

1973 Bill 39

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Second Session, 17th Legislature, 21 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 39**

**The Companies Amendment Act, 1973**

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MR. KOZIAK

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**First Reading** .....

**Second Reading** .....

**Third Reading** .....

*Bill 39*  
*Mr. Koziak*

## **BILL 39**

1973

### **THE COMPANIES AMENDMENT ACT, 1973**

*(Assented to , 1973)*

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

*1. The Companies Act is hereby amended.*

*2. Section 7 is amended by adding after subsection (1) the following subsection:*

(1.1) Subsection (1) does not apply to a partnership composed of

- (a) persons registered under *The Medical Profession Act* where the partnership is formed to practice medicine, or
- (b) active members of The Law Society of Alberta where the partnership is formed to practice law, or
- (c) members of the Institute of Chartered Accountants of Alberta where the partnership is formed to practice accountancy.

*3. Section 71 is amended by adding after subsection (2) the following subsection:*

(2.1) Section 70, subsection (2.1) does not apply to the surrender or redemption of mutual fund shares as defined in section 71.

*4. Section 97, subsection (2) is amended by striking out the words "or 90 days, as the case may be," wherever they appear in the subsection.*

*5. The following section is added after section 118:*

**118.1** (1) Subject to subsection (2), where in a financial year all the shareholders of a company that

- (a) is not offering its securities to the public,
- (b) has five or fewer shareholders, and

## Explanatory Notes

**1.** This Bill will amend chapter 60 of the Revised Statutes of Alberta 1970.

**2.** This amendment will permit partnerships such as doctors or lawyers whose professional Acts directly or indirectly forbid incorporation to have more than 20 partners.

**3.** This amendment will relieve mutual fund companies from the obligation to report to the Registrar each time they redeem their shares.

**4.** This amendment will bring the subsection into conformity with section 97(1) which was amended by S.A. 1972, c. 21. The subsection presently reads:

(2) In the case of a series of debentures containing any charge to the benefit of which the debenture-holders of that series are entitled *pari passu*, and not covered by a deed creating or defining the security, it is sufficient if there is filed within 60 days or 90 days, as the case may be, after the execution of the first debenture of the series, a true copy of one of the debentures, with a statement setting forth

- (a) the total amount secured by the whole series and the amount issued at the date of registration,
- (b) the date or dates of the resolutions authorizing the issue,
- (c) the property charged, and
- (d) the names and addresses of the trustees, if any, for the debenture-holders,

but where more than one issue is made of debentures in the series, there shall be filed with the Registrar within 60 days or 90 days, as the case may be, after each issue is made, a statement setting forth the date and amount of each issue, but an omission to do this does not affect the validity of the debentures issued.

**5.** This amendment will permit small, closely-held companies to be exempt from the audit requirements of the Act.

(c) has assets not exceeding \$500,000 and sales and gross operating revenues not exceeding \$1,000,000, as shown on the financial statement of the company for the preceding year, consent in writing, the company is exempt from sections 116 to 118 in respect of the year in which the consent is given.

(2) Subsection (1) does not apply to a subsidiary company unless its holding company is exempted under subsection (1) at the time the consent of the shareholders is given.

6. *Section 186, subsection (1) is amended by striking out the words "the Minister of Telephones" and by substituting therefor the words "the Minister of Telephones and Utilities".*

7. *Section 253 is amended*

- (a) *as to subsection (1) by adding after the word "because" the words ", after reasonable inquiry,"*,
- (b) *as to subsection (3) by adding after the word "because" the words ", after reasonable inquiry,"*,
- (c) *as to subsection (5) by striking out the figure "10" and by substituting therefor the figure "20",*
- (d) *as to subsection (6) by striking out the figure "10" and by substituting therefor the figure "20",*
- (e) *as to subsection (7) by striking out the words "may deliver, convey or pay to the person formerly beneficially entitled the property or money so vested" and by substituting therefor the words "may return the property or moneys so vested to the Public Trustee to be delivered, conveyed or paid to the person formerly beneficially entitled thereto."*

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

**6. This amendment will correct a reference omitted from chapter 93, Statutes of Alberta, 1972.**

**7. Section 253 presently reads:**

253. (1) Where a liquidator is unable to distribute the property of a company rateably among the members because

(a) the identity of any member is unknown, or

(b) the address of any member is unknown, or

(c) any member has failed to claim his share of the property within a reasonable time,

the liquidator shall deliver or convey to the Public Trustee that share of the property of the company belonging to the member to be held in trust for the member, and thereupon subsections (5), (6) and (7) apply thereto.

(2) A delivery or conveyance under subsection (1) is a distribution among the members according to their rights and interests for the purposes of section 240, subsection (1), clause (d).

(3) Where the liquidator is unable to pay all the debts of the company because

(a) the identity of a creditor is unknown, or

(b) the address of a creditor is unknown,

the liquidator shall pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor and thereupon subsections (6) and (7) apply thereto.

(4) A payment under subsection (3) is a payment in satisfaction of the debt for the purposes of section 240, subsection (1), clause (d).

(5) Where the share of the property delivered or conveyed under subsection (1) is in a form other than money, the Public Trustee shall, within 10 years after the delivery of the conveyance, convert it into money.

(6) Where a person beneficially entitled to the share of the property delivered or conveyed under subsection (1) or its equivalent in money, or the amount paid under subsection (3) claims it within 10 years after it is delivered, conveyed or paid, the Public Trustee shall deliver, convey or pay it to him.

(7) Where a share of property or money to which subsection (6) refers is not claimed as provided in that subsection, it vests in the Crown, and if the person formerly beneficially entitled thereto at any time thereafter establishes to the satisfaction of the Lieutenant Governor in Council the fact that he was so beneficially entitled, the Provincial Treasurer, in the absolute discretion and on the order of the Lieutenant Governor in Council, may deliver, convey or pay to the person formerly beneficially entitled the property or money so vested.

These amendments require the liquidator to make reasonable efforts to locate members and permit the Public Trustee to hold the money for a more practical period.