

1975 Bill 61
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 61

THE COMPANIES AMENDMENT ACT, 1975

THE MINISTER OF CONSUMER AND CORPORATE AFFAIRS

First Reading

Second Reading

Third Reading

BILL 61

1975

(Second Session)

THE COMPANIES AMENDMENT ACT, 1975

(Assented to _____, 1975)

HER 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 2, subsection (1) is amended*

(a) *by adding after clause 24 the following:*

24.1 "non-resident company" means a company that is not deemed to be resident in Canada under section 250, subsection (4), paragraph (c) of the *Income Tax Act* (Canada);

(b) *by adding after clause 29 the following:*

29.1 "resident Albertan" means an individual who

- (i) is a Canadian citizen, or
 - (ii) has been lawfully admitted to Canada for permanent residence,
- and who is ordinarily resident in Alberta;

3. *The following section is added after section 76:*

76.1 (1) At least half of the members of the board of every company shall be resident Albertans.

(2) The meetings of a board of directors may be held at any place within or outside Alberta, but in any year a majority of the meetings of a board of directors shall be held at a place within Canada.

(3) No business of a company shall be transacted at a meeting of a board of directors unless the majority of directors present at that meeting are resident Albertans.

(4) A company that fails to comply with any provision of this section is guilty of an offence and is liable on summary conviction to a fine of not more than \$5000 and every director of the company who authorized, permitted or

Explanatory Notes

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

2. Defines the terms “non-resident company” and “resident Albertan”.

3. Self-explanatory.

acquiesced in any such failure is guilty of an offence and liable on summary conviction to a fine of not more than \$1000.

(5) This section does not apply to an extra-provincial company or a non-resident company.

4. Section 97 is amended

(a) *by striking out subsection (6) and by substituting therefor the following:*

(6) The Registrar shall endorse every mortgage registered pursuant to this section with a memorandum of the date of filing and that memorandum is conclusive proof that the requirements of this section as to registration have been complied with.

(b) *as to subsection (7) by striking out the words "the amount secured by it, short particulars of the property mortgaged,".*

5. Section 146 is amended

(a) *as to subsection (1.1),*

(i) *by striking out the words "each year before" and by substituting therefor the words "each year on or before",*

(ii) *as to clause (a), by adding the word "and" at the end of subclause (i) and by striking out subclauses (ii) and (iii) and by substituting therefor the following:*

(ii) the number and class of shares held by each member at the date of the return,

(iii) *by striking out clauses (d), (e) and (f), and*

(b) *as to subsection (2) by striking out clauses (c) and (d).*

4. Section 97, subsections (6) and (7) presently read:

(6) The Registrar shall issue under his seal of office a certificate of the registration of every mortgage registered pursuant to this section, stating the amount thereby secured and the name of the mortgagee or other person entitled to the charge, and the certificate is conclusive proof that the requirements of this section as to registration have been complied with.

(7) The Registrar shall keep a register of all mortgages requiring registration under this section, and shall enter in the register the date of the mortgage, the amount secured by it, short particulars of the property mortgaged, the name of the mortgagor, and the name of the mortgagee or other person entitled to the charge.

5. Section 146 subsections (1.1) and (2) presently read:

(1.1) Every company having share capital shall, each year before the last day of the month immediately following its anniversary month, make a return to the Registrar containing

- (a) unless the company is a public company, a list of all persons who were members of the company on the last day of its anniversary month in each year setting out
 - (i) the full name and address of each member,
 - (ii) the number and class of share held by each member at the date of the return, and
 - (iii) the amount called up on each share up to the date of the return,
- (b) the address of the registered office of the company,
- (c) the amount of the authorized share capital of the company, the number and class of shares into which it is divided, and the number of shares issued from the commencement of the company up to the date of the return,
- (d) a summary distinguishing between shares issued for cash and shares issued fully or partly paid-up otherwise than in cash,
- (e) the total amount of share warrants issued and surrendered respectively since the date of the last return or in the case of the first return since the incorporation of the company,
- (f) the total number of shares forfeited,
- (g) the full names and addresses and occupations of the persons who as of the last day of the company's anniversary month in each year are directors of the company, and
- (h) the total amount of debt due from the company at the date of the return in respect of all mortgages that are registered or required to be registered with the Registrar.

(2) Every company that does not have share capital shall, each year before the last day of the month immediately following its anniversary month, make a return to the Registrar containing

- (a) a list of all persons who were members of the company on the last day of its anniversary month in each year setting out the full name and address of each member,
- (b) the address of the registered office of the company,
- (c) the total amount of capital contributed up to the date of the return,
- (d) the total amount guaranteed,
- (e) the full names, addresses and occupations of the persons who as of the last day of the company's anniversary month in each year are directors of the company, and
- (f) the total amount of debt due from the company in respect of all mortgages that are registered or required to be registered with the Registrar.

6. Section 177, subsection (1) is amended by striking out clauses 4 and 7.

7. Section 188 is amended by striking out subsection (1) and by substituting therefor the following:

188. (1) Where

- (a) a company or an extra-provincial company
 - (i) has failed to file any return, notice or document required to be filed with the Registrar pursuant to this Act for two consecutive years after the return, notice or document should have been so filed, or
 - (ii) has not complied with an undertaking it made under section 11, subsection (3) to dissolve or change its name within six months after the incorporation of another company with a similar name,

or

- (b) the Registrar has reasonable cause to believe that
 - (i) a company is not carrying on business or is not in operation, or
 - (ii) an extra-provincial company has ceased to carry on business in Alberta,

he shall send by mail to the company or to the extra-provincial company a letter requiring it

- (c) to file any return, notice or document that has not been filed, or
- (d) to comply with an undertaking given under section 11, subsection (3), or
- (e) to notify the Registrar,
 - (i) in the case of a company, as to whether it is carrying on business or is in operation, or
 - (ii) in the case of an extra-provincial company, as to whether it has ceased to carry on business in Alberta.

8. Section 285 is struck out and the following is substituted therefor:

285. Notwithstanding any provision of this Act, where a company or extra-provincial company has not

- (a) filed a return, notice or document required to be filed under this Act, or
- (b) complied with an undertaking made under section 11, subsection (3),

the Registrar shall not issue any certificate under this Act in respect of that company or that extra-provincial company, unless, in the opinion of the Registrar, there exist exceptional circumstances which warrant the issuance of the certificate.

6. Section 177, subsection (1) presently reads:

177. (1) A company required to be registered under this Part shall on or before the first day of March in each year during the continuance of its registration make a statement to the Registrar containing, as at the preceding 31st day of December, a summary of the following particulars, that is to say:

1. the corporate name of the company;
2. the place where the head office of the company outside the Province is situated;
3. the place where the head office of the company within the Province is situated;
4. the place or places where or from which the undertaking of the company is carried on;
5. the name, residence and post office address of the president, the secretary and the treasurer of the company;
6. the name, residence and post office address of each of the directors of the company;
7. the date upon which the last annual meeting of the company was held;
8. the amount of the capital of the company and the number of shares into which it is divided, and the part of the capital that can fairly be said to be used in the transaction of business in the Province;
9. in concise form such further information respecting the affairs of the company as the directors may consider expedient.

7. Section 188 (1) and (2) presently read:

188. (1) Where a company or an extra-provincial company has failed to file any return, notice, or document required to be filed with the Registrar pursuant to this Act or any former Companies Act or Ordinance, for two consecutive years after the return, notice, or document should have been so filed, or the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, or in the case of an extra-provincial company that it has ceased to carry on business in the Province, he shall send to the company by post a letter notifying it of its default or inquiring whether the company is carrying on business or in operation.

(2) If within one month of sending the letter no reply thereto is received by the Registrar, or the company fails to fulfil the lawful requirements of the Registrar, or notifies the Registrar that it is not carrying on business or in operation, he may, at the expiration of a further 14 days, publish in the Alberta Gazette a notice that at the expiration of two months from the date of that notice the company mentioned therein will, unless cause is shown to the contrary, be struck off the register, and the company will be dissolved, or, in the case of an extra-provincial company, will be deemed to have ceased to carry on business in the Province.

8. Section 285 presently reads:

285. The Registrar shall not issue any certificate that he is required or authorized to issue in respect of any company or extra-provincial company, where he has reason to believe that the company or extra-provincial company has failed to file with the Registrar any return, notice or document required to be filed with the Registrar pursuant to this Act or any former Companies Act or Ordinance.

9. (1) This Act, except for sections 2 and 3, comes into force on the day upon which it is assented to.

(2) Sections 2 and 3 come into force on July 1, 1976.