

1968 Bill 84

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 84

An Act to amend The Securities Act, 1967

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

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1968

An Act to amend The Securities Act, 1967

(Assented to _____, 1968)

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

1. *The Securities Act, 1967*, is hereby amended.

2. Section 3 is amended by adding the following subsection after subsection (3):

(4) Notwithstanding subsection (3), where an application is made to the Commission

(a) under subsection (2) of section 103, subsection (1) of section 116 or subsection (1) of section 131 of this Act or section 88*h* of *The Companies Act*, or

(b) for a ruling under subsection (1), (2) or (3) of section 59,

the chairman may, unless the applicant requests otherwise, act as the Commission for the purpose of hearing and determining the application and may exercise and perform the powers and duties of the Commission in connection with it.

(5) Notwithstanding subsection (3), the chairman may act as the Commission for the purpose of making any ruling under subsection (1), (2) or (3) of section 59 on the motion of the Commission and for that purpose may exercise and perform the powers and duties of the Commission.

Explanatory Notes

1. This Bill amends chapter 76 of the Statutes of Alberta, 1967.

2. Section 3 (3) states that two members of the Commission constitute a quorum. The Commission consists of a full-time chairman and three members who act on a part-time basis. The new subsection (4) will enable the chairman to act as the Commission for the purpose of hearing applications in the following cases:

1. Under section 103 (2): exemptions of persons or companies from the requirements of Part 10 dealing with "Proxies and Proxy Solicitation".

2. Under section 116 (1): exemptions of persons or companies from the requirements of section 109 which deals with the filing of reports by "insiders" of extra-provincial corporations with the Commission as to their shareholdings in the corporation.

3. Under section 131 (1): exemption of extra-provincial corporation from any or all of the provisions of Part 12 dealing with financial disclosure to the Commission.

4. Under section 88h of The Companies Act: This section is being added by the Bill to amend The Companies Act to be introduced at this Session. The new section 88h will permit applications to the Commission for the exemption from the requirements of section 88b of The Companies Act which deals with the filing of reports by "insiders" of Alberta public companies with the Commission as to their shareholdings.

5. Under section 59 (1), (2) or (3) for rulings by the Commission as to whether a trade in securities would be in the course of a primary distribution to the public or whether a primary distribution has been concluded or is in progress.

These kinds of applications are made frequently, are usually non-contentious, and have tended to become routine. The applicant can, however, request that his application be heard by the Commission itself as a body.

Subsection (5) also permits the chairman to act as the Commission in making rulings under section 59 on its own motion. Section 59 permits rulings to be made under that section either on application or on the motion of the Commission. Section 59 presently reads:

59. (1) Where doubt exists whether a trade proposed or intended to be made in a security would be in the course of primary distribution to the public of the security, the Commission may, on its own motion or upon the application of an interested party, determine whether the proposed or intended trade would be in the course of primary distribution to the public of the security and rule accordingly, and such ruling is final and there is no appeal therefrom.

(2) Where the Commission determines under subsection (1) that a proposed or intended trade would not be in the course of primary distribution to the public of the security, the Commission may rule that registration is not required in respect of such trade.

(3) Where doubt exists whether a primary distribution to the public of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly, and such ruling is final and there is no appeal therefrom.

3. Section 19, subsection (1), clause 8, subclause (iii) is amended

- (a) by striking out the word “Commission” wherever it occurs and by substituting the word “Director”,
- (b) as to paragraph (A) by striking out the word “it” and by substituting the word “he”.

4. Section 94, subsection (2) is amended by striking out the words “Part 8.” and by substituting the words “Part 7.”.

5. This Act comes into force on the day upon which it is assented to.

3. Section 19 (1) 8 (iii) presently reads:

19. (1) Subject to the regulations, registration is not required in respect of the following trades:

.....

8. either

- (i) a trade in a security of its own issue that is distributed or issued by a company to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
- (ii) a trade in a security whether of its own issue or not that is distributed or issued by a company to holders of its securities as incidental to a bona fide re-organization or winding-up of such company or distribution of its assets for the purpose of winding-up its affairs, or
- (iii) the sale by a company of its securities pursuant to the exercise of a right, transferable or otherwise, granted by the company to holders of its securities to purchase additional securities of its own issue if the company has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the company on the basis of such additional securities being fully taken up and paid for, and either,
 - (A) the Commission has not informed the company in writing within 10 days of the giving of such notice that it objects to the sale, or
 - (B) information satisfactory to the Commission relating to the securities has been delivered to and accepted by the Commission,

provided that, with respect to any trade referred to in subclause (i) or (ii), no commission or other remuneration is paid or given to others in respect of such distribution or issuance except for ministerial or professional services or for services performed by a person or company registered for trading in securities under this Act;

.....

The functions of the Commission under these provisions requires studies by the Commission's staff similar to those required on the filing of a prospectus. As these studies are done under the supervision of the Director, it is considered that the functions under these provisions should be imposed on the Director and not on the full Commission.

4. Corrects a typographical error.