

1967 Bill 65

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Fifth Session, 15th Legislature, 15 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 65**

**An Act to amend The Real Estate Agents' Licensing  
Act**

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THE PROVINCIAL SECRETARY

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 65

1967

An Act to amend The Real Estate Agents' Licensing Act

(Assented to \_\_\_\_\_, 1967)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Real Estate Agents' Licensing Act* is hereby amended.

2. The following heading and sections are added after section 40:

## Trading in Subdivision Lots Outside Alberta

41. (1) In this section and sections 42 to 52 "subdivision" means improved or unimproved land divided or proposed to be divided into five or more lots or other units for the purpose of sale or lease.

(2) Sections 42 to 52 do not apply in respect of an isolated trade in one or more lots or units in a subdivision by or on behalf of the owner and for the owner's account where the trade is not made in the course of continued and successive transactions of a like nature.

42. (1) No person shall, in any capacity, trade in lots or units of land in a subdivision located outside Alberta until there has been filed with the Superintendent a prospectus containing the prescribed information and until there has been obtained from the Superintendent a certificate of acceptance thereof.

(2) No person shall make any representation, written or oral, that the Superintendent has passed upon the financial standing, fitness or conduct of any person in connection with the filed prospectus or upon the merits of the prospectus.

43. (1) No person shall, either as a vendor or as an agent or salesman, enter into or negotiate any contract for the sale or lease of a lot or a unit of land in a subdivision located outside Alberta unless

(a) a copy of the prospectus referred to in section 42

## **Explanatory Notes**

- 1.** This Bill amends chapter 279 of the Revised Statutes.
- 2.** This Bill is a consequential amendment to the Bill for the new Securities Act, 1967. At present these provisions appear as Part XVI of The Securities Act, 1955. Administration of these provisions will be transferred from the Alberta Securities Commission to the Superintendent of Insurance.

has been delivered to the prospective purchaser or tenant, as the case may be, and

- (b) the prospective purchaser or tenant has in writing acknowledged receipt of a copy of the prospectus and that he has been afforded the opportunity to read it.

(2) Every acknowledgment referred to in subsection (1) shall be retained by the vendor or agent and be available for inspection by the Superintendent for a period of not less than three years.

(3) A purchaser or tenant who has entered into a contract to which subsection (1) applies is entitled to rescission of the contract if

- (a) subsection (1) has not been complied with, and
- (b) written notice of exercising the right of rescission is served on the vendor or agent within 90 days of the signing of the contract.

(4) In an action for rescission under subsection (3), the onus of proving compliance with subsection (1) rests upon the vendor.

(5) The right of rescission provided in this section is in addition to any other rights that the purchaser or tenant may have in respect of the contract.

**44.** Each prospectus submitted to the Superintendent for filing shall be accompanied by

- (a) an affidavit of the owner of the subdivision or, where the owner is a corporation, any three directors thereof, as to the correctness of every matter of fact stated in the prospectus,
- (b) a copy of every plan referred to in the prospectus,
- (c) a copy of every form of contract referred to in the prospectus,
- (d) such documents as the Superintendent may require to support any statement of fact, proposal or estimate set out in the prospectus,
- (e) such financial particulars of the owner as the Superintendent may require, and
- (f) the prescribed fees.

**45.** The Superintendent shall not grant a certificate of acceptance where it appears that

- (a) the prospectus contains any statement, promise or forecast that is misleading, false or deceptive, or has the effect of concealing material facts, or
- (b) adequate provision has not been made for the protection of deposits or other funds of purchasers or for assurance of title or other interest contracted for, or

- (c) the prospectus fails to comply in any substantial respect with any of the requirements prescribed, or
- (d) the requirements of section 44 have not been complied with in any substantial respect.

**46.** (1) The Superintendent may, before issuing a certificate of acceptance, make such inquiries as he considers necessary, including

- (a) an examination of the subdivision and any of the surrounding circumstances, and
- (b) the obtaining of reports from public authorities or others in the jurisdiction in which the subdivision is located.

(2) The reasonable and proper costs of any such inquiry or report shall be borne by the person on whose behalf the prospectus was filed or submitted for filing.

**47.** The Superintendent shall grant the certificate of acceptance where the requirements of sections 44 to 46 and the regulations have been complied with and in his opinion the action is in the public interest, but the Superintendent shall not refuse to grant the certificate without giving the person on whose behalf the prospectus was filed an opportunity to be heard.

**48.** Where it appears to the Superintendent, subsequent to the filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in section 45 exist or where in his opinion such action is necessary in the public interest, the Superintendent may, after giving the person on whose behalf the prospectus was filed an opportunity to be heard, cancel the certificate of acceptance and order that all trading in the subdivision to which the prospectus refers shall cease forthwith.

**49.** A decision of the Superintendent refusing to grant or cancelling a certificate of acceptance may be appealed to the Minister whose decision is final.

**50.** (1) If a change occurs with regard to any of the matters set out in any prospectus

- (a) that would have the effect of rendering a statement in the prospectus false or misleading, or
- (b) that brings into being a fact or proposal that should have been disclosed in the prospectus if the fact or proposal had existed at the time of filing,

the persons who filed the prospectus shall, within 20 days of the change occurring, notify the Superintendent in writing of the change and shall file a copy of the prospectus with the changes incorporated in it.

(2) Where the trading referred to in section 42 is still in progress 12 months from the date of the filing of the last prospectus, a new prospectus shall be filed with the Superintendent within 20 days from the expiration of such 12-month period.

(3) Sections 42 to 49 apply to an amended prospectus or a new prospectus filed under this section.

**51.** The Lieutenant Governor in Council may make regulations prescribing the information to be contained in a prospectus required to be filed under section 42 or 50.

**52.** (1) A person who contravenes section 42, 43 or 50 is guilty of an offence and liable on summary conviction

(a) in the case of a person other than a corporation, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year or to both, or

(b) in the case of a corporation, to a fine of not more than \$25,000.

(2) No proceedings shall be instituted under this section except with the consent of the Attorney General.

**3.** This Act comes into force on the date that *The Securities Act, 1967* comes into force.