



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 898

**An Act to reinforce the regulation of
rent increases for a lease of a
dwelling**

Introduction

**Introduced by
Mr. Andrés Fontecilla
Member for Laurier-Dorion**

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EXPLANATORY NOTES

The purpose of this bill is to reinforce the regulation of rent increases for a lease of a dwelling.

To that end, the bill amends the Civil Code to introduce an obligation for lessors to apply to the Administrative Housing Tribunal to have the rent fixed where the amount of an increase on the notice of modification of the conditions of a lease exceeds the percentage for the mandatory fixing of rent established according to the criteria prescribed by regulation.

The bill requires that, from now on, the proposed rent increase be indicated in greater detail in the notice of modification of the conditions of a lease, specifying both the proposed new rent in dollars and the increase expressed in dollars as well as by a percentage of the current rent. The notice must also indicate that, where the increase exceeds a certain percentage, the rent will be fixed by the court.

The bill reduces from five years to three years the period during which a dwelling situated in a recently erected immovable or an immovable used for rental as a result of a recent change of destination is exempt from the application of the rules for fixing of conditions of a lease. During that period, the bill makes such a dwelling subject to the new procedure for mandatory rent fixing where the increase exceeds a certain specific percentage.

The bill amends the Act respecting the Administrative Housing Tribunal to give the Minister Responsible for Housing the power to suspend, for a given year, the provisions establishing the criteria for determining the percentages applicable to rent fixing, if the Minister considers that the situation warrants it.

Lastly, the bill contains transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec;
- Act respecting the Administrative Housing Tribunal (chapter T-15.01).

REGULATION AMENDED BY THIS BILL:

- Regulation respecting the criteria for the fixing of rent (chapter T-15.01, r. 2).

Bill 898

AN ACT TO REINFORCE THE REGULATION OF RENT INCREASES FOR A LEASE OF A DWELLING

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF QUÉBEC

1. Article 1943 of the Civil Code of Québec is amended

(1) by replacing “or of the increase expressed in dollars or as a percentage” in the first paragraph by “and of the increase expressed in dollars and as a percentage”;

(2) by inserting the following paragraph after the second paragraph:

“Where the proposed increase is greater than the percentage referred to in the fourth paragraph of article 1947, the notice shall indicate that the rent shall be fixed in accordance with the procedure provided for in that article.”

2. Article 1945 of the Code is amended

(1) by inserting “, except with respect to the rent where the proposed increase exceeds the percentage referred to in the fourth paragraph of article 1947. In such a case, the rent shall be fixed in accordance with the procedure provided for in that article” at the end of the first paragraph;

(2) by inserting “other than with respect to the rent where the proposed increase exceeds the percentage referred to in the fourth paragraph of article 1947” after “proposed modification” in the second paragraph;

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

“The lessee’s agreement to a rent increase that exceeds the percentage referred to in the second paragraph of article 1947 shall not have the effect of setting aside the procedure to fix the rent provided for in that article.”

3. Article 1947 of the Code is amended by adding the following paragraph at the end:

“The lessor shall, where the increase proposed in the notice of modification exceeds the percentage determined in accordance with the criteria prescribed by regulation for the mandatory fixing of rent, apply to the court within one

month after the deadline for giving notice provided for in article 1942 to have the rent fixed; otherwise, the lease is renewed by operation of law at the same rent.”

4. Article 1955 of the Code is amended

(1) by inserting “, except with respect to the rent where the proposed increase exceeds the percentage referred to in the fourth paragraph of article 1947” after “its intended use” in the second paragraph;

(2) by replacing “five years” in the second and third paragraphs by “three years”.

ACT RESPECTING THE ADMINISTRATIVE HOUSING TRIBUNAL

5. The Act respecting the Administrative Housing Tribunal (chapter T-15.01) is amended by inserting the following section after section 108:

“**108.1.** The Tribunal establishes annually, in accordance with what is prescribed by government regulation,

(1) the percentages applicable to the criteria for determining rent that is subject to an application to have the rent fixed or adjusted; and

(2) a percentage of increase of rent beyond which a procedure to fix the rent is mandatory for each of the prescribed situations.

The Minister shall approve, with or without amendment, the percentages determined by the Tribunal under this section and publish them in the *Gazette officielle du Québec* and, if the Minister considers it appropriate, by any other means.

If the Minister considers that the situation warrants it, he may suspend, for a given year, by order and after consultation with the Tribunal, the application of a provision of the regulation for determining the percentages provided for in this section. The Minister shall then prescribe any rule that he considers ensures a fair balance between the rights of the lessee and those of the lessor. The publication requirement set out in section 8 of the Regulations Act (chapter R-18.1) does not apply to such an order.”

REGULATION RESPECTING THE CRITERIA FOR THE FIXING OF RENT

6. Section 1 of the Regulation respecting the criteria for the fixing of rent (chapter T-15.01, r. 2) is amended by striking out the definition of “net income”.

7. Section 3 of the Regulation is amended by striking out subparagraph 8 of the first paragraph.

8. Section 3.1 of the Regulation is amended

(1) by inserting “by the tribunal” after “established annually” in the first paragraph;

(2) by striking out “; notwithstanding the foregoing, the percentage applicable to maintenance costs shall not be less than that applicable to net income” in the second paragraph;

(3) by striking out the third and fifth paragraphs.

9. The Regulation is amended by inserting the following sections after section 3.1:

“3.2. The tribunal establishes annually a percentage of increase of rent beyond which a procedure to fix the rent is mandatory. A percentage shall be determined for each of the following cases:

- (1) an unheated dwelling;
- (2) a dwelling heated by electricity;
- (3) a dwelling heated by gas; and
- (4) a dwelling heated by heating oil.

The percentages are established according to an estimated average basic adjustment calculated on the basis of the proportions observed in the applications for the fixing of rent examined by the tribunal during the reference period.

The percentages applicable to the dwellings referred to in the second paragraph of article 1955 of the Civil Code are those referred to in the first paragraph of this section, increased by 1%.

“3.3. The percentages referred to in sections 3.1 and 3.2 are published in accordance with the terms prescribed by section 108.1 of the Act respecting the Administrative Housing Tribunal (chapter T-15.01).”

10. Section 5 of the Regulation is amended by striking out “or in respect of the net income resulting from the operation of such premises” in the third paragraph.

TRANSITIONAL AND FINAL PROVISIONS

- 11.** The provisions of articles 1943, 1945 and 1947 of the Civil Code, amended by sections 1 to 3 of this Act, do not apply in respect of a notice of modification increasing the rent sent before (*insert the date that is one month after the date of assent to this Act*).
- 12.** The provisions of article 1955 of the Civil Code, as they read on (*insert the date preceding the date of assent to this Act*), continue to apply in respect of a lease entered into before (*insert the date of assent to this Act*).
- 13.** The provisions of the Regulation respecting the criteria for the fixing of rent (chapter T-15.01, r. 2), as they read on (*insert the date preceding the date of assent to this Act*), continue to apply in respect of a process to fix the rent related to a notice of modification sent before (*insert the date that is one month after the date of assent to this Act*).
- 14.** The provisions of this Act come into force on (*insert the date that is one month after the date of assent to this Act*).