architect or engineer. It is required to keep an up-to-date certificate attesting to the state of its finances and the condition of the immovable held in co-ownership and to provide information on the immovable and the syndicate to a promisor who promises to buy a fraction of divided co-ownership. The Government may determine by regulation certain information that must be included in the memorandum or in the preliminary contract.

Changes are made to various measures concerning aspects of the operation of co-ownerships. Among other things, a declaration of co-ownership may only be amended in accordance with the applicable rules of the Civil Code, and the by-laws of an immovable may only be amended by the general meeting of the co-owners. Changes are also made to the rules governing a general meeting of the co-owners.

For its part, the board of directors must consult the general meeting of the co-owners before deciding on any special assessment and is responsible for determining the contingency fund's use. The board of directors is required to notify its decisions to the co-owners.

The rules governing co-owners' contributions for common portions for restricted use are clarified.

Civil Code terminology with regard to common expenses is standardized and certain interpretation difficulties are resolved.

The Architects Act and the Engineers Act are amended to introduce a description of their field of practice and to redefine the activities reserved for them. The bill updates the duty imposed on the Ordre des architectes du Québec to determine, by regulation, the activities reserved for architects that may be engaged in by certain other persons, specifying that the regulation must determine the activities that may be engaged in by professional technologists whose competency is in architectural technology. The bill adjusts the provisions of the Engineers Act that preserve the rights of contractors, inspectors, professors and researchers, and imposes on the Ordre des ingénieurs du Québec the duty to determine, by regulation, the activities reserved for engineers that may be engaged in by professional technologists whose competency is in engineering technology.

The bill amends the Civil Code to broaden the application of the provisions governing the responsibilities of the persons who direct or supervise work, in particular architects and engineers, to cover professional technologists.

The Act respecting the Société d'habitation du Québec is amended mainly to make all housing agencies that receive financial assistance from the Société subject to the provisions that give the Minister the necessary tools to intervene in the case of a failure to perform obligations or of a grievous offence.

The Master Electricians Act and the Master Pipe-Mechanics Act are amended to introduce the notion of construction work and to harmonize the prescription periods with those provided for in the Building Act. The Master Pipe-Mechanics Act is also amended to make it applicable throughout Québec.

The Act respecting the Régie du logement is amended to improve the operation of the Régie du logement, in particular through various measures intended to reduce application processing times and hearing postponements and to facilitate case resolution through conciliation.

Lastly, the bill contains consequential and clarification provisions as well as technical provisions.

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec;
- Act respecting land use planning and development (chapter A-19.1);
- Architects Act (chapter A-21);
- Building Act (chapter B-1.1);
- Engineers Act (chapter I-9);
- Master Electricians Act (chapter M-3);
- Master Pipe-Mechanics Act (chapter M-4);
- Act respecting the Régie du logement (chapter R-8.1);
- Act respecting the Société d'habitation du Québec (chapter S-8).

REGULATION AMENDED BY THIS BILL:

- Tariff of costs exigible by the Régie du logement (chapter R-8.1, r. 6).

Bill 401

AN ACT MAINLY TO IMPROVE THE QUALITY OF BUILDINGS, THE REGULATION OF DIVIDED CO-OWNERSHIP AND THE OPERATION OF THE RÉGIE DU LOGEMENT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PROVISIONS RELATING TO CONSTRUCTION QUALITY AND SAFETY

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

1. Section 120 of the Act respecting land use planning and development (chapter A-19.1) is amended by inserting the following subparagraph after subparagraph 1.1 of the first paragraph:

“(1.2) the applicant has provided, in the cases and on the conditions provided for in the Building Act (chapter B-1.1) and the regulations,

(a) a statement, produced by the person or body that prepared the plans and specifications before the work began in accordance with the regulation under section 17.4 of the Building Act, declaring that the plans and specifications comply with the Construction Code (chapter B-1.1, r. 2);

(b) a statement declaring that the contract required under the second paragraph of section 16 of that Act has been entered into;”.

BUILDING ACT

2. Section 1 of the Building Act (chapter B-1.1), amended by section 1 of chapter 13 of the statutes of 2018, is again amended by inserting “the quality of a building and” in subparagraph 2 of the first paragraph after “ensure”.

3. Section 7 of the Act, amended by section 2 of chapter 13 of the statutes of 2018, is again amended by inserting the following definition in alphabetical order:

““**civil engineering structure**” means general utility immovable property built on behalf of a legal person established in the public interest or of a large private corporation, such as a road, waterworks, sewer, bridge or dam;”.

4. The Act is amended by inserting the following section after section 9:

“9.1. For the purposes of this Act, a syndicate of co-owners is considered an owner with respect to the responsibilities conferred on the syndicate under the Civil Code.”

5. Section 11.1 of the Act is amended by striking out “, 29”.

6. Section 16 of the Act is replaced by the following sections:

“16. Every contractor or owner-builder shall, in the cases determined by regulation of the Board, obtain a certificate attesting to the conformity of the construction work with the Construction Code (chapter B-1.1, r. 2) and, where applicable, with the construction standards set by a municipality. The certificate must be produced by a person or body recognized by the Board in accordance with a regulation of the Board.

In the cases determined by regulation of the Board, the contractor or owner-builder shall, before the construction work is carried out, enter into a contract for the production of such a certificate.

“16.1. Every contractor or owner-builder who is required to obtain a certificate of conformity under section 16 is solidarily liable, with the recognized person or body that produces the certificate, for the conformity of the construction work.

“16.2. Any dispute between the contractor, owner-builder and recognized person or body regarding the certificate of conformity for the construction work shall be submitted to the dispute settlement mechanism prescribed by regulation of the Board.

Where no dispute settlement mechanism is required under such a regulation, the dispute shall be submitted for arbitration in accordance with the Code of Civil Procedure (chapter C-25.01).”

7. The Act is amended by inserting the following section after section 17.3:

“17.4. The Board may, by regulation, require a contractor or owner-builder to obtain plans and specifications before construction work begins, or final plans and specifications on completion of the work.

The plans and specifications referred to in this section must be prepared by a person or body recognized by the Board in accordance with a regulation of the Board.”

8. Section 18 of the Act is replaced by the following section:

“18. The recognized person or body that prepares plans and specifications for construction work shall ensure that they comply with the Construction Code (chapter B-1.1, r. 2) and, where applicable, with the building standards set by a municipality.”

9. Section 29 of the Act is repealed.

10. The Act is amended by inserting the following section after section 35:

“35.01. An owner who is required to provide a certificate of strength, safety or conformity in accordance with sections 33 to 35 is solidarily liable, with the recognized person or body that produced the certificate, for the strength, safety or conformity of the building, facility or installation referred to in those sections.”

11. Section 36 of the Act is amended

(1) by inserting “or accessibility” after “safety” in the first paragraph;

(2) by replacing “the first paragraph of section 29” in the second paragraph by “a regulation of the Board”.

12. Section 39 of the Act is replaced by the following section:

“39. The Board may, by regulation, prescribe safety standards for the use of a container that contains gas or a petroleum product and is mounted on a vehicle that are applicable when the vehicle is stationary. The regulation may also prescribe safety standards for the transfer, storage and distribution of the gas or petroleum product contained in the container.”

13. Section 47 of the Act is replaced by the following section:

“47. No public body, within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), may act as a contractor.

This section does not apply to the Société québécoise des infrastructures, to the Société d’énergie de la Baie James, to a mixed enterprise company established in accordance with the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01) or to any other public body determined by regulation of the Board.”

14. The Act is amended by inserting the following section after section 61:

“61.1. The Board may refuse to issue a licence to a natural person, partnership or legal person that has failed to pay a sum of money payable to the Board under this Act or the regulations.

It may also refuse to issue a licence if the natural person or an officer of the partnership or legal person was an officer of a partnership or legal person that has failed to pay such a sum of money to the Board.”

15. Section 81.1 of the Act is amended by inserting the following paragraph after the first paragraph:

“The Board may, up to the target amount it sets by regulation and on the conditions it determines, advance amounts to the guaranty fund.”

16. The Act is amended by inserting the following section after section 81.1:

“81.1.1. After using the sums in the reserve account for the purposes provided for in this Act and the regulations, the manager of a guaranty plan must ensure that no withdrawal is made if such a withdrawal prevents the reserve account from providing for the reimbursement of the guaranty fund. Where the Board so requires and within the time limit it determines, the plan manager shall use the sums remaining in the reserve account to reimburse the guaranty fund.

In the event that the manager of a guaranty plan fails to comply with his obligations under the first paragraph, the Board may, despite the third paragraph of section 81.1, seize the sums in the reserve account to use them for the purposes provided for in this Act and the regulations and to provide, if need be, for the reimbursement of the guaranty fund.

The seizure shall be executed in accordance with Title II of Book VIII of the Code of Civil Procedure (chapter C-25.01).”

17. The Act is amended by inserting the following chapter after section 86.7:

“CHAPTER V.1

“BUILDING INSPECTION

“86.8. A natural person shall, in the cases and on the terms and conditions determined by regulation of the Board, obtain from the Board a certificate to act as a building inspector.

This section does not apply to a person who inspects a building under powers of verification, inspection, supervision, control or inquiry assigned to him by an Act, or to a category of persons prescribed by regulation of the Board.

“86.9. The Board shall, by regulation, determine the terms and conditions for issuing, amending or renewing a certificate referred to in section 86.8, its period of validity, and the standards, terms and conditions its holder must comply with.

“86.10. The Board may refuse to issue, amend or renew a certificate, or may suspend or revoke a certificate, where the holder or applicant

(1) does not comply with one of the conditions for its issue or with any other standard, term or condition prescribed by regulation of the Board;

(2) has submitted falsified facts to the Board or misrepresented facts, or has failed to provide the Board with information;

(3) has not complied with an order issued under this Act;

(4) is in a conflict of interest situation; or

(5) has failed to pay a sum of money payable to the Board under this Act or the regulations.

“86.11. The Board may, by regulation, require any person who acquires a building to have it inspected prior to purchase by a certified building inspector.

The regulation shall determine the cases in which such a requirement applies, as well as the applicable terms and conditions.

“86.12. The Board may, by regulation, recognize persons or bodies for the purpose of certifying building inspectors or rendering any decision provided for in section 86.10.

“86.13. The Board shall keep a public register in which the names and addresses of the certificate holders and their certificate numbers are entered.”

18. Section 109.6 of the Act, amended by section 27 of chapter 13 of the statutes of 2018, is again amended

(1) by inserting the following paragraph after paragraph 4:

“(4.1) to refuse to issue or amend a certificate under paragraphs 2 to 5 of section 86.10, or to suspend, cancel or refuse to renew a certificate under that section, unless those powers have been assigned to a person or body recognized in accordance with section 86.12;”;

(2) by replacing paragraphs 5 and 6 by the following paragraphs:

“(5) to refuse to issue or amend a permit under paragraphs 2 to 6 of section 128.3, or to suspend, cancel, limit or refuse to renew a permit under that section;

“(6) to refuse to recognize a person or body under paragraphs 2 to 5 of section 128.4, or to cancel, suspend or refuse to renew the recognition of a person or body under that section; and”.

19. Section 111 of the Act, amended by section 28 of chapter 13 of the statutes of 2018, is again amended by inserting the following paragraph after paragraph 2.1:

“(2.2) to ensure the quality of buildings, in particular by regulating building inspections;”.

20. The Act is amended by inserting the following section after section 124:

“124.1. The Board may order the suspension of construction work where the person carrying out the work or having it carried out does not hold a licence or where the licence does not include the appropriate class or subclass.

The work may not resume until the Board so authorizes.”

21. Sections 128.3 to 128.5 of the Act are replaced by the following sections:

“128.3. The Board may refuse to issue, amend or renew a permit, or may limit, suspend or cancel a permit, if the holder or applicant

(1) does not comply with one of the conditions for its issue or with any other term or condition prescribed by regulation of the Board;

(2) does not comply with a quality control program relating to the permit;

(3) has submitted falsified facts to the Board or misrepresented facts, or has failed to provide the Board with information;

(4) has not complied with a remedial notice issued under this Act;

(5) has not complied with an order issued under this Act; or

(6) has failed to pay a sum of money payable to the Board under this Act or the regulations.

“128.4. The Board may refuse to recognize a person or body for the purposes of sections 16, 17.4, 35, 37.4 and 86.12 or to renew such recognition, or may suspend or cancel such recognition, if the person or body

(1) does not comply with one of the conditions for recognition or with any other term or condition prescribed by regulation of the Board;

(2) has submitted falsified facts to the Board or misrepresented facts, or has failed to provide the Board with information;

(3) has not complied with an order issued under this Act;

(4) is in a conflict of interest situation; or

(5) has failed to pay a sum of money payable to the Board under this Act or the regulations.

“128.5. The Board shall, before rendering an unfavourable decision regarding a permit or certificate or the recognition of a person or body, notify the person or body concerned in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the person or body at least 10 days to submit observations.

Decisions of the Board must be rendered in writing and give reasons.”

22. Section 151 of the Act is amended by replacing paragraph 7 by the following paragraph:

“(7) fees for issuing, amending or renewing a permit or certificate, and the related registration, examination or evaluation fees.”

23. Section 153 of the Act is amended by inserting “average” in the second paragraph before “Consumer Price Index”.

24. Section 155 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“For the purposes of this Act and the regulations, the Board shall apply the interest rate fixed pursuant to the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002), as of the due date of the claim.”;

(2) by replacing the third paragraph by the following paragraph:

“The interest shall be capitalized monthly.”

25. Section 160 of the Act is replaced by the following section:

“160. The Board, a mandatory Corporation referred to in section 129.3 or a municipality referred to in section 132 may, on an application by an interested person, review any ruling or order it has made under this Act and in respect of which no proceeding has been brought before the Administrative Labour Tribunal

(1) if a new fact is discovered which, had it been known in time, could have warranted a different ruling;

(2) if the interested person, owing to reasons considered sufficient, could not submit observations; or

(3) if a substantive or procedural defect is of a nature likely to invalidate the ruling.

This section does not apply to a ruling made by the board of directors of the Board.”

26. Section 163 of the Act is replaced by the following section:

“163. In the case referred to in subparagraph 3 of the first paragraph of section 160, the person who made the ruling may not review it himself, except in the case of a Corporation’s board of directors or the council of a municipality.”

27. Section 164.1 of the Act is amended

(1) by replacing “123, 124” in subparagraph 2 of the first paragraph by “86.10, 123, 124, 124.1”;

(2) by adding the following subparagraph at the end of the first paragraph:

“(3) a ruling of the Board, a mandatory Corporation referred to in section 129.3 or a municipality referred to section 132 if the ruling is made under Division I of this chapter.”

28. Section 164.4 of the Act is amended by adding the following paragraph at the end:

“A proceeding to contest a ruling of the Board under section 124.1 is heard and decided by preference. Despite the first paragraph, the Administrative Labour Tribunal may allow the production of new evidence at such a proceeding.”

29. Section 173 of the Act is amended

(1) in the third paragraph,

(a) by replacing subparagraph 6 by the following subparagraph:

“(6) the energy efficiency of buildings;”;

(b) by replacing subparagraphs 9 and 10 by the following subparagraph:

“(9) the transportation by pipeline and the storage, handling, transfer and distribution of gas or petroleum products.”;

(2) by replacing “ecoefficiency” in the fourth paragraph by “energy efficiency”.

30. Section 174 of the Act is amended by replacing “energy saving in a building” by “a building’s energy efficiency”.

31. Section 175 of the Act is amended by adding the following subparagraph after subparagraph 6 of the third paragraph:

“(7) the transportation by pipeline and the storage, handling, transfer and distribution of gas or petroleum products.”

32. Section 185 of the Act, amended by section 33 of chapter 13 of the statutes of 2018, is again amended

(1) by inserting the following paragraph after paragraph 0.1:

“(0.1.1) determine the cases in which a public body or class of public bodies may act as a contractor, and the terms and conditions to be complied with;”;

(2) by inserting the following paragraphs after paragraph 0.3:

“(0.4) determine accessibility standards for buildings or facilities intended for use by the public;

“(0.5) determine energy efficiency standards for buildings;”;

(3) by replacing paragraph 1 by the following paragraphs:

“(1) determine the cases in which the contractor or owner-builder is required to obtain a certificate of conformity in accordance with section 16, and the other obligations, terms and conditions relating to the certificate, in particular its form, content, publication, preservation and delivery;

“(1.1) determine the cases in which the contractor or owner-builder is required to enter into a contract for the production of a certificate of conformity before the construction work is carried out and to provide the Board, a local municipality or a regional county municipality with a statement to that effect, and the terms and conditions to be complied with;

“(1.2) provide a dispute settlement mechanism to which a dispute between a contractor, owner-builder and recognized person or body regarding the certificate of conformity for the construction work must be submitted;”;

(4) by replacing paragraph 2.1 by the following paragraphs:

“(2.1) determine the conditions for recognizing a person or body for the purposes of sections 16, 17.4, 35, 37.4 and 86.12, and the terms and conditions a recognized person or body must comply with;

“(2.1.1) prescribe in what cases and on what terms and conditions the members of a professional order are, by virtue of their status, recognized to exercise the functions of a recognized person for the purposes of sections 16, 17.4, 35 and 37.4;”;

(5) by replacing “with the Safety Code (chapter B-1.1, r. 3), and the form and content of such a certificate” in paragraph 5 by “in accordance with section 35 and the other obligations, terms and conditions relating to the certificate, in particular its form, content, publication, preservation and delivery”;

(6) by replacing “, de renouvellement, ou de suspension” in paragraph 5.1 in the French text by “ou de renouvellement”;

(7) by inserting “and the related registration, examination or evaluation fees” after “37.1” in paragraph 5.2;

(8) by replacing paragraph 6.1 by the following paragraph:

“(6.1) prescribe safety standards for the use of a container that contains gas or a petroleum product and is mounted on a vehicle that are applicable when the vehicle is stationary, and safety standards for the transfer, storage and distribution of the gas or petroleum product contained in the container;”;

(9) by replacing paragraph 7 by the following paragraphs:

“(7) determine the cases in which a contractor or owner-builder is required to obtain plans and specifications before construction work begins or to obtain final plans and specifications on completion of the work, in accordance with section 17.4, and the other obligations, terms and conditions relating to the plans and specifications, in particular their form, content, preservation and delivery;

“(7.1) prescribe in what cases and on what terms and conditions the contractor or owner-builder is required to provide the Board, a local municipality or a regional county municipality with a statement, produced by the recognized person or body that prepared the plans and specifications, declaring that the plans and specifications comply with the Construction Code (chapter B-1.1, r. 2);”;

(10) by inserting the following paragraph after paragraph 9.2:

“(9.3) determine the cases in which it will charge fees for recognizing training or a training program provided by a third person;”;

(11) by inserting the following paragraphs after paragraph 19.7:

“(19.8) determine the cases in which a natural person is required to obtain a certificate referred to in section 86.8 to act as a building inspector, and the standards, terms and conditions the holder of the certificate must comply with, including the holder’s continuing education requirements;

“(19.9) determine the terms and conditions for the issue, amendment or renewal of a certificate referred to in section 86.8, the fees payable for its issue, amendment or renewal, and the related registration, examination or evaluation fees, and determine in what cases and at what intervals it will charge such fees;

“(19.10) determine the cases in which a person who acquires a building must have it inspected prior to purchase by a building inspector who holds a certificate referred to in section 86.8, and the applicable terms and conditions;”.

33. Section 194 of the Act, amended by section 34 of chapter 13 of the statutes of 2018, is again amended by inserting “, 16, 17.4” after “15” in paragraph 7.

34. Section 196.3 of the Act is amended by inserting “average” before “Consumer Price Index” in the first paragraph.

35. Section 197 of the Act is amended by replacing “or section 65.3” by “, section 65.3 or section 86.8”.

36. The Act is amended by inserting the following section after section 197.2, enacted by section 37 of chapter 13 of the statutes of 2018:

“**197.3.** A manager of a guaranty plan or a provisional administrator who contravenes the first paragraph of section 81.1 or 81.1.2 is liable to a fine of \$33,635 to \$168,172.”

37. Section 198 of the Act is amended by replacing “123 or 124” by “123, 124 or 124.1”.

CHAPTER II

PROVISIONS RELATING TO DIVIDED CO-OWNERSHIP

CIVIL CODE OF QUÉBEC

38. Article 1052 of the Civil Code of Québec is amended by adding the following paragraph at the end:

“A declaration of co-ownership may only be amended in accordance with the rules of this chapter.”

39. Article 1053 of the Code is replaced by the following article:

“1053. The act constituting a co-ownership

(1) defines the destination of the immovable, of the private portions and of the common portions;

(2) determines the relative value of each fraction, describes how that value was determined and specifies the share of the contributions to the common expenses and the number of votes attached to each fraction;

(3) specifies the respective powers and duties of the board of directors of the syndicate and of the general meeting of the co-owners;

(4) contains any penal clause applicable for contravening the declaration of co-ownership; and

(5) provides for any other agreement regarding the immovable or its private or common portions.”

40. Article 1054 of the Code is amended by adding the following paragraph at the end:

“Only the general meeting of the co-owners may amend the by-laws of the immovable.”

41. Article 1060 of the Code is amended by replacing “to be filed with the syndicate” in the first paragraph by “to be evidenced in writing and filed in the register kept by the syndicate in accordance with article 1070”.

42. Article 1064 of the Code is replaced by the following article:

“1064. Each co-owner contributes to the common expenses in proportion to the relative value of his fraction.

However, only co-owners who have the use of common portions for restricted use contribute to the common expenses for the maintenance and the ordinary repairs that result from the use of those portions.

The declaration of co-ownership may determine a different apportionment of the co-owners’ contribution to the common expenses for major repairs to common portions for restricted use and for the replacement of those portions.”

43. Article 1065 of the Code is replaced by the following article:

“1065. A person who acquires a fraction of an immovable under co-ownership, by whatever means, including the exercise of a hypothecary right, as well as a co-owner who leases his private portion or loans that portion by virtue of a loan for use, shall notify the syndicate within 15 days and mention, where applicable, the name of the lessee or borrower and the duration of the lease or loan.”

44. Article 1066 of the Code is amended by replacing the second paragraph by the following paragraph:

“Where a private portion is leased or loaned by virtue of a loan for use, the syndicate gives the lessee or borrower, as the case may be, the notices required under articles 1922 and 1931 regarding improvements and work.”

45. Article 1069 of the Code is amended by inserting “, with interest,” after “that fraction” in the first paragraph.

46. Article 1070 of the Code is replaced by the following article:

“1070. The syndicate keeps at the disposal of the co-owners a register containing the name and mailing address of each co-owner, each lessee and each borrower by virtue of a loan for use; the register may not contain other personal information on co-owners, lessees and borrowers. The register also contains the minutes of the meetings of the co-owners and of the board of directors, resolutions in writing, the by-laws of the immovable and any amendments to them, and the financial statements.

The syndicate also keeps at the disposal of the co-owners the declaration of co-ownership, copies of the contracts to which it is a party, a copy of the cadastral plan, the contingency fund study provided for in article 1072, the maintenance log provided for in article 1072.1, the plans and specifications of the building, where applicable, and all other documents relating to the immovable and the syndicate.

The register and documents kept at the disposal of the co-owners may be consulted in the presence of a director or a person designated for that purpose by the board of directors, at reasonable hours and according to the rules provided in the by-laws of the immovable. Every co-owner is entitled to obtain a copy of the content of the register and of any such documents for a reasonable cost.

A government regulation may prescribe other documents to be kept at the disposal of the co-owners, as well as other conditions, rules or restrictions relating to the consultation of the register, the documents to be kept at the disposal of the co-owners, and the information they contain.”

47. Article 1071 of the Code is amended

(1) by replacing “which is liquid and available at short notice” by “which is partly liquid, available at short notice and whose capital must be guaranteed”;

(2) by inserting “, and the fund’s use is determined by the board of directors” after “owner of the fund”.

48. Article 1072 of the Code is amended

(1) in the first paragraph,

(a) by replacing “after determining” by “which include”;

(b) by replacing “et les sommes” in the French text by “ainsi que les sommes”;

(2) by replacing the second paragraph by the following paragraphs:

“The co-owners’ contribution to the contingency fund must be fixed in accordance with a study establishing the sums necessary for the fund to be sufficient to cover the estimated cost of major repairs and the cost of replacement of common portions. The contingency fund study, which must be updated every five years, is conducted by a member of a professional order determined by government regulation. The regulation may also determine the content and methodology of the study.

In fixing the co-owners’ contribution to the contingency fund, their respective rights in the common portions for restricted use may be taken into account if the declaration of co-ownership so provides.

The board of directors shall consult the general meeting of the co-owners before determining any special assessment.”

49. The Code is amended by inserting the following articles after article 1072:

“1072.1. A maintenance log must be kept for every immovable held in divided co-ownership and must be updated every five years. The maintenance log describes, in particular, maintenance done and maintenance required.

The form, content and particulars of the maintenance log, as well as the persons who may establish it, are determined by government regulation.

“1072.2. The syndicate shall keep an up-to-date certificate attesting to the state of its finances and the condition of the immovable held in co-ownership.

It shall give a copy of the certificate to any co-owner who so requests, within 15 days and for a reasonable cost.

The syndicate has the obligation to keep such a certificate up to date only from the day of the appointment of a new board of directors, after the developer loses control of the syndicate.

The form, content and particulars of the certificate are determined by government regulation.”

50. The Code is amended by inserting the following article after article 1076:

“**1076.1.** The syndicate may grant a movable hypothec only after it has consulted the general meeting of co-owners.”

51. Article 1079 of the Code is amended by adding the following paragraph at the end:

“The syndicate may, for the same reasons, after notifying the co-owner and the borrower, demand the termination of a loan for use of a private portion.”

52. The Code is amended by inserting the following article after article 1083:

“**1083.1.** The syndicate is entitled to obtain the plans and specifications of the immovable that are in the possession of an architect or engineer, who is bound to provide them to the syndicate on request.”

53. The Code is amended by inserting the following article after article 1085:

“**1085.1.** Every person who carries on the occupation of co-ownership manager must be a member of a professional order determined by government regulation or have successfully completed training recognized by the regulation. In the case of a legal person, partnership or trust, the natural persons who exercise management functions on its behalf must meet that requirement.

The regulation may impose other requirements to be met in order to exercise the functions of a co-ownership manager, or allow those functions to be exercised subject to different requirements, and specify the manner in which they are to be exercised.”

54. Article 1086 of the Code is amended by striking out “or to the contingency fund”.

55. The Code is amended by inserting the following articles after article 1086:

“**1086.1.** The syndicate shall notify to the co-owners the minutes of every meeting of the board of directors or every resolution in writing passed by the board within 30 days of the meeting or of the passage of the resolution.

“1086.2. Any co-owner or director may apply to the court to annul or amend a decision of the board of directors if the decision is biased or was made with intent to injure the co-owners or in contempt of their rights.

The action is forfeited unless instituted within 90 days after the decision of the board of directors. If the action is frivolous or vexatious, the court may condemn the plaintiff to pay damages.

“1086.3. Where the directors are prevented from acting as a majority or in the specified proportion owing to an impediment or the systematic opposition of some of them, the court may, on the application of a director or co-owner, make any order it sees fit in the circumstances.

“1086.4. If circumstances warrant it, the court may replace the board of directors by a provisional administrator and determine the terms and conditions governing his administration.”

56. Article 1089 of the Code is amended by adding the following sentence at the end of the second paragraph: “However, decisions on the matters listed in article 1097 may be made at the new meeting only if those members hold at least the majority of the votes of all the co-owners.”

57. Article 1090 of the Code is amended by adding the following sentence at the end: “The co-owner of a fraction held in indivision who is absent from a general meeting is presumed to have mandated the other co-owners of that fraction to represent him, unless the absentee has mandated a third person in writing for that purpose or has indicated his refusal to be represented. The absentee’s voting rights are partitioned proportionately to the rights of the other co-owners in the indivision.”

58. Article 1092 of the Code is amended by replacing “serving as his residence” in the first paragraph by “he occupies”.

59. Article 1093 of the Code is amended by replacing “inhabiting” by “occupying”.

60. Article 1094 of the Code is amended by striking out “or his contribution to the contingency fund”.

61. Article 1097 of the Code is amended

(1) by replacing the introductory clause by the following:

“1097. Decisions on the following matters require a vote representing at least three-quarters of the votes of the co-owners present or represented at a general meeting:”;

(2) by replacing paragraph 2 by the following paragraph:

“(2) work for the alteration, enlargement or improvement of the common portions, the apportionment of the cost of the work and the granting of a movable hypothec to finance it;”.

62. Article 1098 of the Code is replaced by the following article:

“**1098.** Decisions on the following matters require a vote of at least three-quarters of all the co-owners, and their votes must represent at least 90% of the votes of all the co-owners:

(1) changing the destination of the immovable;

(2) authorizing the alienation of common portions the retention of which is necessary to maintain the destination of the immovable;

(3) amending the declaration of co-ownership in order to permit the holding of a fraction by several persons having a periodic and successive right of enjoyment.”

63. Article 1099 of the Code is amended by replacing “by the effect of this section” by “or where a co-owner or a developer is deprived of his right to vote”.

64. Article 1102 of the Code is amended by replacing “, a change of destination of his private portion or a change in the use he may make of it” by “or a change of destination of his private portion”.

65. The Code is amended by inserting the following article after article 1102:

“**1102.1.** The syndicate shall notify to the co-owners the minutes of every general meeting or every resolution in writing passed by a general meeting within 30 days of the general meeting or of the passage of the resolution.”

66. Article 1103 of the Code is replaced by the following articles:

“**1103.** Any co-owner may apply to the court to annul or amend a decision of the general meeting if the decision is biased or was made with intent to injure the co-owners or in contempt of their rights, or if an error was made in counting the votes.

The action is forfeited unless instituted within 90 days after the general meeting or the day on which it should have been held, as the case may be. If the action is frivolous or vexatious, the court may condemn the plaintiff to pay damages.

“1103.1. Where the co-owners are prevented from acting as a majority or in the specified proportion owing to an impediment or the systematic opposition of some of them, the court may, on the application of a co-owner, make any order it sees fit in the circumstances.”

67. Article 1104 of the Code is amended by replacing “elect” in the first paragraph by “appoint”.

68. The Code is amended by inserting the following article after article 1106:

“1106.1. Within 30 days of the special meeting, the developer shall provide the following to the syndicate:

(1) the maintenance log kept for the immovable and the contingency fund study;

(2) if the building is new, the plans and specifications showing any substantial changes made to them during construction in comparison with the original plans and specifications; and

(3) any other document or information prescribed by government regulation.

The developer is liable for any injury resulting from his failure to provide such documents and information.”

69. Article 1785 of the Code is amended by inserting “or, where applicable, after receiving the memorandum provided for in this division” after “signing it” in the second paragraph.

70. Article 1786 of the Code is amended by inserting the following paragraph after the first paragraph:

“A government regulation may determine other information that must be included in the preliminary contract.”

71. Article 1787 of the Code is amended by replacing the first paragraph by the following paragraph:

“Where a fraction of an immovable under divided co-ownership or an undivided share of a residential immovable is sold, the seller shall give the promisor a memorandum at the time the preliminary contract is signed; he shall also furnish the memorandum where a residence forming part of a residential development having common facilities is sold.”

72. Article 1788 of the Code is amended by replacing “It” in the first paragraph by “In addition to the information prescribed by government regulation, it”.

73. The Code is amended by inserting the following articles after article 1790:

“1790.1. A person who sells a fraction of an immovable under divided co-ownership shall give the promisor, who may not waive this requirement, the certificate attesting to the state of the syndicate’s finances and the condition of the immovable provided for in article 1072.2.

The person is bound to do so only from the day of the appointment of a new board of directors, after the developer loses control of the syndicate.

“1790.2. The syndicate of co-owners shall, on request and with diligence, provide to a promisor who promises to buy a fraction of an immovable under divided co-ownership, including during the period in which the latter may withdraw his promise, the information concerning the immovable and the syndicate that will enable him to give free and enlightened consent.”

74. Article 1791 of the Code is amended

(1) by replacing “and the annual expenses payable, including, where applicable, the contribution to the contingency fund” in the second paragraph by “and the annual amount of contributions to the common expenses”;

(2) by adding the following paragraph at the end:

“Where the amounts provided in the budget forecast prepared by the developer for the fiscal years during which the developer controls the syndicate are more than 10% below the amounts the syndicate had to incur for the first complete fiscal year after the developer lost control of the syndicate, the developer shall reimburse to the syndicate twice the difference between the amounts provided in the forecast and the amounts actually incurred. However, the developer is not bound to do so to the extent that the difference is attributable to decisions made by the syndicate on or after the day a new board of directors was appointed following the loss of such control.”

75. The Code is amended by inserting the following article after article 1791:

“1791.1. Notwithstanding any agreement to the contrary, any deposit paid to a builder or a developer toward the purchase of a fraction of an immovable under divided co-ownership must be protected by one or more of the following means: a guarantee plan, insurance, a suretyship or a deposit in a trust account of a member of a professional order determined by government regulation.”

76. Article 1793 of the Code is amended by adding the following paragraph at the end:

“Similarly, the buyer of a fraction of an immovable under co-ownership who did not receive a memorandum, or who received one that contains errors or omissions, may, if he suffers serious injury therefrom, apply for the annulment of the sale and claim damages. If the buyer prefers that the contract be maintained, he may apply for a reduction of his obligation equivalent to the damages he would be justified to claim. The action in nullity must be brought within 90 days of the sale and may also be brought by the syndicate on the application of the co-owner concerned.”

77. Article 2724 of the Code is amended by striking out “and contributions to the contingency fund” in paragraph 3.

78. Article 2729 of the Code is amended by striking out “or his contribution to the contingency fund”.

CHAPTER III

PROVISIONS RELATING TO ARCHITECTURE AND ENGINEERING

ARCHITECTS ACT

79. Section 1 of the Architects Act (chapter A-21) is amended by replacing paragraph *c* by the following paragraph:

“(c) “architect” or “member of the Order”: any person who holds a permit issued by the Order and is entered on the roll;”.

80. Section 5.1 of the Act is replaced by the following section:

“**5.1.** The board of directors shall make a regulation pursuant to subparagraph *h* of the first paragraph of section 94 of the Professional Code (chapter C-26) to determine, from among the professional activities reserved for architects, those that may be engaged in by professional technologists whose competency is in architectural technology.”

81. The heading of Division V of the Act is replaced by the following heading:

“PRACTICE OF ARCHITECTURE”.

82. Sections 15 to 16.1 of the Act are replaced by the following sections:

“**14.** No person who is not an architect may

(1) engage in a professional activity referred to in the first paragraph of section 16;

- (2) assume the title of architect;
- (3) use any title, designation or abbreviation that could lead to the belief that the person is authorized to practise the profession; or
- (4) act as an architect or in a manner leading to the belief that the person is authorized to act as such.

Nothing in this section prevents

- (1) a person who is a landscape architect from bearing that title; or
- (2) a person from engaging in a professional activity referred to in the first paragraph of section 16 in accordance with a regulation made pursuant to subparagraph *h* of the first paragraph of section 94 of the Professional Code (chapter C-26).

“15. The practice of architecture consists in engaging in analysis, design and advisory activities applied to the construction, enlargement or alteration of a building with regard to its siting, envelope and interior layout as well as the materials and methods used, in order to ensure that the building is durable, functional and harmonious.

The practice of architecture also consists in coordinating the work of persons who, in relation to architectural work, participate in the construction, enlargement or alteration of a building.

The practice of architecture includes respect for the environment and life, the protection of property, heritage preservation and economic efficiency to the extent that they are related to the architect’s professional activities.

“16. The following activities in the practice of architecture are reserved for architects:

- (1) preparing, modifying, signing and sealing plans, estimates, specifications, completion certificates, expert reports or supervision reports relating to the construction, enlargement or alteration of a building;
- (2) supervising work relating to the construction, enlargement or alteration of a building, particularly for the purpose of producing a certificate of conformity required under an Act; and
- (3) as part of a professional activity referred to in subparagraph 1 or 2, giving opinions and signing and sealing written opinions.

For the purposes of this Act, the configuration of the interior layout of a building or part of a building is included in the construction, enlargement or alteration of a building, as applicable, if it results in a change in the use of the building or affects the building’s structural integrity, walls or firewalls, exits and access to them, or envelope.

“16.1. Section 16 does not apply to the construction, enlargement or alteration of the following buildings:

(1) a detached single-family dwelling unit having, after the work is completed, no more than one basement storey, a building height not exceeding two storeys and a building area of less than

(a) 600 m² if the building height is one storey;

(b) 300 m² if the building height is two storeys;

(2) a semi-detached or attached single-family dwelling unit, a multi-family dwelling that contains no more than four units, a mercantile occupancy, business occupancy, industrial occupancy or a combination of such dwellings or occupancies having, after the work is completed, no more than one basement storey, a building height not exceeding two storeys and a building area of less than

(a) 300 m² if the building height is one storey;

(b) 150 m² if the building height is two storeys; or

(3) a silo, manure storage structure or feed storage platform.

Nor does that section apply to

(1) the construction of an agricultural occupancy having, after the work is completed, no more than one storey and a building area of less than 750 m², or to the enlargement or alteration of such an occupancy having, after the work is completed, no more than one storey and a building area of less than 1,050 m²; or

(2) the construction, enlargement or alteration of an agricultural occupancy not intended for breeding and having, after the work is completed, two storeys and a building area of less than 150 m².

“16.1.1. An architect must sign all plans and specifications referred to in subparagraph 1 of the first paragraph of section 16 that he has prepared. In the case of final plans and specifications, the architect must also seal them.”

83. Section 16.2 of the Act is amended

(1) by inserting the following definitions in alphabetical order:

““agricultural occupancy” means the occupancy or use or the intended occupancy or use of a building or part of a building for an agricultural activity within the meaning of the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1);

““building area” means the largest horizontal surface of the building above average ground level, calculated between the outside surfaces of the exterior walls or from the outside surface of the exterior walls to the axis of the firewalls;”;

(2) by striking out the definition of “gross area”.

84. Sections 17 and 18 of the Act are replaced by the following sections:

“17. No person may use or allow to be used, for the construction, enlargement or alteration of a building to which section 16 applies, plans or specifications that are not signed or, in the case of final plans and specifications, not signed and sealed by an architect.

Nothing in the first paragraph prevents the use of plans and specifications signed and, as applicable, sealed in accordance with the provisions of a regulation made pursuant to subparagraph *h* of the first paragraph of section 94 of the Professional Code (chapter C-26).

“17.1. Any person who contravenes a provision of section 14 or 17 is liable, for each offence, to the penalties prescribed by section 188 of the Professional Code (chapter C-26).

Proceedings for an offence under a provision of section 14 or 17 are prescribed three years after the date on which the prosecutor becomes aware of the commission of the offence.

However, no proceedings may be brought if seven years have elapsed since the commission of the offence.

A certificate from the secretary of the Order attesting the date on which the Order became aware of the commission of the offence constitutes, in the absence of any evidence to the contrary, sufficient proof of that fact.

“18. Any investigator designated by the board of directors may

(1) enter, at any reasonable hour, a place where the construction, enlargement or alteration of a building is planned or in progress or has been completed, in order to verify compliance with section 17; and

(2) require any information or document enabling the investigator to ascertain compliance with section 17.

The investigator must, on request, produce a certificate of authority signed by the secretary of the Order.”

85. Section 20 of the Act is amended by replacing “15” by “14”.

86. Division V.1 of the Act, comprising section 22.1, is repealed.

ENGINEERS ACT

87. Section 1 of the Engineers Act (chapter I-9) is amended

(1) by replacing paragraph *c* by the following paragraph:

“(c) “member”: any person who holds a licence issued by the Order and is entered on the roll;”;

(2) by adding the following paragraph at the end:

“(f) “structure”: an assembly of elements arranged to support a load.”

88. The heading of Division II of the Act is replaced by the following heading:

“PRACTICE OF ENGINEERING”.

89. Sections 2 to 5 of the Act are replaced by the following sections:

1.1. The practice of engineering consists, at any phase in the life cycle of works, in engaging in scientific analysis, design, execution, alteration, operation and advisory activities applied to structures and materials as well as processes or systems that extract, use, exchange, transform, transport or store energy, information or matter in order to produce a reliable, safe and durable environment.

The practice of engineering also consists in coordinating the work of persons who participate in building engineering works.

The practice of engineering includes respect for the environment and life, the protection of property, heritage preservation and economic efficiency to the extent that they are related to the engineer’s professional activities.

2. The following professional activities in the practice of engineering are reserved for engineers when they relate to works referred to in section 3:

(1) determining the concepts, parameters, equations or models that, on the basis of models derived from engineering principles, make it possible to anticipate the behaviour of structures, materials, processes or systems;

(2) performing tests or calculations that require using models derived from engineering principles;

(3) supervising work, in particular for the purpose of producing a certificate of compliance required under an Act;

(4) inspecting works; and

(5) preparing, modifying, signing and sealing plans, estimates, reports, calculations, studies, drawings, operations or maintenance manuals, decommissioning plans or specifications.

The following professional activities are also reserved for engineers:

(1) certifying the validity of results generated by computer systems or design assistance software whose fundamental algorithms require the use of concepts or models derived from engineering principles, during the design of such systems or software;

(2) certifying the compliance of plans, estimates, specifications and operation or maintenance manuals with any compulsory standard based on concepts or models derived from engineering principles where that standard applies

(a) to a mobile structure that requires using studies on the properties of the materials composing or supporting the structure; or

(b) to a mobile system to generate, accumulate, transmit, use or distribute energy in electrical, mechanical or thermal form; and

(3) as part of the practice of a professional activity referred to in the first paragraph or in subparagraph 1 of this paragraph, giving opinions and signing and sealing written opinions.

3. The activities reserved for engineers under the first paragraph of section 2 relate to the following works:

(1) structural components and mechanical, thermal or electric systems of buildings, except

(a) a building, other than an industrial occupancy, regarding which complete acceptable solutions are provided for in Part 9 of the National Building Code, as adopted by Chapter I of the Construction Code (chapter B-1.1, r. 2), and are applied; and

(b) an agricultural occupancy, other than a silo or a manure pit, in which no agri-food process is used and that, after the work is completed,

i. has only one storey and does not exceed 600 m² of building area and 5 metres in height; or

ii. has only two storeys, does not exceed 150 m² of building area and is not intended for breeding;

(2) a temporary or permanent fixed structure that requires using studies on the properties of the materials composing or supporting it, in particular a structure used

(a) for the transportation of persons, material or information, such as a bridge, road, crane, pipeline or tower or the structural components of a sewer; or

(b) for the control or use of waters, such as a dam or retention basin or the structural components of waterworks;

(3) an industrial-scale transformation or extraction process, excluding a process to extract a forest resource;

(4) a fixed system to generate, accumulate, transmit, use or distribute energy in electrical, mechanical or thermal form, such as industrial equipment or a pumping system used to treat water, excluding a system whose malfunction does not present a risk for the safety of persons or a system intended for use by a single dwelling unit; and

(5) an autonomous electronic or computer system for the operation of works referred to in this paragraph, including software.

Such professional activities also relate to the dependencies of a road.

A system for the discharge, collection or treatment of waste water from an isolated dwelling referred to in the Regulation respecting waste water disposal systems for isolated dwellings (chapter Q-2, r. 22), as well as a private waterworks system and a private system for the treatment, disposal or reclamation of residual materials intended for use by a single dwelling unit having not more than six bedrooms, are excluded from the first paragraph.

For the purposes of this section, a structure or system is fixed when, in the course of the operations of the works, the structure's or system's centre of mass is confined to a restricted space area.

“3.1. For the purposes of section 3,

“agricultural occupancy” means the occupancy or use or the intended occupancy or use of a building or part of a building for an agricultural activity within the meaning of the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1);

“building area” means the largest horizontal surface of the building above average ground level, calculated between the outside surfaces of the exterior walls or from the outside surface of the exterior walls to the axis of the firewalls;

“dwelling unit” means a building or part of a building that provides sleeping accommodation for persons but is not used for the housing or detention of persons who require medical care or for the involuntary detention of persons; and

“industrial occupancy” means the occupancy or use of a building or part of a building for assembling, fabricating, manufacturing, processing, repairing or storing products, goods or materials.

“3.2. The Government may, by regulation,

(1) exclude works from the application of section 3, in the cases and on the conditions it determines; and

(2) determine any other works to which the professional activities referred to in the first paragraph of section 2 relate, in the cases and on the conditions it determines.

The Government shall, before making a regulation pursuant to the first paragraph, consult the Office des professions du Québec and the Order.

“3.3. An engineer must sign and seal all plans and specifications that he has prepared in relation to works referred to in section 3.

“4. For works referred to in subparagraph 1 of the first paragraph of section 3, an engineer may not take measurements, design layouts or prepare or modify plans, estimates, reports, calculations, studies, designs or specifications without the collaboration of an architect, unless the activity is related to an existing building and does not alter its form.

“5. Nothing in this Act shall

(1) infringe on the rights granted by law to architects, provided that they have the collaboration of an engineer for works referred to in subparagraph 1 of the first paragraph of section 3, or prevents them from collaborating with an engineer who retains their services for works referred to in that section;

(2) infringe on the rights granted by law to another professional;

(3) infringe on the rights granted by law to members of the Corporation of Master Pipe-Mechanics of Québec or the Corporation of Master Electricians of Québec;

(4) prevent an owner, contractor, superintendent, foreman or inspector from acting in that capacity, as applicable;

(5) prevent a person from engaging in an activity reserved for engineers, provided that the person does so in accordance with the provisions of a regulation made under subparagraph *h* of the first paragraph of section 94 of the Professional Code (chapter C-26);

(6) prevent bacteriologists or physicians from engaging in their activities;

(7) prevent a person from engaging in an activity relating to ore prospecting;

(8) restrict the normal practice of the art or trade of artisans or skilled workmen;

(9) prevent a municipality from supervising work it carries out itself insofar as the work is for minor repairs that do not alter the original design of the works; or

(10) prevent a person from engaging in his activities in an educational institution, in particular activities related to teaching and research.”

90. The Act is amended by inserting the following section after section 10:

“**10.1.** The board of directors shall make a regulation pursuant to subparagraph *h* of the first paragraph of section 94 of the Professional Code (chapter C-26) to determine, from among the professional activities reserved for engineers, those that may be engaged in by professional technologists whose competency is in an engineering technology.”

91. Section 18 of the Act is replaced by the following section:

“**18.** The board of directors may, on the conditions it determines, issue a temporary licence, valid for a renewable period of not more than one year, for determined work in connection with a specific project, to a person who is

(1) a holder of a diploma in engineering, a bachelor’s degree in applied sciences or an equivalent diploma issued by an educational institution recognized by the board of directors; or

(2) a member of an association of engineers recognized by the board of directors.”

92. Sections 19 and 20 of the Act are repealed.

93. Section 22 of the Act is replaced by the following section:

“**22.** No person who is not an engineer may

(1) engage in a professional activity referred to in section 2;

(2) assume the title of engineer alone or qualified, or use any abbreviation of such a title, or of any name, title or designation that could lead to the belief that the person is an engineer;

(3) advertise himself as such; or

(4) act in a manner leading to the belief that he is authorized to practise the profession of engineer or to act as such.”

94. The Act is amended by striking out the following before section 24:

“DIVISION VI

“MISCELLANEOUS PROVISIONS”.

95. Sections 24 and 25 of the Act are replaced by the following:

“24. No person may use or allow to be used, for the carrying out of works referred to in section 3, plans or specifications not signed and sealed by an engineer.

Despite the first paragraph, plans or specifications prepared outside Québec may be used for the carrying out of works provided they are related to an element integrated into other works and were specified and included in a document prepared by an engineer.

Nothing in the first paragraph prevents the use of plans or specifications signed and sealed in accordance with the provisions of a regulation made pursuant to subparagraph *h* of the first paragraph of section 94 of the Professional Code (chapter C-26).

“24.1. Any person who contravenes a provision of section 22 or 24 is liable, for each offence, to the penalties prescribed by section 188 of the Professional Code (chapter C-26).

Proceedings for an offence under a provision of section 22 or 24 are prescribed three years after the date on which the prosecutor becomes aware of the commission of the offence.

However, no proceedings may be brought if seven years have elapsed since the commission of the offence.

A certificate from the secretary of the Order attesting to the date on which the Order became aware of the commission of the offence constitutes, in the absence of any evidence to the contrary, sufficient proof of that fact.

“25. Any investigator designated by the board of directors may

(1) enter, at any reasonable hour, a place where works referred to in section 3 are located, including works in the process of being built, and a place where the construction of such works is planned, in order to ascertain compliance with section 24; and

(2) require any information or document enabling the investigator to verify compliance with section 24.

The investigator must, on request, produce a certificate of authority signed by the secretary of the Order.

**“DIVISION VI
“MISCELLANEOUS PROVISIONS”.**

CIVIL CODE OF QUÉBEC

96. Article 2118 of the Civil Code of Québec is amended by replacing “and the engineer” by “, the engineer and the professional technologist”.

97. Article 2119 of the Code is amended

(1) by replacing “or the engineer” in the first paragraph by “, engineer or professional technologist”;

(2) by replacing both occurrences of “or engineer” in the second paragraph by “, engineer or professional technologist”.

98. Article 2120 of the Code is amended by replacing “and the engineer” by “, engineer and professional technologist”.

99. Article 2121 of the Code is amended by replacing “or an engineer” by “, engineer or professional technologist”.

CHAPTER IV

PROVISIONS CONCERNING THE RÉGIE DU LOGEMENT

ACT RESPECTING THE RÉGIE DU LOGEMENT

100. Section 6 of the Act respecting the Régie du logement (chapter R-8.1) is amended by replacing the second paragraph by the following paragraph:

“In places where it considers it necessary, the Government may appoint part-time commissioners.”

101. Section 10 of the Act is amended by adding the following sentence at the end of the third paragraph: “The chairman may designate an employee of the board to assist him or the vice-chairman in assigning and coordinating the work.”

102. The Act is amended by inserting the following section after section 22:

“22.1. The board may create specialized divisions to hear and decide certain matters within its jurisdiction.”

103. The Act is amended by inserting the following section after section 23:

“23.1. For the hearing of an application before the board, appropriate technological means that are available to both the parties and the board should be used whenever possible, taking into account the technological environment in place to support the business of the board.

The board, even on its own initiative, may use such means or order that such means be used by the parties; if it considers it necessary, the board may also, despite an agreement between the parties, require a person to appear in person at a hearing or a conference.”

104. Section 30.2 of the Act is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) every application, except applications referred to in Division II of this chapter, if, at the time fixed for the hearing, one of the parties is absent even though he has been duly notified, or if the parties agree to it;”.

105. Section 30.3 of the Act is amended by replacing “paragraph 2” in the first paragraph by “subparagraph 2 of the first paragraph”.

106. Section 31 of the Act is replaced by the following sections:

“31. If it considers it useful and if the subject-matter and circumstances of a case so allow, the board may, on receiving the application, offer the parties a conciliation session to be held, with the parties’ consent, at any time before the case is taken under advisement, by a commissioner or personnel member chosen by the chairman of the board, the vice-chairman or a person designated by either.

“31.01. The purpose of conciliation is to facilitate dialogue between the parties and help them to identify their interests, assess their positions, negotiate and explore mutually satisfactory solutions.

Conciliation does not suspend the proceedings.

“31.02. After consulting with the parties, the conciliator shall define the rules applicable to the conciliation and any measure to facilitate its conduct, and determine the schedule of meetings.

Conciliation sessions are held in private, at no cost to the parties and without formality, and require no prior written documents.

Conciliation sessions are held in the presence of the parties and their representatives. With the consent of the parties, the conciliator may meet with the parties separately. Other persons may also take part in the sessions if the conciliator or the parties consider that their presence would be helpful in resolving the dispute.

“31.03. Unless the parties consent to it, nothing that is said or written in the course of conciliation may be admitted as evidence before a court of justice or before a person or body of the administrative branch exercising adjudicative functions. The parties must be so informed by the conciliator.

“31.04. A conciliator may not be compelled to disclose anything revealed to or learned by him in the exercise of his functions or produce a document prepared or obtained in the course of such exercise before a court of justice or before a person or body of the administrative branch exercising adjudicative functions.

Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person may have access to a document contained in the conciliation record.

“31.05. Any agreement reached shall be recorded in writing and signed by the conciliator, the parties and their representatives, if any. It is binding on the parties.

An agreement reached following a conciliation session presided over by a commissioner terminates the proceedings and is enforceable as a decision of the board, and an agreement reached following a conciliation session conducted by a personnel member has the same effects provided it is homologated by the chairman of the board, the vice-chairman or the commissioner designated by either.

“31.06. If there is no agreement or the chairman of the board, the vice-chairman or the commissioner designated by either refuses to homologate it, the board shall hold a hearing as soon as possible. The commissioner who presided over the conciliation session may, with the parties’ consent, continue the hearing of the matter.”

107. Section 56 of the Act is replaced by the following sections:

“56. A party who files an application must notify a copy of it to the other party.

The application may be notified by any appropriate method that provides the notifier with proof that the document was delivered or published.

Such methods include notification by court bailiff, by registered mail, by delivery in person by a courier, by technological means and by public notice.

Whatever the method of notification used, a person who acknowledges receipt of the document or admits having received it is deemed to have been validly notified.

“56.1. When it is notified, the application must be accompanied by the exhibits supporting it or by a list of the exhibits that indicates that they are accessible on request.

“56.2. Proof of notification and a list of the exhibits in support of the application must be filed in the record of the board. The board may refuse to convene the parties to a hearing as long as those documents have not been filed.

If proof of notification is not filed within 30 days after the application is instituted, the application expires and the board closes the record.

This section does not prevent the board from convening the parties without delay where it considers it appropriate, in which case proof that the application was notified must be produced at the hearing under pain of dismissal of the application.

“56.3. Where the board is seized of an application for the fixing of rent, the lessor must, within 90 days of the date on which the form for the information necessary for fixing the rent is sent by the board, file the duly completed form in the record.

The lessor must also, within the same time, notify a copy of the completed form to the lessee and file proof of such notification in the record of the board. Where the applicant is the lessor and fails to file such proof of notification in the record of the board within the prescribed time, the application expires and the board closes the record.

Despite sections 56.1 and 56.2, the applicant is not required to notify the exhibits or a list of the exhibits in support of his application, or to file such a list in the board’s record.

This section does not apply to an application for review of rent for low-rental housing within the meaning of article 1984 of the Civil Code.

“56.4. Before entering a case on the roll, the board may require, in addition to the exhibits referred to in section 56.2 or 56.3, that the parties file in the record any document required by the board or provide any information useful for processing the record.

Failing that, the board may decide not to enter the case on the roll.

“56.5. Where warranted by the circumstances of a case, the chairman of the board, the vice-chairman or the commissioner designated by either may, on his own initiative or at the request of one of the parties, convene the parties to a case management conference in order to

(1) come to an agreement with the parties as to the conduct of the proceeding, specifying the undertakings of the parties and determining the timetable to be complied with;

(2) if the parties fail to agree, determine a timetable for the proceeding, which is binding on the parties;

(3) determine how the conduct of the proceeding may be simplified or expedited and the hearing shortened, among other things by better defining the questions at issue or admitting any fact or document; or

(4) invite the parties to a conciliation session.

An agreement under subparagraph 1 of the first paragraph must cover, among other subjects, the procedure and time limit for the communication of exhibits, written statements in lieu of testimony and detailed affidavits, and expert evidence.

The agreements and decisions made at the conference are recorded in the minutes of the conference drawn up and signed by the commissioner who conducted the conference. They are binding on the parties during the hearing.

“56.6. If a party fails to attend the conference, the board shall record the failure and make the decisions it considers appropriate.

“56.7. If the parties fail to comply with the timetable, the commissioner may make the appropriate determinations.

“56.8. For case management purposes, at any stage of a proceeding, the commissioner may decide, on his own initiative or on request, to

(1) take a measure provided for in the first paragraph of section 56.5;

(2) assess the purpose and usefulness of seeking expert opinion, whether joint or not, determine the mechanics of that process as well as the anticipated costs, and set a time limit for submission of the expert report; if the parties failed to agree on joint expert evidence, assess the merits of their reasons and impose joint expert evidence if it is necessary to do so to uphold the principle of proportionality and if, in light of the steps already taken, doing so is conducive to the efficient resolution of the dispute without, however, jeopardizing the parties’ right to assert their contentions;

(3) order notification of the application to persons whose rights or interests may be affected by the decision, or invite the parties to bring a third person in as an intervenor or to implead a third person if the commissioner considers that the third person’s participation is necessary in order to resolve the dispute; or

(4) rule on any special requests made by the parties.

“56.9. Before proceeding with the hearing, the chairman of the board, the vice-chairman or the commissioner designated by either may, on his own initiative or on request, convene the parties to a pre-hearing conference to discuss how the hearing may be simplified or expedited.

The parties must, at the commissioner’s request, provide any exhibits and other evidence not already filed in the record that they intend to produce as evidence during the hearing.

The agreements and decisions made during the conference are recorded in the minutes of the conference that are drawn up and signed by the commissioner who conducted the conference. They are binding on the parties during the hearing.

“56.10. Any pleading filed in the board’s record is deemed to have been made under oath.”

108. Section 60 of the Act is replaced by the following sections:

“60. Before rendering a decision, the board shall allow the interested parties to be heard. For that purpose, the board may convene the parties to a hearing or, if the parties so request or agree to it, proceed on the record.

Where the board proceeds on the record, it shall give the parties an opportunity to send to the board, within the time it sets, statements deemed to have been made under oath, as well as the relevant evidence in the record.

Before holding a hearing, the board shall send the parties a notice of hearing in the manner provided for in the rules of procedure.

“60.1. The applicant and the defendant to whom the application was notified must, without delay, inform the board and the other parties of any change of address occurring during the proceedings.”

109. Section 62 of the Act is amended by replacing “the board” by “a commissioner, a special clerk acting at a party’s request or an advocate”.

110. Section 63 of the Act is amended

(1) by replacing both occurrences of “proof and hearing” in the first paragraph by “hearing”;

(2) by adding the following paragraph at the end:

“If it is necessary to examine a witness at a distance, the technological means used must allow the witness to be identified, heard and seen live. The board may however decide, after consulting the parties, to hear a witness without the witness being seen.”

III. Section 63.2 of the Act is amended by adding the following paragraph at the end:

“On ruling on whether a proceeding is abusive or dilatory, the board may order a party to pay, in addition to the costs referred to in section 79.1, damages for any injury suffered by another party, including to cover the professional fees and other costs incurred by the other party, or award punitive damages if warranted by the circumstances. If the amount of the damages is not admitted or cannot be easily calculated at the time the proceeding is declared abusive, the board may summarily determine the amount within the time and on the conditions it specifies.”

II2. Section 67 of the Act is amended by adding the following paragraph at the end:

“In the absence of all the parties, the commissioner dismisses the application or strikes the case off the roll unless, on an application filed in the record, the commissioner grants a postponement. The applicant may replace a struck off case on the roll within 30 days following the date of the hearing, failing which the application expires and the board closes the record.”

II3. Section 72 of the Act is amended by adding the following paragraph at the end:

“A senior may be assisted at the hearing by a trusted third person.”

II4. Section 78 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“A commissioner may decide that a report signed by a physician, police officer or fireman or an inspection report signed by an inspector appointed under an Act or regulation is accepted in lieu of their testimony.”;

(2) by inserting “physician, police officer, fireman or” before “inspector” in the second paragraph.

II5. Section 89 of the Act is amended by adding the following paragraph at the end:

“A party who fails to inform the board or the other parties of a change of address in accordance with section 60.1 may not apply for the revocation of a decision rendered against him by claiming not to have received the notice convening the party if the notice was properly sent to his previous address.”

116. Section 90 of the Act is amended

(1) by inserting the following paragraph after the first paragraph:

“The review is effected only if a substantive or procedural defect is of a nature likely to invalidate the decision.”;

(2) by striking out “or special clerks” in the second paragraph;

(3) by inserting “, but it does not have to be greater if the decision was rendered by a special clerk” at the end of the second paragraph.

117. The Act is amended by replacing all occurrences of “applications or motions” and “a motion” in sections 63.1, 63.2, 90 and 91 by “applications” and “an application”, respectively.

TARIFF OF COSTS EXIGIBLE BY THE RÉGIE DU LOGEMENT

118. Section 1 of the Tariff of costs exigible by the Régie du logement (chapter R-8.1, r. 6) is amended by replacing “a motion” in paragraph 4 by “an application”.

CHAPTER V

OTHER AMENDING PROVISIONS

MASTER ELECTRICIANS ACT

119. Section 1 of the Master Electricians Act (chapter M-3) is amended

(1) by replacing “electrical installation work, or renovation, alteration or repair work on electrical installations” in subparagraph *c* of paragraph 7 by “construction work on electrical installations”;

(2) by replacing “electrical installation work or the work of renewing, altering or repairing electrical installations” in paragraph 10 by “construction work on electrical installations”;

(3) by replacing “electrical installation work or the work of renewing, repairing or altering electrical installations” in paragraph 11 by “construction work on electrical installations”.

120. The Act is amended by inserting the following section after section 1:

1.1. For the purposes of this Act, foundation, erection, renovation, repair, maintenance, alteration or demolition work is construction work.”

121. The Act is amended by inserting the following section after section 19:

“**19.1.** No one contravenes this Act by carrying out or causing to be carried out demolition work on an electrical installation.”

122. Section 23 of the Act is amended by replacing “one year” and “five years” by “three years” and “seven years”, respectively.

MASTER PIPE-MECHANICS ACT

123. Section 1 of the Master Pipe-Mechanics Act (chapter M-4) is amended

(1) by replacing “installation, renovation, alteration or repair” in subparagraph *b* of paragraph 5 by “construction”;

(2) by replacing “the installing of any or all of the following systems, to wit” in the introductory clause of the first paragraph of paragraph 6 by “any or all of the following systems”;

(3) by striking out “, in any building or construction” in subparagraph *a* of the first paragraph of paragraph 6;

(4) by striking out “in any building or construction” in subparagraph *e* of the first paragraph of paragraph 6;

(5) by striking out paragraph 7;

(6) by replacing “electrical installation work or the work of renewing, altering or repairing piping installations” in paragraph 8 by “construction work on a piping installation”;

(7) by replacing “piping installation work or the work of renewing, altering or repairing piping installations” in paragraph 9 by “construction work on a piping installation”.

124. The Act is amended by inserting the following section after section 1:

“**1.1.** For the purposes of this Act, foundation, erection, renovation, repair, maintenance, alteration or demolition work is construction work.”

125. Section 15 of the Act is amended

(1) by striking out subparagraph *b* of the first paragraph;

(2) by replacing the last sentence of the second paragraph by the following: “However, no one contravenes this Act by carrying out or causing to be carried out

(a) construction work on a piping installation referred to in subparagraphs *b* and *e* of the first paragraph of paragraph 6 of section 1 of this Act, or by doing with respect to such work the acts described in subparagraphs *c*, *d* and *e* of paragraph 5 of that section; or

(b) demolition work on a piping installation.”

126. Section 21.2 of the Act is amended by replacing “one year” and “five years” by “three years” and “seven years”, respectively.

ACT RESPECTING THE SOCIÉTÉ D’HABITATION DU QUÉBEC

127. Section 3.7 of the Act respecting the Société d’habitation du Québec (chapter S-8) is amended by replacing “within the meaning of section 85.1” by “that receives financial assistance granted for the purposes of the operation and maintenance of residential immovables”.

128. Section 57 of the Act, amended by section 210 of chapter 8 of the statutes of 2018, is again amended by replacing “within the meaning of section 85.1” in paragraph *f* of subsection 3.1 by “that receives financial assistance granted for the purposes of the operation and maintenance of residential immovables”.

129. Section 85.1 of the Act is amended by replacing “agencies, hereinafter referred to as “housing agencies”,” and “granted for the purposes of the operation and maintenance of residential immovables” by “housing agencies” and “from the Société”, respectively.

CHAPTER VI

TRANSITIONAL PROVISIONS

130. Section 160 of the Building Act (chapter B-1.1), as amended by section 25, applies to any application for review pending on the date of coming into force of that section.

131. The second paragraph of article 1052 of the Civil Code, enacted by section 38, is declaratory.

132. The penal clauses applicable for contravening a declaration of co-ownership and included in the by-laws of an immovable before (*insert the date of assent to this Act*) are deemed to form part of the act constituting the co-ownership in accordance with article 1053 of the Civil Code, as amended by section 39.

133. The contribution to the common expenses of a co-ownership, referred to in article 1072 of the Civil Code, as amended by section 48, must be fixed not later than the day that is three years after the date of coming into force of the government regulation provided for in the second paragraph of that article 1072.

134. If the contingency fund study provided for in article 1072 of the Civil Code, as amended by section 48, reveals that there is not enough money in the fund to cover the estimated cost of major repairs and the cost of replacement of common portions, then the amounts paid into the fund each year must be determined so that there will be enough money in the fund to cover those costs after a period of not more than 10 years after the date of the study.

135. The maintenance log of a co-ownership, required under article 1072.1 of the Civil Code, as enacted by section 49, must be established not later than the day that is three years after the date of coming into force of the government regulation provided for in the second paragraph of that article 1072.1.

136. The requirements relating to the management of a co-ownership, provided for in article 1085.1 of the Civil Code, as enacted by section 53, must be complied with not later than the day that is three years after the date of coming into force of the government regulation provided for in that article 1085.1.

CHAPTER VII

FINAL PROVISIONS

137. This Act comes into force on (*insert the date of assent to this Act*), except sections 5, 9, 79 to 85, 87 to 104, 106 to 121 and 123 to 125, which come into force on the date or dates to be set by the Government.

