

Simplifying the execution of notarized obligations: a new mechanism under Québec law



OCTOBER 14, 2025 6 MIN READ

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On June 25, 2025, the government of Québec published a draft regulation introducing an innovative mechanism that allows creditors, in certain circumstances, to obtain the forced execution of an obligation recorded in a notarial act outside of court proceedings. The draft regulation, *Regulation respecting the forced execution of the payment of a claim resulting from the non-performance of an obligation recorded in a notarial act* [PDF], sets out the framework for the application and enforcement of the new mechanism, which was introduced into Québec law by new article 1603.1 of the *Civil Code of Québec*. The regulation and article 1603.1 of the *Civil Code of Québec* will come into force simultaneously.

This article summarizes the key aspects of the draft regulation^[1] (draft regulation) in its current form to clarify its practical implications.

A new tool for forced execution

With the addition of article 1603.1 to the *Civil Code of Québec*, the legislator aims to streamline the execution of certain monetary obligations recorded in notarial acts. This new mechanism offers a faster, more accessible procedure that could ease court backlogs and improve access to justice. More specifically, this new mechanism will allow creditors, in some cases, to obtain the equivalent of a judgment rendered by default, without going to court.

The introduction of this new mechanism into Québec law marks a significant change from the current framework, where a court's intervention is generally required for the forced execution of an obligation.

Conditions of application and practical implications

Several conditions, which are set out in the draft regulation, must be met for the new mechanism of forced execution to apply.

- **Limited to monetary obligations:** the mechanism applies only to monetary obligations, excepting those that are expressly excluded in the draft regulation (for example, hypothecary actions and obligations subject to arbitration).
- **Recorded in a notarial act:** the obligation must be recorded in a notarial act that contains

an express stipulation specifying that the obligation is subject to forced execution under article 1603.1 of the *Civil Code of Québec*. Including such a clause in the notarial act is essential to allow the creditor to use this new mechanism.

- **Debtor's informed consent:** the debtor must have given informed consent and been advised of the applicable procedure through a summary description included in the notarial act. These requirements aim to ensure transparency and protect the debtor's rights.

If the notarial act does not contain the required stipulations, the creditor will not be able to use this new forced execution mechanism. As a result, in practice, notaries are likely to start routinely including this clause in certain notarial acts, including deeds of loan. While this mechanism simplifies the execution of an obligation for the creditor, it requires that the debtor exercise greater vigilance in order to contest a payment order promptly and avoid forced execution.

It should be noted that the debtor retains its rights: if the payment order is contested, a court proceeding will take place. However, the applicable burden of proof remains unclear, raising practical and legal issues that will need clarification.

Implementation of the new forced execution mechanism

According to the current version of the draft regulation, in the event the debtor fails to perform an obligation recorded in a notarial act that meets the previously established conditions, the creditor may serve on the debtor a payment order in the form prescribed by the draft regulation, accompanied by a dispute form. The debtor (or any interested person) will then have 30 days from service to contest the payment order before the court of competent jurisdiction. If the payment order is not contested within that period, it becomes executory — having the same force as a judgment rendered by the competent court — and may be enforced by a bailiff.

Debates, issues and outlook

The draft article 1603.1 of the *Civil Code of Québec* and, by extension, the new forced execution mechanism, prompted strong reactions in the legal community. While its potential to facilitate access to justice and reduce court backlogs was generally acknowledged, many stakeholders stressed the need for rigorous safeguards to protect debtors' rights. Issues raised include the risk of a shift in the burden of proof, increased debtor vulnerability, and the use of a regulation rather than a statute to determine the key components of this new mechanism.

More recently, the *Chambre des notaires du Québec* made several observations regarding the current version of the draft regulation.^[2] Among its recommendations, and with a view to ensuring a uniform understanding by the parties, it notably suggests clarifying the wording of the stipulation subjecting an obligation to forced execution, as well as the summary description of the procedure, both of which must be included in the notarial act. The *Chambre des notaires du Québec* also seeks to exclude obligations secured by a hypothec from the application of this new mechanism, considering that, in its current form, the draft regulation would allow a hypothecary creditor to use this mechanism to circumvent the specific execution measures provided for the exercise of a hypothecary recourse.

Whether these recommendations prompt amendments to the draft regulation remains to be seen.

Practical implications and next steps

In conclusion, the new article 1603.1 of the *Civil Code of Québec* and the draft regulation introduce a novel procedural shortcut: under certain conditions, a notarial act can acquire executory force without judicial intervention. For creditors, this offers a way to speed up recovery and reduce costs. For debtors, transparency and an understanding of the consequences at the time of signing the notarial act are crucial.

In practice, this innovation could encourage parties to make greater use of the notarial form for contracts typically concluded under private writing (for example, suretyships) in order to benefit from the new execution mechanism. However, the debtor's informed consent may become a central issue in contract negotiations as businesses will need to balance swift enforcement with maintaining commercial relationships. Moreover, the enforceability of an uncontested payment order will still need to be recognized for parties outside of Québec; the promise of efficiency is therefore partly territorial. Finally, the scope of this new forced execution mechanism is somewhat limited, as its practical effects will essentially be limited to default situations where the debtor or any interested person does not contest the payment order.

While this new mechanism is not yet in force and amendments to the draft regulation remain possible, businesses should begin carefully reviewing their commercial contracts and assessing whether some of them should be notarized. Taking this proactive approach could allow them to capitalize on the benefits of the new forced execution mechanism and recover their monetary claims faster and more efficiently. It will also be important to monitor regulatory and jurisprudential developments related to this new mechanism.

This reform represents both a promise of efficiency and a call for contractual caution. We will continue to monitor upcoming developments related to the new forced execution mechanism and invite you to contact us should you wish to discuss this new mechanism and its impact on your commercial activities.

[1] *Gazette officielle du Québec*, Part 2, June 25, 2025, No. 26, p. 2206.

[2] *Chambre des notaires du Québec*, *Commentaires sur le projet de Règlement sur l'exécution forcée du paiement d'une créance résultant de l'inexécution d'une obligation constatée dans un acte notarié* [PDF], August 1, 2025.