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JLR PUBLICATION

Report on Legal Hypothecs in Quebec

Portrait of 2019-2020

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HIGHLIGHTS:

- A total of 8,682 legal hypothecs were issued and published in the Quebec Land Register in 2019 according to data compiled by JLR, an Equifax company.
- Since the onset of the pandemic, the number of legal hypothecs has declined significantly, particularly those issued by the government or following a judgment.
- The number of legal hypothecs fell by 3% in 2019 compared to 2018 and by 61% between April and July 2020 compared to the same period in 2019.
- In 2019, Revenu Québec and the Canada Revenue Agency alone have issued 3,383 legal hypothecs on real estate holdings in Quebec, totalling over \$237 million.

The real estate market has been in turmoil over the last several months and procedures to repossess properties have slowed down significantly. As such, publications of prior notices and repossessions fell by about 60% between April and July 2020 compared to the same period in 2019. Mortgage relief offered by financial institutions contributed significantly to this decline. The number of legal hypothecs published also fell significantly due to the deferral of several recourses along with delays on construction sites.

There are four types of legal hypothecs that can be issued in Quebec:

- 1) Legal Hypothec of the State
- 2) Legal Hypothec of Construction
- 3) Legal Hypothec of the Syndicate of Co-Owners
- 4) Legal Hypothec Resulting from a Judgment

Definitions for each of these notices have been included at the end of this study.

The data collected for this study was divided into three main categories: legal construction hypothecs, legal condominium hypothecs, and others (consisting of “State-issued” mortgages along with those resulting from a judgement). Note that only legal hypothecs issued on real estate in Quebec were considered.

LEGAL HYPOTHECS IN QUEBEC IN 2019

In 2019, 8,682 legal hypothecs were published in the Quebec Land Register according to data collected by JLR, an Equifax company. This number represented a decrease of 3% relative to 2018 and the lowest figure recorded in the last 5 years. Since some of the legal hypothecs issued are associated with financial problems, the strong economic performance in 2019 may in part explain the decrease in the number of such notices. As a result, in spite of the constant addition of condominiums to the housing stock, the number of legal hypothecs issued by condominium associations decreased, as did those on buildings along with other types of legal hypothecs.

LEGAL HYPOTHECS IN QUEBEC IN 2020

The pandemic was a turning point with regard to the issuance of legal hypothecs. However, the impact was different depending on the issuer. Between April and July 2020, 1,062 of such publications were issued, down 61% relative to the same period in 2019.

Syndicate of co-owners have not reduced the number of legal hypothecs they issue, but instead went up by 20% over the last four months relative to the same period prior to the pandemic, for a total of 186 publications. Financial difficulties resulting from the economic crisis likely led to delays paying condominium fees, which led to an increase in legal hypothecs in this category. However, this type of legal hypothec accounts for few of the total number, and this change was therefore relatively insignificant.

In the construction sector, there was a significant decline in the number of legal hypothecs issued in April and May following the closure of several construction sites. In June and July, the number of publications returned to similar levels to those recorded during the same period last year. A total of 592 notices of this type were published in the Land Register between April and July, down 9% relative to the same period last year.

The largest drop in the number of legal hypothecs was observed in those issued as the result of judgment or by a government institution, resulting in an 85% decrease relative to the same period the previous year and a total of 284 such notices being issued between April and July 2020. There are several reasons for this decline. The justice system slowed down for several months, which may have reduced the number of judgments resulting in legal hypothecs. In addition, government agencies seem to have postponed a number of collection cases. Financial institutions also provided deferrals on credit-card payments, loans and lines of credit. Failure to pay down these types of financial products sometimes leads to legal hypothecs resulting from judgments.

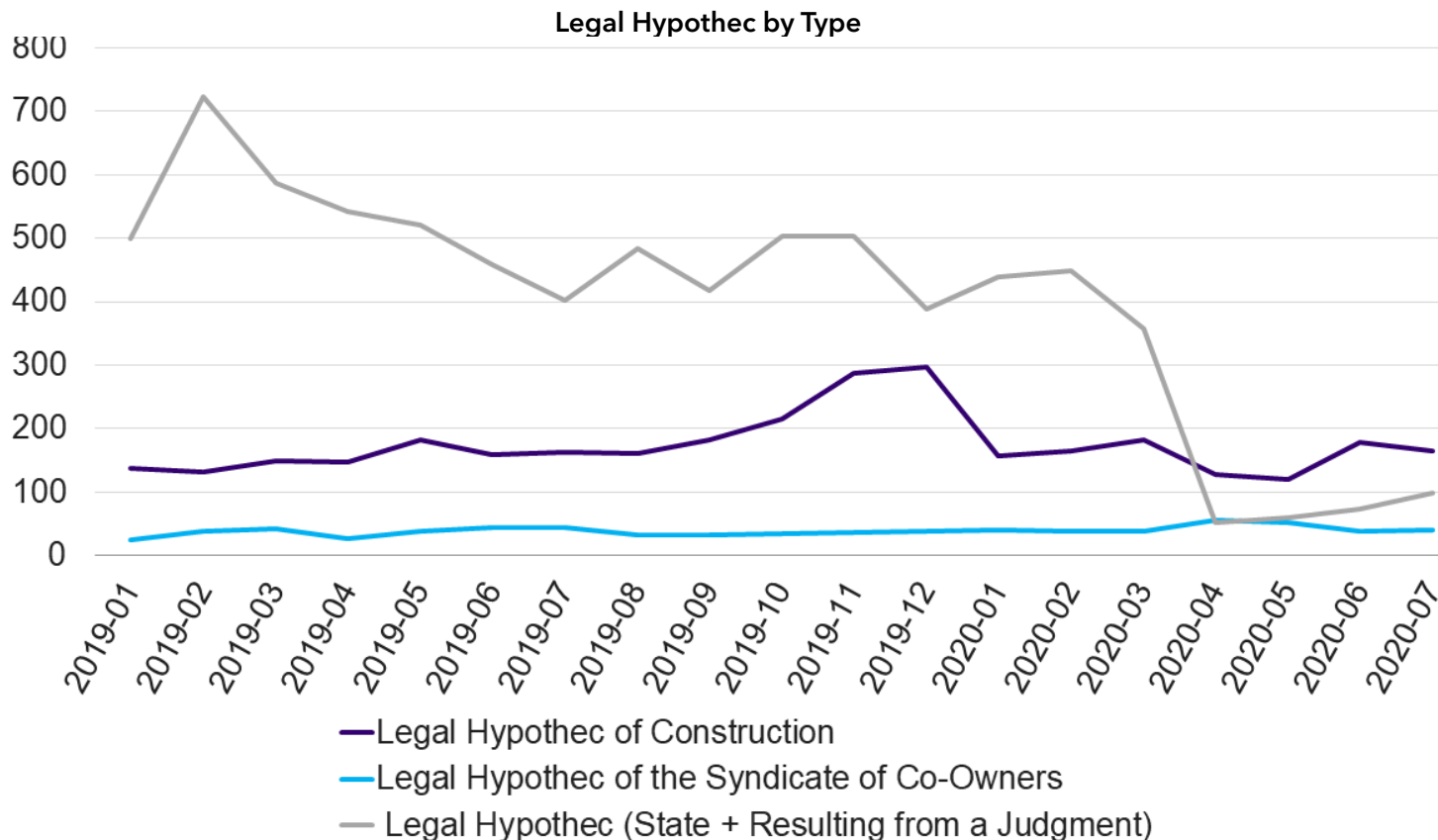
Hydro-Québec was also among the institutions that offered relief to customers who were unable to pay. As a result, the corporation did not issue any legal hypothecs between April and July 2020, whereas it issued 45 during these same months in 2019.

REVENU QUÉBEC AND THE CANADA REVENUE AGENCY (CRA)

The largest issuers of legal hypothecs are the federal and provincial levels of government. In 2019, Revenu Québec and the CRA issued 3,383 legal hypothecs on real estate in Quebec, representing 39% of all publications of this type. A significant portion of these notices were issued to recover amounts for taxes owing.

The total value of the amounts that both levels of government attempted to collect through legal hypothecs totalled just over \$237 million in 2019, up 13% from 2018. The average debts for which the two revenue agencies issued legal hypothecs was just over \$68,000 in 2019. Of the receivables, 23 involved amounts owing in excess of \$1M, along with several fraud cases.

In 2020, the pandemic put several files on hold and collection processes for unpaid taxes appear to have been postponed since only 19 legal hypothecs were issued by Revenu Québec and the Canada Revenue Agency between April and July, down 1,093 from the same period in 2019.



CONCLUSION

The decline in legal hypothecs issued in recent months cannot be attributed to an improvement in the financial situation of households. In fact, several public and parapublic institutions and financial institutions appear to have offered more flexibility to the debtor, thereby postponing the processes leading to the publication of a legal hypothec. As the economy recovers, however, the files on hold will be taken back up and the number of legal hypothecs issued may rapidly increase.

Moreover, both Revenu Québec and the Canada Revenue Agency extended their tax payment deadlines. This deferral benefitted many Canadians, but those whose revenues continue to be affected by the pandemic are at risk of falling short of tax payments. In addition, tax was not withheld on the Canada Emergency Response Benefit payments, which means that many will have a tax bill to pay on their 2020 tax returns which could be a struggle for people who lost their job. People who won't be able to pay may face legal hypothecs. However, this process is generally a lengthy one and can take several months or even years before the legal hypothecs are issued. As a result, it will be difficult to measure the impact in the short term, but the economic crisis may continue to impact many households down the road.

In the end, a number of solutions were implemented to avoid a larger economic meltdown than that which was observed, which spared many households from significant financial issues. However, those that were already in financial difficulty prior to COVID-19 and others will find it difficult to recover from the loss of income brought on by the pandemic, meaning that, in general, legal hypothecs and bad debts may take a sharp upward turn after the "break" from collection processes comes to an end.

DEFINITION OF VARIOUS LEGAL HYPOTHECS UNDER THE CIVIL CODE OF QUÉBEC

1) Legal hypothec of the State: Legal hypothecs of the State, including those for sums due under fiscal laws, and the legal hypothecs of legal persons established in the public interest may charge movable or immovable property (S. 2725 C.C.Q.).

2) Legal Hypothec of Construction: A legal hypothec in favour of the persons having taken part in the construction or renovation of an immovable may not charge any other immovable. It exists only in favour of the architect, engineer, supplier of materials, workman and contractor or subcontractor for the work requested by the owner of the immovable, or for the materials or services supplied or prepared by them for the work. It is not necessary to publish a legal hypothec for it to exist. (S. 2726 C.C.Q.)

3) Legal Hypothec of Syndicate of Co-owners : The legal hypothec of a syndicate of co-owners charges the fraction of the co-owner who has defaulted for more than 30 days on payment of his common expenses or his contribution to the contingency fund, and has effect only from registration of a notice indicating the nature of the claim, the amount owing on the day the notice is registered, and the expected amount of charges and claims for the current financial year and the next two years. (S. 2729 C.C.Q.)

4) Legal hypothec resulting from a Judgment: Every creditor in whose favour a judgment awarding a sum of money has been rendered by a court having jurisdiction in Québec may acquire a legal hypothec on the movable or immovable property of his debtor. (S. 2730 C.C.Q.)

For more information on legal hypothecs, you can [access the Annotated Civil Code of Québec presented by Lexum and available online.](#)

Note that for this study, we only considered legal hypothecs on buildings.

FOR MORE DETAILS

Check the [Real Estate Radar](#) for more information on sales, bad debts and the socio-demographic profile of your sector.

Consult JLR publications at this address:
<https://solutions.jlr.ca/publications/prime-studies>





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