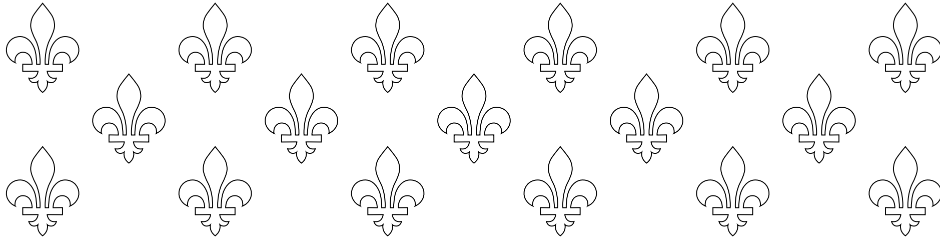

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 46

An Act to amend the Act respecting municipal taxation and the Act respecting municipal debts and loans

Introduction

Introduced by
Madam Louise Harel
Minister of Municipal Affairs and Greater Montréal

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EXPLANATORY NOTES

The amendments made by this bill are intended to remedy problems of application arising from the Québec municipal taxation scheme.

The bill amends the definition of the word "owner" in the Act respecting municipal taxation so that the usufructuaries in a group of usufructuaries who each have a periodic and successive right of enjoyment are not deemed to be owners.

The bill authorizes the municipal assessor to form a separate unit of assessment comprising the aggregate of the structures forming part of a wireless telecommunications system that are situated in the territory of the local municipality and installed on a building owned by another person, and to enter that unit on the roll in the name of the operator of the system. The assessor may also, where another unit of assessment is already entered on the roll of the municipality in the name of the operator, add that aggregate of structures to that unit.

The bill enables the municipal body responsible for assessment to extend the time limit allowed an assessor to reply to an application for review until 30 April if the local municipality agrees to the extension.

The bill replaces the requirement for a municipality that imposes compensation for municipal services to fix a rate of compensation applicable to the real estate values by a requirement to prescribe rules of calculation that may vary according to the classes of immovables.

The bill specifies that the person to whom the municipality must refund a business tax overpayment or the person who must pay the municipality a business tax supplement is the person who made the overpayment or who made an insufficient payment, as the case may be. It also provides that the averaging measure continues to apply where an alteration to the unit of assessment results in a loss of taxable value.

The bill provides that, within the framework of the transitional diversification of the rates of certain taxes, the composition of the

classes may be changed if the assessor alters the value to correct an error, retroactively to the date of coming into force of the roll.

The bill amends the Act respecting municipal debts and loans to allow a municipality to borrow sums necessary for the repayment of a loan six months before the loan is to arrive at maturity.

Lastly, the bill authorizes the executive committee of the Communauté urbaine de Montréal to order that the real estate assessment rolls and the rolls of rental values of all of the municipalities whose territory forms part of the territory of the Community are to remain in force until the end of the year 2000.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting municipal debts and loans (R.S.Q., chapter D-7);

– Act respecting municipal taxation (R.S.Q., chapter F-2.1).

Bill 46

AN ACT TO AMEND THE ACT RESPECTING MUNICIPAL TAXATION AND THE ACT RESPECTING MUNICIPAL DEBTS AND LOANS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING MUNICIPAL TAXATION

1. Section 1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 257 of chapter 43 of the statutes of 1997, is again amended in the definition of "owner" in the first paragraph,

(1) by replacing "or 3" in the second line of paragraph 1 by ", 3 or 4" ;

(2) by inserting "or 4" after "3" in the third line of paragraph 2 ;

(3) by striking out "usufructuary," in the first line of paragraph 3 ;

(4) by adding the following paragraph after paragraph 3 :

"(4) the person who possesses an immovable as usufructuary otherwise than as a member of a group of usufructuaries each having a right of enjoyment periodically and successively in the immovable ;".

2. Section 14.1 of the said Act is amended by replacing "an initiatives and development association for commercial districts" in the fourth and fifth lines of the fourth paragraph by "a commercial development association".

3. The said Act is amended by inserting the following subdivision after section 41 :

"§6. — *Structure forming part of a wireless telecommunications system*

"**41.1.** The assessor may decide that the aggregate of the structures forming part of a wireless telecommunications system that are situated in the territory of the local municipality and installed on a building owned by another person constitutes a separate unit of assessment entered on the roll in the name of the operator of the system.

The assessor may also, where another unit of assessment is entered on the roll of the municipality in the name of the operator, decide that the aggregate of such structures is added to that unit or, if there are several such units, to one of them."

4. Section 138.4 of the said Act, amended by section 264 of chapter 43 of the statutes of 1997, is again amended by replacing the fourth and fifth paragraphs by the following paragraphs:

"The municipal body responsible for assessment may, before 15 August of the year following the coming into force of the roll, extend the time limit for entering into an agreement under the first paragraph until the following 1 November or, where the local municipality consents thereto, until not later than the following 30 April.

The clerk of the body must, as soon as possible, give notice of the extension in writing to the Tribunal and to the persons having filed an application for review pursuant to the first paragraph and who have not entered into an agreement under that paragraph. However, the clerk need not notify those persons if the form they used pursuant to section 129 for the filing of their application contained the information concerning the extension."

5. Section 205 of the said Act is replaced by the following sections:

"**205.** Every local municipality may, by by-law, impose the payment of compensation for municipal services on the owners of immovables situated in its territory and referred to in any of paragraphs 4, 5, 10 and 11 of section 204.

However, another local municipality is exempt from the payment of compensation that would otherwise be payable because the local municipality is the owner of

(1) a structure intended for lodging persons, sheltering animals or storing things and forming part of a drinking water supply system, a waste water purification system or a residual material management system;

(2) land that is the site of a structure referred to in subparagraph 1.

Every local municipality may also, by by-law, impose the payment of compensation for municipal services on the owners of land situated in its territory and referred to in paragraph 12 of section 204.

The compensation provided for in this section, whether or not payment thereof is imposed and whether or not an owner is exempt from the payment, stands in lieu, in respect of every immovable concerned, of taxes, compensations and modes of tariffing imposed by the municipality on a person as the owner, lessee or occupant of the immovable.

The first four paragraphs do not apply in respect of an immovable that becomes taxable under the second paragraph of section 208.

"**205.1.** The amount of the compensation provided for in section 205, in respect of an immovable referred to in any of paragraphs 4, 10 and 11 of section 204 or of a regional park referred to in paragraph 5 of that section, is

established by multiplying the non-taxable value of the immovable, entered on the real estate assessment roll, by the rate fixed by the municipality in the by-law; that rate may vary according to the classes of immovables established in the by-law but shall not exceed the rate of the general real estate tax or $0.50 per $100 of assessment.

The amount of the compensation provided for in section 205, in respect of a parcel of land referred to in paragraph 12 of section 204, is established by multiplying the non-taxable value of the parcel of land, entered on the real estate assessment roll, by the rate fixed by the municipality in the by-law but that shall not exceed the rate of the general real estate tax or $0.80 per $100 of assessment.

The amount of the compensation provided for in section 205, in respect of an immovable other than a regional park referred to in paragraph 5 of section 204, is established by applying the rules of computation prescribed by the municipality in the by-law and that may vary according to the classes of immovables established in the by-law. However, the amount shall not exceed

(1) in the case of an immovable described in subparagraph 1 or 2 of the second paragraph of section 205, the total amount of the sums resulting from modes of tariffing that would be payable in respect of the immovable, were it not for the fourth paragraph of that section, for the municipal services in respect of which the immovable or its owner or occupant derives a benefit within the meaning of section 244.3;

(2) in every other case, the total amount of the sums resulting from municipal taxes, compensations or modes of tariffing that would be payable in respect of the immovable were it not for paragraph 5 of section 204 and the fourth paragraph of section 205, except sums resulting from the business tax imposed under section 232 or the surtax or tax on non-residential immovables imposed under section 244.11 or 244.23."

6. Section 206 of the said Act is amended by striking out "in addition to the compensation exigible under section 205," in the fourth and fifth lines.

7. Section 245 of the said Act is amended

(1) by replacing "or of Division IV.4" in the sixth line of the second paragraph by ", of Division IV.4 or of Division IV.5";

(2) by inserting ", except that the debtor of the supplement or the creditor of the overpayment is the person who did not pay enough or who overpaid, as the case may be" after "tax" in the second line of the third paragraph.

8. Section 253.31 of the said Act is amended by replacing subparagraph 2 of the second paragraph by the following subparagraph:

“(2) by a new adjusted value for the fiscal year concerned corresponding to the product obtained by multiplying the adjusted value for that fiscal year as established prior to the alteration by the difference between 100% and the percentage loss of taxable value resulting from the alteration.”

9. Section 253.49 of the said Act is amended

(1) by replacing “fifth” in the third line of the first paragraph by “third”;

(2) by replacing “fifth” in the second line of each of subparagraphs 1, 2 and 4 of the second paragraph by “third”;

(3) by replacing “fifth” in the second line of the third paragraph by “third”.

10. Section 253.58 of the said Act, enacted by section 15 of chapter 43 of the statutes of 1998, is amended by adding the following after subparagraph 3 of the second paragraph:

“(4) a unit changes classes, retroactively to the date of the coming into force of the roll, where the re-application of section 253.56 as provided in the third paragraph gives rise to the change.

Where an alteration is made under any of paragraphs 1, 2, 4, 5 and 16 of section 174 after the date of the coming into force of the roll, and the effect of the alteration is to alter retroactively to that day the taxable value of a unit, section 253.56 shall be re-applied taking the new value into account. For the purposes of the re-application, the corresponding alteration made to the preceding roll shall also be taken into account. Any alteration made under section 182 that the assessor should have made under any of the paragraphs mentioned above shall be considered to be an alteration referred to in that paragraph.”

11. Section 253.59 of the said Act, enacted by section 15 of chapter 43 of the statutes of 1998, is amended by adding the following paragraph after the second paragraph:

“If the unit changes classes, the resulting change in the applicable rate is taken into consideration in the same manner as the alteration to the taxable value referred to in the third paragraph of section 253.58 in calculating the amount of the tax supplement to be paid or of tax to be refunded as a result of the alteration.”

ACT RESPECTING MUNICIPAL DEBTS AND LOANS

12. Section 2 of the Act respecting municipal debts and loans (R.S.Q., chapter D-7) is amended by replacing “seven days” in the third line of the fourth paragraph by “six months”.

TRANSITIONAL AND FINAL PROVISIONS

13. The establishment of a unit of assessment in conformity with the rules set out in the first or second paragraph of section 41.1 of the Act respecting municipal taxation, enacted by section 3, is valid for any real estate assessment roll applicable to a municipal fiscal year subsequent to the fiscal year 1996 and preceding a fiscal year to which such a roll that comes into force after (*insert here the date of coming into force of this Act*) applies.

14. Section 4 has effect in respect of any application for review of an entry on or an omission from a real estate assessment roll or a roll of rental values that is filed after 31 December 1999.

15. The first paragraph of section 205.1 of the Act respecting municipal taxation, enacted by section 5, has effect in respect of a regional park for the purposes of any municipal fiscal year from the fiscal year 1999.

Subject to the first paragraph, sections 5 and 9 have effect for the purposes of any municipal fiscal year from the fiscal year 2000.

16. Section 6 has effect from 15 December 1995.

17. Paragraph 1 of section 7 and sections 10 and 11 have effect for the purposes of any municipal fiscal year from the fiscal year 2000.

18. The executive committee of the Communauté urbaine de Montréal may order that the real estate assessment rolls and the rolls of rental values of all of the municipalities whose territory forms part of the territory of the Community, in force on (*insert here the date of coming into force of this Act*), remain in force until the end of 2000.

19. This Act comes into force on (*insert here the date of assent to this Act*).