



Province of Alberta

CONDOMINIUM PROPERTY AMENDMENT ACT, 2014

Statutes of Alberta, 2014
Chapter 10

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Office Consolidation

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CONDOMINIUM PROPERTY AMENDMENT ACT, 2014

Chapter 10

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cC-22

1 The *Condominium Property Act* is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)

(ix) by repealing clause (r) and substituting the following:

- (r) “ordinary resolution” means a resolution
 - (i) passed at a properly convened general meeting of a corporation in accordance with section 26.2 or 26.3, or
 - (ii) passed by a vote in writing in accordance with section 26.5;

(xiii) by repealing clause (x) and substituting the following:

- (x) “special resolution” means a resolution
 - (i) passed at a properly convened general meeting of a corporation in accordance with section 26.4, or
 - (ii) passed by a vote in writing in accordance with section 26.5;

(xiv) by adding the following after clause (x):

- (x.1) “Tribunal” means the Tribunal established in accordance with the regulations under section 69.9;

(b) by adding the following after subsection (2):

(2.1) Where the Tribunal has jurisdiction to hear a dispute in respect of a matter under this Act that would otherwise be heard by the Court, a reference to the Court in a provision of this Act as the provision relates to the dispute shall be read as a reference to the Tribunal.

17 Section 26 is repealed and the following is substituted:**Voting rights**

26(1) Subject to this section and section 27, an owner has the right to vote with respect to each unit owned and, where required, the right to vote the unit factors for each unit owned.

(2) When an owner's interest in a unit is subject to a registered mortgage, the right to vote with respect to the unit may be exercised as follows:

- (a) first, by the mortgagee, if any, who is first entitled in priority if that mortgagee is present at the meeting at which the vote is being conducted;
- (b) 2nd, by the owner;
- (c) 3rd and subsequently, in order of their priority among themselves, by any other mortgagees who are subsequent in priority to the mortgagee referred to in clause (a) if the subsequent mortgagees wishing to exercise the right to vote have notified the corporation of the mortgage in writing and are present at the meeting at which the vote is conducted.

(3) Subsection (2) does not apply unless the mortgagee has given written notice of the mortgagee's mortgage to the corporation at the corporation's address for service.

(4) Subject to the regulations, an owner or mortgagee, as the case may be, may exercise a right to vote personally or by proxy.

(5) A right to vote exercised by proxy is subject to the restrictions set out in the proxy, if any.

(6) Notwithstanding anything in this section, a person's right to vote with respect to a unit and its unit factors is suspended where for more than 60 days before the vote

- (a) any contribution payable in respect of the unit under section 39, or any interest payable under section 40, is in arrears, or
- (b) a judgment by a court for any money owing to the corporation by the owner remains unsatisfied.

Ordinary resolution

26.1 A vote on an ordinary resolution may be conducted

- (a) at a properly convened general meeting in accordance with section 26.2 or 26.3, or
- (b) in writing in accordance with section 26.5.

Show of hands vote on an ordinary resolution

26.2(1) Subject to subsection (3), a vote by a show of hands on an ordinary resolution at a general meeting is passed where a majority of votes cast by those persons with a right to vote and present, either personally or by proxy, signify a vote in favour of the resolution.

(2) Where a unit is owned by 2 or more owners, only one owner may vote by show of hands but if those owners disagree on how their right to vote in respect of the unit should be exercised, no vote may be counted with respect to that unit.

(3) If a person entitled to vote on a resolution requests a poll vote, either before or promptly after a show of hands vote is or has been conducted, the vote must be conducted by a poll vote under section 26.3.

Poll vote on an ordinary resolution

26.3(1) A poll vote on an ordinary resolution is passed at a general meeting where the number of unit factors representing the votes cast by persons voting in favour of the resolution is at least 50% of the total unit factors for all the units of persons present at the meeting, either personally or by proxy.

(2) The procedures for voting in a poll vote where a unit is owned by 2 or more persons must be in accordance with the regulations.

Vote on a special resolution

26.4(1) A special resolution is passed at a general meeting where both of the following occur:

- (a) persons representing at least 75% of all units vote, either personally or by proxy, in favour of the resolution;

(b) the number of unit factors represented by the votes cast in favour of the resolution is at least 75% of the total unit factors for all the units.

(2) The procedures for voting on a special resolution where a unit is owned by 2 or more persons must be in accordance with the regulations.

(3) A vote under this section must be signed by the person voting.

(4) The results of a vote on a special resolution must be recorded in the minutes of the general meeting at which the vote was conducted and must include

- (a) the number of votes in respect of units and unit factors in favour of the resolution, and
- (b) the number of votes in respect of units and unit factors not in favour of the resolution.

Voting in writing on an ordinary or special resolution

26.5(1) Notwithstanding that this Act, the regulations or the bylaws may require a general meeting to be convened for the purpose of voting on a resolution, a vote may be conducted in writing pursuant to this section and section 26.6 without a general meeting being convened.

(2) With respect to a vote in writing, an ordinary resolution is passed where both of the following occur:

- (a) persons representing at least 50% of all units vote in favour of the resolution;
- (b) the number of unit factors represented by the votes cast in favour of the resolution is at least 50% of the total unit factors for all the units.

(3) With respect to a vote in writing, a special resolution is passed where both of the following occur:

- (a) persons representing at least 75% of all units vote in favour of the resolution;
- (b) the number of unit factors represented by the votes cast in favour of the resolution is at least 75% of the total unit factors for all the units.

Procedures for written voting

26.6(1) Where a vote on a resolution is to be conducted in writing, the board shall send to each owner and to each mortgagee who has given written notice under section 26(3) a notice setting out the wording of the resolution and

- (a) the date by which the votes on the resolution must be received by the board, and
- (b) any other prescribed information.

(2) The date by which the votes must be received must be no later than one year from the date the notice of the proposed resolution was sent.

(3) The date by which the votes must be counted must be no later than 14 days from the date referred to in subsection (1)(a).

(4) A vote under this section must be signed by the person voting.

(5) In addition to any other requirements in this Act and the regulations, the results of a vote in writing

- (a) must include
 - (i) the number of votes in respect of units and unit factors in favour of the resolution, and
 - (ii) the number of votes in respect of units and unit factors not in favour of the resolution,

and

- (b) must be provided to the owners and to each mortgagee who has given written notice under section 26(3) in accordance with the regulations.

(6) Where a vote is conducted in writing, all votes are deemed to be made on the date the votes on the proposed resolution must be received by the board under subsection (1).

(7) The procedures used for a vote in writing where a unit is owned by 2 or more persons must be in accordance with the regulations.

Retention of voting records

26.7 The board must retain the original votes cast by persons under sections 26.3, 26.4 and 26.5 in accordance with the regulations.

Electronic voting

26.8 Notwithstanding sections 26.2, 26.3, 26.4 and 26.5, a vote may be conducted by electronic means in accordance with the regulations.

22 Section 32 is amended

(b) by repealing subsection (7).

23 The following is added after section 32:**Rules**

32.1(1) Subject to the regulations, the board may, by resolution, make, amend or repeal rules respecting procedures used in the administration of the corporation or the real and personal property of the corporation, the common property and managed property.

(2) The rules must be reasonable and consistent with this Act, the regulations and the bylaws.

(3) The rules must not restrict the uses of units.

(4) Subject to the regulations, the board must inform owners and tenants of any rules made, amended or repealed.

(5) If a rule or a proposed rule is inconsistent with this Act, the regulations or the bylaws, this Act, the regulations or the bylaws, as the case may be, prevail.

24 Sections 33 and 34 are repealed and the following is substituted:**Initial bylaws**

33 On the registration of a condominium plan, the bylaws of the corporation are the bylaws set out in the regulations, and those bylaws remain in force in respect of that corporation until they are repealed or replaced by special resolution.

Application of initial bylaws to pre-existing corporations

34 Notwithstanding that, immediately before the coming into force of this section, a corporation was regulated by the bylaws set out in Appendix 1 or 2 of the *Condominium Property Act* as it read immediately before the coming into force of this section, that corporation is deemed on the coming into force of this section to be regulated by the bylaws set out in the regulations.

25 The following is added after section 34:**Conflict with bylaws**

34.1(1) If there is a conflict between a bylaw and this Act or the regulations, this Act or the regulations, as the case may be, prevail.

(2) Notwithstanding section 32(3), in order to bring the bylaws in conformity with this Act and the regulations, a corporation, no later than one year after the coming into force of this section, may by ordinary resolution amend any of its bylaws to ensure that its bylaws do not conflict with this Act or the regulations.

(3) Subsection (2) does not apply to amending an existing bylaw that is not in conflict with this Act or the regulations nor to adding any new bylaws.

26 Section 35 is repealed and the following is substituted:**Sanctions for failure to comply with bylaws**

35(1) A corporation may by bylaw establish monetary or other sanctions that may be imposed on owners, tenants and occupants who fail to comply with the bylaws.

(2) A bylaw under which sanctions may be imposed must

- (a) set out the sanctions that may be imposed, and
- (b) in the case of monetary sanctions, set out the amount of the monetary sanctions or the range of monetary sanctions that may be imposed.

(3) A bylaw under which sanctions may be imposed may be general or specific in its application.

(4) A sanction imposed under a bylaw made under this section must be reasonable in the circumstances for which it is imposed.

(5) Where a person fails to abide by a sanction or to pay to the corporation a monetary sanction imposed under a bylaw, the corporation may proceed under section 36 to enforce the sanction.

(6) A sanction may not be imposed that has the effect of prohibiting or restricting the devolution of units or any transfer, lease, mortgage or other dealing with the units, or of destroying or modifying any easement implied or created by this Act.

(7) A monetary sanction imposed under a bylaw made under this section must not exceed the amount prescribed by the regulations.

Restriction on monetary sanctions

35.1 A corporation may impose a monetary sanction on an owner, tenant or occupant only where authorized by this Act, the regulations or the bylaws.

27 Section 36 is amended

(a) by repealing subsection (1)(a) and substituting the following:

- (a) take proceedings in the forum provided for in the regulations to recover from the person
 - (i) a monetary sanction, or
 - (ii) damages, in the case of any other sanction, in an amount not exceeding the amount that may be granted in damages under the *Provincial Court Act*,

or

(b) in subsection (1)(b) by striking out “of not more than \$10 000” wherever it occurs;

(c) by adding the following after subsection (7):

(8) A caveat in respect of a monetary sanction or other debt to a corporation, other than a contribution under section 39, may be registered against the certificate of title of a unit only pursuant to a writ of enforcement.

28 Section 37 is amended

(c) by adding the following after subsection (3):

(4) A corporation may, subject to the regulations, borrow money for the purpose of carrying out the powers and duties of the corporation under this section.

(5) Money borrowed by the corporation under subsection (4) must be used only for the purpose for which it was borrowed.

29 Section 38 is amended

(a) by repealing subsection (1) and substituting the following:

Reserve fund

38(1) Subject to the regulations, a corporation shall, from funds levied under section 39(1)(a) or under section 39.1, establish and maintain a reserve fund that is reasonably sufficient to provide for major repairs and replacement of the following, where the repair or replacement is of a nature that does not normally occur annually:

- (a) any real and personal property of the corporation;
- (b) the common property;
- (c) managed property.

(1.01) Notwithstanding subsection (1), funds from the reserve fund may be used for

- (a) a reserve fund study and reserve fund report required by the regulations,
- (b) any other report prepared by an expert examining the condition of the real and personal property of the corporation, the common property and managed property, and
- (c) any other purpose provided for in the regulations.

(b) in subsection (1.1) by adding “as enacted by section 1(2)(a) of the *Statutes Amendment Act, 2013*” after “subsection (1)(c)”;

(c) by repealing subsection (2) and substituting the following:

(2) Notwithstanding subsection (1), funds shall not be taken from a reserve fund for the purpose of making capital improvements unless

- (a) the removal of funds for that purpose is authorized by a special resolution or is necessary to maintain property referred to in subsection (1) to comply with health, building and maintenance and occupancy standards as required by law, and
- (b) there will be sufficient funds remaining in the reserve fund to meet the requirements of subsection (1).

(d) by adding the following after subsection (3):

- (4) For the purposes of this section and section 39.1, the following are not capital improvements:
- (a) the replacement of existing real and personal property of the corporation, the common property or managed property with
 - (i) the contemporary equivalent of an obsolete property, or
 - (ii) a lower cost equivalent of the existing property;
 - (b) any other replacement prescribed by the regulations.

30 Section 39 is repealed and the following is substituted:

Operating account

38.1 Subject to the regulations, a corporation shall, from funds levied under section 39(1)(a) or (b), establish and maintain an operating account to be used to provide sufficient funds for

- (a) the control, management and administration of the real and personal property of the corporation, the common property and managed property, and
- (b) the payment of any other obligation of the corporation,

that are not required to be paid out of the reserve fund.

Contributions

39(1) A board may by resolution

- (a) determine from time to time the amounts to be raised for the purposes of the operating account and the reserve fund and may raise those amounts by levying contributions on the owners at regular intervals
 - (i) in proportion to the unit factors of the owners' respective units, or
 - (ii) subject to the regulations, and if provided for in the bylaws, on a basis other than in proportion to the unit factors of the owners' respective units;
- (b) determine from time to time amounts to be raised by special levy and raise those amounts in accordance with section 39.1.

(2) A contribution shall not include any amount for the purpose of collecting from an individual owner

- (a) a monetary sanction under a bylaw made under section 35(1),
- (b) costs incurred by the corporation as a result of damages caused by an act or omission of an owner, tenant or occupant, or
- (c) any other amount set out in the regulations.

Special levy

39.1(1) A resolution of the board under section 39(1)(b) to approve a special levy must set out the following:

- (a) the purpose of the levy;
- (b) the total amount to be levied;
- (c) either
 - (i) the method of determining each unit's proportionate share of the levy by unit factor, or
 - (ii) subject to the regulations, and if provided for in the bylaws, the method for determining each unit's share of the levy on a basis other than the unit factors of the owners' respective units;
- (d) the date by which the levy is to be paid or, if the levy is payable in instalments, the dates by which the instalments are to be paid.

(2) A special levy may be levied to raise money

- (a) for the payment of unexpected and urgent maintenance, repair or replacement of the real and personal property of the corporation, common property or managed property,
- (b) to cover unexpected shortfalls in the operating account,
- (c) to increase the balance of the reserve fund to meet the requirements in a reserve fund plan required under the regulations,
- (d) subject to subsection (3), for the payment of a capital improvement,
- (e) to satisfy a judgment against the corporation, or

(f) for any other purpose provided for in the regulations.

(3) If the purpose of the special levy is for the making of a capital improvement, a special resolution is required before the board may approve the special levy.

(4) As soon as possible after the passing of a resolution referred to in subsection (1), the board must inform each owner of the following:

- (a) the purpose of the levy;
- (b) the total amount of the levy;
- (c) the method used to determine each unit's share of the levy;
- (d) the amount of the owner's unit's share of the levy;
- (e) the date by which the levy is to be paid or, if the levy is payable in instalments, the dates by which the instalments are to be paid.

(5) If the amount collected exceeds the amount required or for any other reason is not fully used for the purpose set out in the resolution referred to in subsection (1), the corporation must pay the money into the reserve fund.

Payment and enforcement of contributions

39.2(1) A contribution levied as provided in section 39(1)(a) is due and payable on the passing of a resolution by the board to that effect and in accordance with the terms of the resolution, and a contribution levied under section 39(1)(b) is due and payable in accordance with a resolution of the board passed under section 39(1).

(2) A contribution referred to in subsection (1), and any interest charged under section 40, may be recovered by an action for debt by the corporation

- (a) from a person who was an owner at the time when the resolution of the board was passed, and
- (b) from a person who was an owner at the time when the action was instituted,

both jointly and severally.

(3) Where a contribution, including any interest owing, is not paid by the owner, the mortgagee may pay any amount owing

in respect of that contribution and add that amount to the amount owing to the mortgagee under the mortgage.

(4) Where

- (a) a person other than the owner is in possession of a unit and pays rent to the owner in respect of the unit, and
- (b) contributions, including any interest owing in respect of that unit, are in arrears,

the corporation may require the person in possession of the unit to pay the rent owing to the owner in respect of that unit to the corporation so that that rent can be applied against the contributions, including any interest owing, that are in arrears.

(5) Where a person in possession of a unit other than the owner pays the rent to the corporation under subsection (4), that person is deemed to have paid that rent to the owner.

(6) A corporation may file a caveat against the certificate of title to an owner's unit for the amount of a contribution levied on the owner and interest payable but unpaid by the owner.

(7) On the filing of the caveat under subsection (6), the corporation has a charge against the unit equal to the unpaid contributions and any interest owing.

(8) On and from the date of filing of the caveat, a charge under subsection (7) has the same priority as a mortgage under the *Land Titles Act* and may be enforced in the same manner as a mortgage.

(9) The *Dower Act* and Part 10 of the *Civil Enforcement Act* do not apply to proceedings under subsection (8).

(10) If a corporation has filed a caveat under this section, the corporation shall withdraw the caveat on the payment to it of the amount of the charge.

(11) Notwithstanding subsection (8), if

- (a) a corporation has filed a caveat under this section,
- (b) subsequent to the caveat's being filed another person gains title to the unit pursuant to
 - (i) a foreclosure action,
 - (ii) an action for specific performance, or

(iii) a tax recovery proceeding under the *Municipal Government Act*,

and

(c) an amount remains owing to the corporation with respect to the contribution and interest for which the caveat was filed,

the caveat remains registered against the certificate of title of the unit until the amount owing is paid to the corporation.

31 Section 41 is repealed.

32 Section 42(b) is amended by adding “prescribed” after “reasonable”.

35 Section 44 is repealed and the following is substituted:

Information and documents on request

44(1) On the written request of an owner, purchaser or mortgagee or the solicitor of an owner, purchaser or mortgagee, or a person authorized in writing by any of those persons, the corporation shall, within 10 days after receiving the request, provide to the person making the request any prescribed information or documents as requested by that person.

(2) The corporation may provide any prescribed information or documents requested under subsection (1) in electronic form unless the person requesting the information or documents specifically requests that they be provided in paper form.

Fees for information or documents

44.1 A corporation may, where authorized by regulation, charge fees in the prescribed amount for producing and providing any prescribed information or documents requested under section 44 or otherwise required to be provided under this Act or the regulations.

Retention of documents

44.2 A corporation shall retain any prescribed documents for at least the period of time prescribed in relation to that document.

37 Section 47(1) is amended by striking out “A corporation” and substituting “Subject to the regulations, a corporation”.

39 The heading preceding section 49 is amended by adding “Real Property of the Corporation or” before “Common Property”.

40 Section 49 is amended

- (a) in subsection (1) by adding “the real property of the corporation or” after “lease”;**
- (b) by repealing subsection (2) and substituting the following:**
 - (2)** When the board is satisfied that the special resolution was properly passed and the requirements of the regulations have been complied with, the corporation shall execute the appropriate transfer or lease.
- (c) by repealing subsection (4)(c) and substituting the following:**
 - (c)** that the requirements of the regulations have been complied with.

42 Section 52 is amended

- (a) by repealing subsection (3) and substituting the following:**
 - (3)** When the board is satisfied that the special resolution was properly passed and the requirements of the regulations have been complied with, the corporation shall execute the appropriate instrument to grant the easement or covenant.
- (b) in subsection (5) by striking out “all necessary consents were given” and substituting “the requirements of the regulations have been complied with”.**

43 Section 53 is amended

- (a) by repealing subsection (3)(b) and substituting the following:**
 - (b)** the maintenance or repair of any area of the common property that is the subject of a grant to the owner of the right to exercise exclusive possession under section 50(1),

(b) in subsection (4) by striking out “one month’s rent charged for the unit” **and substituting** “the prescribed amount and shall be held and repaid along with interest earned, if any, as prescribed”;

(c) in subsection (7)

(i) in clause (a) by adding “and interest earned, if any,” **after** “deposit”;

(ii) in clause (b)

(A) in subclause (i) by adding “and interest earned, if any” **after** “used”;

(B) in subclause (ii) by adding “and interest earned, if any” **after** “if any”;

(ii) in clause (c)

(A) in subclause (i) by adding “and interest earned, if any” **after** “used”;

(B) in subclause (ii) by adding “and interest earned, if any” **after** “if any”;

(d) by adding the following after subsection (7):

(8) If a deposit referred to in subsection (3) is owing by an owner to a corporation, the corporation may, in addition to any rights of recovery that it has in law, recover that amount in accordance with section 39.2 as if it were a contribution.

44 Section 63 is amended

(a) by repealing subsection (2) and substituting the following:

(2) When the board is satisfied that the special resolution was properly passed and the requirements of the regulations have been complied with, the corporation shall execute the appropriate transfer.

(b) in subsection (4)(a) by striking out “all necessary consents were given” **and substituting** “the requirements of the regulations have been complied with”.

46 Section 69 is amended by adding the following after subsection (2):

(3) If a party to an arbitration agreement under subsection (1) makes an application to the Tribunal in respect of a matter in dispute that is to be submitted to arbitration under the arbitration agreement, the Tribunal shall, on the application of another party to the arbitration agreement, stay the proceeding to which the first application relates.

47 The following is added after section 69:

Tribunal

Definitions

69.1 In this section and sections 69.2 to 69.9,

- (a) “dispute” means a dispute respecting any matter arising under this Act or the regulations, or in respect of the bylaws or rules of a corporation, involving 2 or more interested parties;
- (b) “interested party” means an owner, a corporation, a member of the board, a developer, a purchaser, a condominium manager, a tenant or an occupant of a unit, an administrator appointed under section 58, a registered mortgagee or any other person who has a registered interest in a unit.

Geographic region

69.2 Sections 69.3 to 69.9 apply only in respect of the geographic region or regions of the Province specified in the regulations.

Jurisdiction of the Tribunal

69.3 The Tribunal may hear a dispute respecting any matter specified in the regulations.

Application to Tribunal

69.4(1) Subject to the regulations, where an application in respect of a dispute is filed with a court and the Tribunal has jurisdiction to hear the dispute, the court shall refer the dispute to the Tribunal.

(2) Where an application in respect of a dispute is filed with the Tribunal, the Tribunal shall, if the Tribunal does not have jurisdiction to hear the dispute or the authority to order the relief sought in the application, refer the matter to a court.

Authority of Tribunal

69.5(1) The Tribunal may, by order, do one or more of the following in respect of a dispute it hears:

- (a) award damages;
 - (b) award costs;
 - (c) award interest;
 - (d) grant restitution;
 - (e) nullify a sanction imposed by a corporation;
 - (f) grant a temporary or permanent stay of a sanction imposed by a corporation;
 - (g) require the production of a specific document, record or thing;
 - (h) if the Tribunal is satisfied that one of the interested parties to the dispute is carrying on improper conduct, appoint an investigator to review the improper conduct and report to the Tribunal;
 - (i) direct an interested party to the dispute carrying on improper conduct to cease the improper conduct;
 - (j) give directions as to how matters are to be carried out so that improper conduct will not recur or continue, including directing an interested party to the dispute to take steps to comply with this Act;
 - (k) make a declaration on any matter specified in the regulations;
 - (l) appoint an administrator under section 58 as if the Tribunal were the Court;
 - (m) dismiss a dispute;
 - (n) grant any other relief provided for by the regulations.
- (2)** Subject to the regulations, the Tribunal may vary or reconsider any order or decision made by it.
- (3)** The Tribunal is not bound by the rules of evidence applicable in judicial proceedings.
- (4)** The Tribunal may
- (a) establish a date by which something must be done, and vary such a date;

- (b) determine the validity, sufficiency and timeliness of the service of a notice, document or order.

Powers of tribunal officers

69.51(1) A tribunal officer, for the purposes of hearing disputes,

- (a) has the same power as is vested in the Court for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,
 - (ii) to compel witnesses to give evidence on oath or otherwise,
 - (iii) to compel witnesses to give evidence in person or otherwise, and
 - (iv) to compel witnesses to produce any record, object or thing that relates to the matter being heard,
- (b) may decide questions of the sufficiency, validity or timeliness of service of documents,
- (c) may take evidence under oath, and
- (d) may administer oaths for the purpose of taking evidence.

(2) If any person fails to attend, to answer questions or to produce a record, object or thing as required under subsection (1)(a), or conducts himself or herself in a manner that might be in contempt of the Tribunal or its proceedings, the Tribunal may apply to the Court for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court, or restraining any conduct found by the Court to be in contempt of the Tribunal or its proceedings.

(3) On an application under subsection (2), the Court may grant any order that, in the opinion of the Court, is necessary to enable the Tribunal to carry out its duties.

Application and proceedings

69.6(1) An application to the Tribunal must be made in accordance with the regulations.

- (2)** The Tribunal shall conduct all proceedings and decide all applications to it
 - (a) subject to any limitations and restrictions set out in the regulations, and

(b) in accordance with the rules of practice and procedure established pursuant to the regulations.

(3) The Tribunal may publish its decisions in any manner that it considers necessary.

Binding nature of order

69.7(1) An order of the Tribunal is final and binding on the parties to the dispute.

(2) An order of the Tribunal may be filed in the Court and, on being filed, is enforceable in the same manner as an order of the Court.

Judicial review

69.8(1) An application for judicial review of a Tribunal's decision, act or order must be filed and served not later than 45 days from the date of the decision, act or order.

(2) If an application for judicial review is made under subsection (1), the Court may stay the Tribunal's decision, act or order until the Court makes a decision on the application.

Protection from liability

69.81 No action lies against tribunal officers and employees required for the administration of the Tribunal who are appointed under the regulations for anything done or omitted to be done by any of them in good faith while exercising their powers and performing their duties under this Act or the regulations.

Regulations regarding Tribunal

69.9 The Lieutenant Governor in Council may make regulations respecting the establishment of a Tribunal for the purpose of resolving disputes arising in respect of matters under this Act, including, without limitation, regulations

- (a) respecting the establishment of the Tribunal and the appointment of tribunal officers, including a chair, and any other employees required for the administration of the Tribunal;
- (b) providing for the payment of remuneration and expenses to tribunal officers and employees;
- (c) respecting the geographic region or regions of the Province to which sections 69.3 to 69.81 and this section apply;

- (d) specifying the matters in respect of which the Tribunal may hear a dispute;
- (e) respecting applications to the Tribunal, including applications that include a claim for damages, compensation or other relief;
- (f) respecting rules of practice and procedure governing proceedings before the Tribunal;
- (g) respecting a code of conduct applicable to tribunal officers;
- (h) respecting alternative dispute resolution processes that the Tribunal may require the parties to a dispute to undertake;
- (i) respecting the circumstances and the manner in which an application is to be referred from a court to the Tribunal under section 69.4(1);
- (j) respecting the manner of referring a matter to a court under section 69.4(2);
- (k) respecting the determination and treatment of related disputes;
- (l) respecting other relief that a Tribunal may grant under section 69.5;
- (m) respecting the powers and duties of the chair, tribunal officers and any other employees;
- (n) respecting the matters that tribunal officers may or shall consider when dealing with a dispute;
- (o) respecting the making of Tribunal orders;
- (p) respecting the fees that may be charged by the Tribunal and providing for the waiver of any fee;
- (q) respecting the manner of establishing forms for the purposes of sections 69.2 to 69.8 and providing for their use;
- (r) respecting the service of notices, documents or orders;
- (s) respecting bringing copies of documents registered at a land titles office, including the bylaws and condominium plan of a corporation, before the Tribunal;

- (t) respecting the publication of orders and other documents of the Tribunal;
- (u) respecting any matter or thing that the Lieutenant Governor in Council considers necessary or appropriate to carry out the intent and purposes of sections 69.2 to 69.8.

52 Section 74 is repealed.

55 Section 81 is amended

(d) by adding the following after clause (f):

- (f.2) respecting proxies;
- (f.3) respecting the notice requirements for general meetings;
- (f.4) respecting other notices required to be given with respect to a general meeting;
- (f.5) respecting the convening of a special general meeting;
- (f.6) respecting procedures for voting under sections 26.3, 26.4 and 26.6 where a unit is owned by 2 or more persons;
- (f.61) respecting the notice of the results of a vote in writing under section 26.6;
- (f.62) respecting the retention of original votes for the purpose of section 26.7;
- (f.63) respecting the conducting of a vote by electronic means for the purpose of section 26.8;
- (f.7) respecting rules that may be made under section 32.1, including prohibiting rules or types of rules that may be made;
- (f.71) respecting the method of informing owners and tenants for the purpose of section 32.1(4);
- (f.8) respecting the bylaws of the corporation to be in force for the purpose of section 33;
- (f.81) respecting sanctions imposed under bylaws made under section 35;

- (f.82) authorizing monetary sanctions;
- (f.83) regulating the charging of fees by a corporation;
- (f.84) providing for the forum for the enforcement of sanctions under section 36(1)(a);
- (f.9) respecting other costs that may be paid from the reserve fund;
- (f.91) respecting other replacements for the purposes of section 38(4)(b);
- (f.92) respecting the borrowing of money by a corporation;
- (f.93) respecting other basis for levying contributions for the purpose of section 39(1)(a)(ii);
- (f.94) respecting amounts for the purpose of section 39(2)(d);
- (f.95) respecting other purposes for which a special levy may be levied;
- (f.96) respecting other bases for determining each unit share for the purpose of section 39.1(1)(c)(ii);

(e) by adding the following after clause (g):

- (g.1) prescribing reasonable expenses for the purpose of section 42(b);
- (g.2) prescribing the information and documents to be provided under section 44, including, without limitation, regulations respecting the time, form and manner of providing the information and documents;
- (g.3) respecting the fees a corporation may charge for producing and providing any information or documents referred to in section 44.1;

(f) by repealing clause (h) and substituting the following:

- (h) for the purposes of section 47, generally respecting the insurance obligations of a corporation and an owner, including, without limitation, regulations
 - (i) prescribing the perils that must be insured against,
 - (ii) respecting the responsibility for payment of deductibles under a policy of insurance placed by the corporation, and

- (iii) respecting the responsibility of the corporation or an owner, or both, to make repairs or to replace property arising from damage to a unit or the common property;
- (h.1) respecting the transfer or lease of the real property of the corporation or the common property under section 49, the grant of an easement or restrictive covenant burdening a parcel under section 52 or the transfer of a building or parcel on the termination of its condominium status under section 63;
- (h.2) respecting the deposit a corporation may require under section 53 and the manner in which it is held and in which the deposit and interest earned, if any, are repaid;
- (g) in clause (p) by striking out “capital replacement”;**
- (i) by adding the following after clause (s):**
 - (s.1) respecting the skills, education, competencies and experience of condominium managers;
- (j) in clause (t) by striking out “managers of corporations” and substituting “condominium managers”;**

56 Appendices 1 and 2 are repealed.

Transitional regulations

57 The Lieutenant Governor in Council may make regulations providing for the transitional application of the amendments to the *Condominium Property Act* made by this Act.

58 Sections 26(6)(b) and 28.1(1)(c) are amended by adding “or the Tribunal” after “a court”.

Amends RSA 2000 cM-26

59 The *Municipal Government Act* is amended in section 423(1)(c) by striking out “39(12)” and substituting “39.2(11)”.

Amends RSA 2000 cR-5

60(1) The *Real Estate Act* is amended by this section.

(2) Section 1(1) is amended

(a) by repealing clause (d) and substituting the following:

- (d) “business of an industry member” means the trades of a real estate broker, the activities of a real estate appraiser referred to in clause (u.1), the dealings of a mortgage broker or the activities of a condominium manager undertaken by an industry member;

(b) by adding the following after clause (e):

- (e.1) “condominium board” means a board as defined in the *Condominium Property Act*;
- (e.2) “condominium corporation” means a corporation as defined in the *Condominium Property Act*;
- (e.3) “condominium management service” means the exercising of a power or the performing of a duty of a condominium corporation on behalf of the condominium corporation, including but not limited to
- (i) collecting, holding or disbursing or attempting to collect, hold or disburse contributions levied by the condominium corporation or other amounts levied by or due to the corporation under the *Condominium Property Act*,
 - (ii) enforcing the bylaws or rules of the corporation,
 - (iii) negotiating or entering into contracts on behalf of the condominium corporation, and
 - (iv) supervising employees or contractors hired or engaged by the condominium corporation,
- but does not include any activity excluded by the regulations;
- (e.4) “condominium manager” means
- (i) a person who, for consideration or other compensation, either alone or through one or more persons, provides a condominium management service to a condominium corporation, or
 - (ii) a person who holds out that the person is a person referred to in subclause (i);

(c) by repealing clause (n) and substituting the following:

- (n) “industry” means the real estate broker industry, the real estate appraiser industry, the mortgage broker industry and the condominium manager industry;

(d) by repealing clause (o) and substituting the following:

- (o) “industry member” means any person who holds an authorization as a real estate broker, a real estate appraiser, a mortgage broker or a condominium manager, or as any category or class of real estate broker, real estate appraiser, mortgage broker or condominium manager, issued by the Council;

(e) by repealing clause (s.1) and substituting the following:

- (s.1) “property management” includes any of the following:
 - (i) leasing or offering to lease real estate or negotiating or approving, or offering to negotiate or approve, a lease or rental of real estate;
 - (ii) holding money received in connection with an activity referred to in subclause (i);
 - (iii) collecting, or offering or attempting to collect, on behalf of the owner or other person in charge of real estate, money payable as rent for the use of real estate;
 - (iv) advertising, negotiating or carrying out any other activity, directly or indirectly, for the purpose of furthering an activity referred to in subclauses (i) to (iii);

(f) in clause (x)

- (i) **by repealing subclause (vii);**
- (ii) **in subclause (viii) by striking out “(vii)” and substituting “(vi)”.**

(3) Section 2 is amended

(a) by repealing subsection (1)(c.1);

(b) by adding the following after subsection (5):

- (6) This Act, as it relates to carrying out a condominium management service, does not apply to a condominium corporation in respect of managing its own affairs.**

(4) Section 12 is amended**(a) by repealing clause (a) and substituting the following:**

- (a) prescribing or adopting standards of conduct and business standards for industry members, including skills, education, competencies and experience;

(b) by repealing clause (j.1) and substituting the following:

- (j.1) regulating the business of an industry member on the industry member's own behalf;

(5) Section 17 is amended**(a) by striking out “or” at the end of clause (c) and adding the following after clause (c):**

- (c.1) act as a condominium manager, or

(b) in clause (d) by adding “, condominium manager” after “real estate broker”.**(6) Section 22 is amended by striking out “or” at the end of clause (c), adding “or” at the end of clause (d) and adding the following after clause (d):**

- (e) in the case of a condominium management service, the person sought to be charged has as a result of the services of the condominium manager employed by that person for the purpose received the services of a condominium manager.

(7) Section 25 is amended**(a) in subsection (1)**

- (i) **in clause (a) by striking out** “in respect of a dealing or trade for that person,” **and substituting** “in respect of a dealing, trade or condominium management service for that person,”;

(ii) in clause (b)

- (A) by striking out** “of a dealing or trade” **and substituting** “of a dealing, trade or condominium management service”;

- (B) by striking out** “the dealing or trade” **and substituting** “the dealing, trade or condominium management service”;

- (iii) **in clause (c) by striking out** “of a dealing or trade” **and substituting** “of a dealing, trade or condominium management service”;
- (iv) **in clause (d) by striking out** “of a dealing or trade” **and substituting** “of a dealing, trade or condominium management service”;
- (b) **in subsection (2) by striking out** “of a dealing or trade” **and substituting** “of a dealing, trade or condominium management service”.

Amends SA 2007 cU-1.5

61 The *Unclaimed Personal Property and Vested Property Act* is amended in section 28(1)(c) by striking out “39(12)” and substituting “39.2(11)”.

Coming into force

62 This Act comes into force on Proclamation.



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