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# MORTGAGE RENEWALS: THE LATEST REGULATORY BURDEN

By Gabriel Giguère

Toward the end of 2023, the Quebec National Assembly adopted Bill 34<sup>1</sup> – *An Act to modernize the notarial profession and to promote access to justice* – which modifies the process of renewing a mortgage with a new financial institution.<sup>2</sup> With respect to the legal processing of mortgage renewals, the *Chambre des notaires du Québec*<sup>3</sup> claims that the new reforms eliminate any competition with its members, thus releasing the brake on the price of these services and on the cost of a mortgage. The result of this will be to make housing even more unaffordable than it already is.

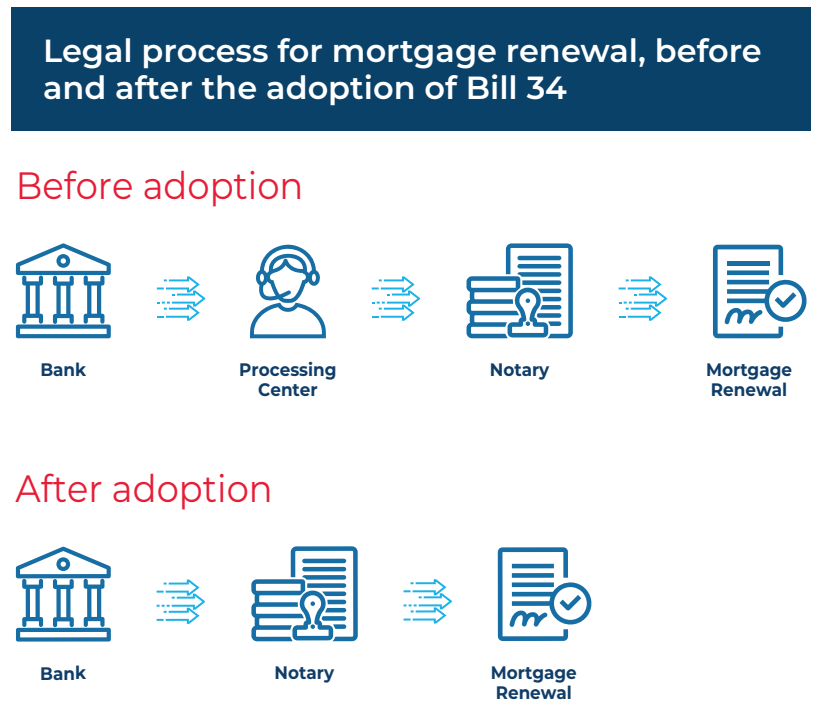
## A REFORM TO MUSCLE OUT THE COMPETITION

Before the new law was passed, certain companies<sup>4</sup> would specialize in handling mortgage renewals. These firms offered their services to a number of financial institutions in Quebec.<sup>5</sup>

In practical terms, this meant that customers wishing to renew their mortgages with a new institution could deal either with a notary, or with a processing centre employing professionals trained to complete the documents required for renewal. For this second (usually less expensive) option, the notary’s role was limited to providing the final signature, since the administrative work had been carried out by the specialist firm at a total cost somewhere between \$800<sup>6</sup> and \$850.<sup>7</sup>

Since the adoption of the new law, this second option has disappeared. According to one interpretation of the law, processing centres are no longer authorized to carry out the administrative work they specialized in just yesterday, because now only notaries are qualified to draw up a full mortgage renewal contract<sup>8</sup> (see Figure 1).

Figure 1



Sources: Multi-Prets Mortgages, “How to renew your mortgage?” October 13, 2023; Jamie David, “Switching providers,” July 9, 2024; National Assembly of Quebec, *Journal des débats de la Commission des Institutions* – 43<sup>e</sup> législature, 1<sup>re</sup> session – Tuesday, October 3, 2023 – Roberto Aspri, Vol. 47, No 45 at 11:50 AM.

This interpretation, defended by the *Chambre des notaires*, eliminates every alternative to engaging the services of a notary to fill out the mortgage renewal documents. And yet, the specialized service offered by processing centres certainly seemed to be in high demand among the various financial institutions, as several witnesses testified before the parliamentary committee.<sup>9</sup>

This reduction in competition has resulted in legal fees for a mortgage renewal of around \$1,500,<sup>10</sup> almost double the previous cost.

Why would the Quebec government eliminate the consumers' cheapest option?

One notable justification advanced for granting notaries a monopoly on the completion of legal documents for mortgage renewals included an absence of quality standards in the specialized processing centres.<sup>11</sup> However, this would seem to be contradicted by the fact that financial institutions, presumably expert in these matters, regularly chose to do business with these processing centres. Why would financial institutions want to enter into agreements with companies that offer poor quality service to their customers?

## FOR A COMPETITIVE SECTOR THAT BENEFITS CONSUMERS

Before Bill 34 was passed into law, consumers benefited from the competition between the various providers in the market. The positive results of this were clear: a greater choice of partners for financial institutions to select from, and better prices for consumers.

This makes consumers the big losers in this legislative change; essentially, they will now be forced to pay more for a service that is indistinguishable from the one they were getting before.

Additionally, the higher legal fees for a mortgage transfer will influence consumer attitudes, despite a portion of these fees being covered by the financial institution renewing the mortgage. A person considering transferring their mortgage to a virtual lender<sup>12</sup> with a lower rate than their traditional financial institution may balk at making the change if it could potentially cost them hundreds of dollars more. The reason is quite straightforward: some notaries charge consumers more when they decide to turn to this type of non-traditional lender.<sup>13</sup>

In today's high-interest rate environment, the government should be clearing the path for mortgage holders who need to renew, rather than erecting new legislative barriers to obtaining the best interest rate at the lowest possible cost.

## RENT-SEEKING

An interest group obtaining a monopoly from legislators that brings it clear financial advantages provides a good example of "rent-seeking"

behaviour; in this case it is the notaries associations, particularly the *Chambre des notaires du Québec*, who profit to the detriment of specialized processing centres.

Economic theory, however, makes it quite clear that rent-seeking always entails social costs:<sup>14</sup> when government comes to the aid of one minority – the notaries – it does so at the expense of all the other economic players in the ecosystem in question, in this case the consumers, the specialized centres, and the financial institutions, all of whom have lost the freedom to choose the option now forbidden.

Rather than prohibit free competition between different service providers for the benefit of one special interest group, the Quebec government should establish a regulatory framework that allows innovation in legal mortgage renewal services, so that consumers enjoy maximum choice. In so doing, it would give Quebec homeowners some much-needed financial breathing space, faced as they are by record prices in an overheated real estate market.

## REFERENCES

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4. Marie-Ève Fournier, *op. cit.*, endnote 2.
5. *Idem.*; National Assembly of Quebec, *Journal des débats de la Commission des institutions – 43<sup>e</sup> législature, 1<sup>re</sup> session – Tuesday October 3, 2023 – Roberto Aspri*, Vol. 47, No 45 at 11:50 AM.
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8. Marie-Ève Fournier, *op. cit.*, endnote 3.
9. National Assembly of Quebec, Roberto Aspri, *op. cit.*, endnote 5.
10. Multi-Prets Mortgages, "How to renew your mortgage?" October 13, 2023; Jamie David, "Switching providers," July 9, 2024.
11. *Union des notaires du Québec, Pour une relance de la profession notariale au Québec – Projet de loi 34*, Brief introduced October 2, 2023, p. 6.
12. This is a non-conventional lender that often offers preferential interest rates.
13. Marie-Ève Fournier, *op. cit.*, endnote 2.
14. Robert D. Tollison, "The economic theory of rent seeking," *Public Choice*, Vol. 152, No 1/2, 2012, pp. 74–75.



This Viewpoint was prepared by **Gabriel Giguère**, Senior Policy Analyst at the MEI. The MEI's Regulation Series aims to examine the often unintended consequences for individuals and businesses of various laws and rules, in contrast with their stated goals.

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