

1997 BILL 17

First Session, 24th Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

**MUNICIPAL AFFAIRS STATUTES
AMENDMENT ACT, 1997**

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 17

1997

MUNICIPAL AFFAIRS STATUTES AMENDMENT ACT, 1997

(Assented to _____, 1997)

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

Charitable Fund-raising Act

Amends SA
1995 cC-4.5

1(1) The *Charitable Fund-raising Act* is amended by this section.

(2) Section 1 is amended

(a) in subsection (1)

(i) by renumbering clause (a) as clause (a.1);

(ii) by adding the following before clause (a.1):

(a) “business” means

(i) an entity, including an individual carrying on business as a sole proprietorship or a partnership or corporation, that is formed to make a profit for its owners, members or shareholders, or

(ii) a corporation that is allowed under the law that applies to its formation to distribute any profits to its owners, members or shareholders during its existence;

(iii) in clause (b) by striking out “cultural or artistic purpose” and substituting “cultural, artistic or recreational purpose, so long as the purpose is not part of a business”;

Explanatory Notes

Charitable Fund-raising Act

1(1) Amends chapter C-4.5 of the Statutes of Alberta, 1995.

(2) Section 1 presently reads in part:

1(1) In this Act,

(a) "charitable organization" means

(i) any incorporated or unincorporated organization that is formed for a charitable purpose, or

(ii) a person who makes solicitations for contributions to be used for a charitable purpose and who is not connected to any incorporated or unincorporated organization that is formed for the charitable purpose for which the solicitation is made;

(b) "charitable purpose" includes a philanthropic, benevolent, educational, health, humane, religious, cultural or artistic purpose;

(c) "fund-raising agreement" means an agreement between a charitable organization and a professional fund-raiser described in section 29;

(d) "professional fund-raiser" means a professional fund-raiser described in section 20;

(2) In this Act,

(iv) in clause (e) by striking out “professional fund-raiser” and substituting “fund-raising business”;

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

(e.1) “fund-raising business” means a fund-raising business described in section 20;

(vi) by adding the following after clause (h):

(h.1) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(vii) by repealing clause (i);

(viii) by adding the following after clause (l):

(l.1) “standards of practice” means the standards of practice established under section 29.1;

(b) in subsection (2)(b) and (c) by striking out “professional fund-raiser” wherever it occurs and substituting “fund-raising business”.

(3) Section 4 is amended

(a) in subsection (1)

(i) in clauses (a) and (b) by striking out “professional fund-raiser” and substituting “fund-raising business”;

(ii) in clause (c) by striking out “\$10 000” and substituting “\$25 000”;

(b) in subsection (2) by striking out “\$10 000” wherever it occurs and substituting “\$25 000”.

(4) Section 6(2) is repealed and the following is substituted:

- (b) a reference to a solicitation made on behalf of a charitable organization means a solicitation made by a professional fund-raiser on behalf of the charitable organization;*
- (c) a reference to a solicitation made by a professional fund-raiser means a solicitation made by a professional fund-raiser or the employees or volunteers of the professional fund-raiser.*

(3) Section 4 presently reads:

4(1) This Part applies only to the following solicitations and the solicitations described in subsection (2):

- (a) solicitations made by a professional fund-raiser;*
- (b) solicitations made by a charitable organization that uses a professional fund-raiser to make solicitations on its behalf or to manage or be responsible for solicitations made by or on behalf of the charitable organization;*
- (c) solicitations made by a charitable organization in its financial year if the charitable organization intends to raise, as a result of those solicitations, gross contributions of \$10 000 or more from persons in Alberta during that financial year.*

(2) Regardless of a charitable organization's intent, if a charitable organization in its financial year raises, as a result of solicitations, gross contributions of \$10 000 or more from persons in Alberta, this Part applies to solicitations made by the charitable organization from the time it reaches \$10 000 in gross contributions until the end of that financial year.

(4) Section 6(2) presently reads:

(2) A person who makes a solicitation by telephone must provide each person who is being solicited and who gives a contribution with the information required by the regulations in the manner and form required by the regulations.

(5) Section 7 is repealed and the following is substituted:

Duty to
maintain
records

7 A charitable organization or fund-raising business that makes solicitations must maintain

- (a) complete and accurate financial records of its operations in Alberta for at least 3 years after the solicitations are made,
- (b) records regarding the solicitations made in Alberta for at least 3 years after the solicitations are made, and
- (c) other records and documents described in the regulations for the period described in the regulations.

(6) Section 9 is amended in subsections (1)(a) and (2) by striking out “report” and substituting “return”.

(7) Section 11 is amended

- (a) in subsection (1) by striking out “professional fund-raiser” wherever it occurs and substituting “fund-raising business”;
- (b) in subsection (2) by striking out “2 days” and substituting “3 days”.

(2) A person who makes a solicitation by telephone must, before accepting a contribution, provide the person who is being solicited with the information required by the regulations in the manner and form required by the regulations.

(5) Section 7 presently reads:

7 Every charitable organization and professional fund-raiser who makes solicitations must maintain in Alberta

- (a) complete and accurate financial records of its operations for at least 3 years after the solicitations are made,*
- (b) records regarding the solicitations for at least 3 years after the solicitations are made, and*
- (c) other records and documents described in the regulations for the period described in the regulations.*

(6) Section 9(1)(a) and (2) presently read:

9(1) If solicitations are made by or on behalf of a charitable organization, the charitable organization must provide the following information to any person who requests it:

- (a) a copy of the most recent audited financial statements or financial information report that the charitable organization is required to prepare under section 8;*

(2) Despite subsection (1)(a), a charitable organization may establish a reasonable fee for providing a copy of its audited financial statements or financial information report that is based on the cost of reproducing the documents, and postage if the documents are to be mailed, and the charitable organization may refuse to provide a copy of the documents unless the fee is paid.

(7) Section 11(1) and (2) presently read:

11(1) Every professional fund-raiser and every employee of a professional fund-raiser who receives contributions on behalf of a charitable organization holds the contributions in trust for the charitable organization.

(2) The trustee has no power to invest monetary contributions received on behalf of a charitable organization and must, within 2 days of receiving the monetary contributions, not including Saturdays and holidays, deposit the money, without making any deductions, into an account held in a bank, trust corporation, credit union or treasury branch in Alberta.

(8) The heading for Part 2 is amended by striking out “PROFESSIONAL FUND-RAISERS” and substituting “FUND-RAISING BUSINESSES”.

(9) Section 12 is amended

(a) in subsections (3) and (4) by striking out “\$10 000” wherever it occurs and substituting “\$25 000”;

(b) by adding the following after subsection (4):

(5) This section does not apply to a charitable organization if, throughout its financial year,

(a) the charitable organization is not incorporated,

(b) the charitable organization is affiliated in some manner with another charitable organization (referred to in this subsection as the affiliated organization), and

(c) the affiliated organization controls the distribution of any contributions the charitable organization receives during its financial year as a result of solicitations made by the charitable organization.

(10) Section 15 is amended by adding the following after subsection (3):

(4) The Minister may also refuse to register or renew the registration of a charitable organization and the Minister may impose terms and conditions on a registration when registering or renewing the registration of a charitable organization if, in the Minister’s opinion, any of the charitable organization’s principals, directors, managers or employees referred to in section 29.2(1) or (2) have contravened section 29.2(1) or (2).

(11) The heading preceding section 20 is repealed and the following is substituted:

Fund-raising Businesses

(12) Section 20 is repealed and the following is substituted:

Fund-raising
business

20(1) A fund-raising business is a business that

(a) makes solicitations on behalf of a charitable organization or manages or is responsible for solicitations made by or on behalf of a charitable organization,

(8) Changes to reflect new terminology.

(9) Section 12 presently reads in part:

12(1) No charitable organization may make a solicitation to an individual unless the charitable organization is registered.

(3) Subject to subsection (4), this section does not apply to a charitable organization during its financial year if the solicitations it makes to individuals in Alberta or to individuals and others in Alberta are intended to raise gross contributions that have a value of less than \$10 000 during that financial year.

(4) Regardless of a charitable organization's intent, if a charitable organization in its financial year raises, as a result of solicitations, gross contributions of \$10 000 or more from individuals in Alberta or individuals and others in Alberta, the charitable organization must be registered within 45 days after the gross contributions reach \$10 000.

(10) Sanction for not complying with standards of practice.

(11) Changes to reflect new terminology.

(12) Section 20 presently reads:

20(1) For the purposes of this Act, a professional fund-raiser

(a) is a person who, for money or other consideration, makes solicitations on behalf of a charitable organization or manages or is responsible for solicitations made by or on behalf of a charitable organization, or

- (b) provides those services for remuneration, and
- (c) is not an employee of the charitable organization.

(2) A fund-raising business includes a business that

- (a) is hired by another business to make solicitations on behalf of a charitable organization or to manage or be responsible for solicitations made by or on behalf of a charitable organization, and
- (b) is not an employee of the other business.

(13) Section 23 is amended

(a) in subsections (2) and (3) by striking out “professional fund-raiser” and substituting “fund-raising business”;

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

(4) The Minister may also refuse to issue or renew a licence and the Minister may impose terms and conditions on a licence when issuing or renewing the licence if, in the Minister’s opinion, the fund-raising business or any of its principals, directors, managers or employees has contravened section 29.2(3).

(14) The following is added after section 27:

Donor list

27.1(1) A list of names of and other information about persons who have given a contribution to a charitable organization (in this section referred to as a donor list) that is compiled by a fund-raising business

- (a) is the property of the charitable organization, and
- (b) is under the exclusive control of the charitable organization.

(2) No fund-raising business that compiles a donor list for a charitable organization may use or deal with the donor list except with the written permission of the charitable organization.

(15) Section 28 is amended

(a) in subsections (1) and (2) by striking out “professional fund-raiser” wherever it occurs and substituting “fund-raising business”;

(b) is an agent of a person referred to in clause (a) who makes solicitations on behalf of the charitable organization and receives contributions for the charitable organization.

(2) Despite subsection (1), the following persons are not professional fund-raisers:

(a) an employee or volunteer of a person or agent referred to in subsection (1);

(b) an employee or volunteer of a charitable organization who makes solicitations for the charitable organization.

(13) Sanction for not complying with standards of practice.

(14) Ownership and control of donor list.

(15) Section 28 presently reads:

28(1) No charitable organization may use a professional fund-raiser to make solicitations on its behalf or to manage or be responsible for solicitations made by or on behalf of the charitable organization unless the charitable organization and the professional fund-raiser have entered into a fund-raising agreement that meets the requirements of section 29 and the agreement is in force.

(b) by repealing subsection (3) and substituting the following:

(3) In this section, references to a fund-raising business do not include a fund-raising business under section 20(2).

(16) Section 29 is amended

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

(b) in subsection (1)(g) by striking out “business”;

(c) by repealing subsection (1)(h) and substituting the following:

(h) the fund-raising business’s address and the name and telephone number of the contact person for the fund-raising business;

(d) in subsection (2) by striking out “professional fund-raiser” and substituting “fund-raising business”.

(17) The following is added after section 29:

Standards of Practice

Standards of
practice

29.1(1) The Minister may establish standards of practice relating to fund-raising carried out by charitable organizations and fund-raising businesses.

(2) The Minister must ensure that the standards of practice are published in The Alberta Gazette.

(3) The *Regulations Act* does not apply to the standards of practice.

Compliance
with standards

29.2(1) The principals, directors, managers and employees of a charitable organization whose main responsibility is to make solicitations for the charitable organization or to manage or be responsible for solicitations made by the charitable organization must comply with the standards of practice.

(2) No professional fund-raiser may make a solicitation on behalf of a charitable organization or manage or be responsible for solicitations made by or on behalf of a charitable organization unless the professional fund-raiser and the charitable organization have entered into a fund-raising agreement that meets the requirements of section 29 and the agreement is in force.

(3) The references to professional fund-raiser in this section do not include an agent referred to in section 20(1)(b).

(16) Section 29(1)(c), (g) and (h) and (2) presently read:

29(1) A fund-raising agreement must be in writing and must include

(c) provisions dealing with the creation, use and ownership of a list of persons who may provide contributions;

(g) the charitable organization's business address and the name and telephone number of the contact person for the charitable organization;

(h) the professional fund-raiser's business address and the name and telephone number of the contact person for the professional fund-raiser;

(2) A fund-raising agreement must establish the remuneration of the professional fund-raiser, and the remuneration must be

(a) a specific amount of money,

(b) a specified percentage of gross contributions, or

(c) a combination of a specific amount of money and a specified percentage of gross contributions.

(17) Establishment of standards of practice and duty to comply.

(2) If a charitable organization has an employee described in subsection (1), the principals, directors and managers of the charitable organization must take reasonable steps to ensure that the employee complies with the standards of practice.

(3) A fund-raising business and its principals, directors, managers and employees must comply with the standards of practice.

(18) Section 30 is amended by striking out “an incorporated or unincorporated business that is formed to make a profit and” and substituting “a business”.

(19) The following is added after section 36:

Inspection of
s7 records

36.1(1) A charitable organization or fund-raising business that is required to maintain records under section 7 must make the records available for inspection by an inspector at a place in Alberta and at a time specified by the inspector.

(2) An inspector has the powers and duties described in section 36(4) and (5) when inspecting records under subsection (1).

(20) Section 37 is amended

(a) in subsection (1)

(i) **in clause (a) by striking out “professional fund-raiser” and substituting “fund-raising business”;**

(ii) **by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following after clause (b):**

(c) refuses to make records referred to in section 7 available for inspection in Alberta as specified by an inspector under section 36.1,

(b) in subsection (2)(b) by adding “or requiring that records referred to in section 7 be made available to an inspector for inspection in Alberta” after “the inspection”.

(18) Section 30 presently reads:

30 A donor fund-raiser is an incorporated or unincorporated business that is formed to make a profit and that makes a direct or indirect request to buy a good or service normally produced or provided by the business in which it is stated or implied that all or a portion of the purchase price will be donated to a charitable organization or be used for a charitable purpose.

(19) Section 7 records to be made available for inspection in Alberta.

(20) Section 37(1) and (2) presently read:

37(1) If a person

(a) refuses to allow an inspector to enter the premises of a charitable organization or a professional fund-raiser, or

(b) refuses to produce anything requested by the inspector to assist in an inspection under section 36,

the inspector may apply to the Court of Queen's Bench by originating notice for an order under subsection (2).

(2) The Court may make an order

(a) restraining a person from preventing entry by the inspector or from interfering with the inspector's inspection, and

(b) requiring the production of anything to assist in the inspection.

(21) Section 39(1)(b) is amended by striking out “business affairs of the person or the person’s agent” and substituting “affairs of the person or person’s agent that are relevant to the investigation”.

(22) Section 42 is amended

(a) in subsection (2) by striking out “professional fund-raiser” wherever it occurs and substituting “fund-raising business”;

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

(2.1) The Minister may suspend or cancel the registration of a charitable organization or the licence of a fund-raising business or impose terms and conditions on the registration or licence if, in the Minister’s opinion,

(a) any of the charitable organization’s employees referred to in section 29.2(1) have contravened section 29.2(1), or

(b) any of the employees of the fund-raising business have contravened section 29.2(3).

(c) in subsections (3) and (4) by striking out “professional fund-raiser” wherever it occurs and substituting “fund-raising business”.

(23) Section 51 is amended

(a) in subsection (1)

(i) in clause (b) by adding “27.1(2),” before “28”;

(ii) by adding the following after clause (c):

(c.1) in Part 4, section 36.1(1);

(b) in subsection (4) by striking out “professional fund-raiser” and substituting “fund-raising business”.

(21) Section 39(1)(b) presently reads:

39(1) When a person is being investigated, an inspector may apply to the Court of Queen's Bench by originating notice for an order

(b) authorizing the inspector to inquire into and examine the business affairs of the person or the person's agent and directing the person or person's agent to co-operate with the investigation on such terms as the Court considers appropriate.

(22) Changes to reflect new terminology and establishment of additional ground for cancellation or suspension of, or imposing terms and conditions on, a registration or licence.

(23) Section 51 presently reads in part:

51(1) A person who contravenes the following provisions of this Act or fails to comply with a direction of the Minister under section 40 is guilty of an offence:

(b) in Part 2, sections 12, 13, 18, 21, 26, 27, 28;

(c) in Part 3, sections 32 to 34;

(4) A partnership is not liable as such under subsection (1), but where a partner in a partnership that is a charitable organization or professional fund-raiser is convicted of an offence, each partner in that partnership who authorized the commission of the offence or assented to it or acquiesced or participated in it is guilty of an offence and is liable to the penalty provided for in subsection (2).

(24) Section 54 is repealed and the following is substituted:

Transitional

54 An agreement between a charitable organization and a fund-raising business authorizing the fund-raising business to make solicitations on behalf of the charitable organization or to manage or be responsible for solicitations made by or on behalf of the charitable organization that is in force on May 1, 1995 is deemed to meet the requirements of section 29.

(25) The following provisions are amended by striking out “professional fund-raiser” wherever it occurs and substituting “fund-raising business”:

section 13;
section 21;
section 22;
section 24(1) and (2);
section 26(1);
section 27;
section 36(1) and (2)(a);
section 38(b);
section 40(1)(a), (b), (c) and (d) and (2)(d);
section 43(1)(a) and (2);
section 45(2);
section 46;
section 47;
section 49(5).

(26) The following provisions are amended by striking out “professional fund-raisers” wherever it occurs and substituting “fund-raising businesses”:

(24) Section 54 presently reads:

54(1) A charitable organization that on April 29, 1995 is authorized to conduct a campaign to obtain funds under the Public Contributions Act is deemed to be registered under this Act until the authorization expires or is cancelled under this Act or December 31, 1995, whichever occurs first.

(2) On the coming into force of this Act, a professional fund-raiser who holds a charitable promotion business licence under the Licensing of Trades and Businesses Act is deemed to be licensed under this Act until the licence expires or is cancelled under this Act or December 31, 1995, whichever occurs first.

(3) If a charitable promotion business licence was to expire after December 31, 1995 and the licence expires on December 31, 1995 under subsection (2), the professional fund-raiser who held the licence is entitled to a credit in an amount specified by the Minister to take into account the portion of the term of the charitable promotion business licence that was left after December 31, 1995, and the credit may be used only for renewals of the licence by the professional fund-raiser.

(4) An agreement between a charitable organization and a professional fund-raiser authorizing the professional fund-raiser to make solicitations on behalf of the charitable organization or to manage or be responsible for solicitations made by or on behalf of the charitable organization that is in force on the coming into force of this Act is deemed to meet the requirements of section 29.

(25) Changes to reflect new terminology.

(26) Changes to reflect new terminology.

section 2(b);
section 50;
section 53(c).

(27) This section comes into force on Proclamation.

Debtors' Assistance Act

Amends RSA
1980 cD-5

2(1) The *Debtors' Assistance Act* is amended by this section.

(2) Section 1 is amended by adding the following after clause (c):

(d) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

(3) Section 2 is repealed and the following is substituted:

Debtors'
Assistance
Board

2(1) The Debtors' Assistance Board is hereby established as a corporation.

(2) In order to carry out its purposes, the Board has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(3) The Board is not an agent of the Crown.

Composition
of Board

2.1(1) The Board shall initially consist of 11 members, appointed as follows:

- (a) the Minister shall appoint one member, who must not be a member of the credit-granting industry;
- (b) the Alberta Home Economics Association shall appoint one member;
- (c) the Alberta Insolvency Practitioners Association shall appoint one member;
- (d) the Association of Canadian Financial Corporations shall appoint one member;
- (e) the Canadian Bankers Association shall appoint 2 members;
- (f) the members appointed under clauses (a) to (e) shall jointly appoint 5 members as follows:

(27) Coming into force.

Debtors' Assistance Act

2(1) Amends chapter D-5 of the Revised Statutes of Alberta 1980.

(2) Adds definition.

(3) New provisions to privatize the Debtors' Assistance Board.

- (i) from nominations from major retailers represented in Alberta, one member;
- (ii) from nominations from post-secondary educational institutions based in Alberta, one member;
- (iii) from nominations from debtors who have successfully completed the debt repayment program, one member;
- (iv) from nominations from financial institutions incorporated under the laws of Alberta, one member;
- (v) from nominations from the general public, one member.

(2) If an association fails to appoint a member under subsection (1) within the time prescribed in the by-laws, the other members of the Board may appoint the member and that member is considered to have been appointed by the association.

(3) If the members appointed under subsection (1)(a) to (e) fail to appoint a member under subsection (1)(f) within the time prescribed in the by-laws, the Minister may appoint the member and that member is considered to have been appointed by the members appointed under subsection (1)(a) to (e).

Additional
members

2.2 Members of the Board may appoint additional members if 80% of the existing members agree as to the person to be appointed.

Condition of
membership

2.3 The majority of Board members must be residents of Alberta.

Term of office

2.4(1) The terms of office of the members initially appointed under section 2.1 are as follows:

- (a) in the case of the members referred to in section 2.1(1)(a), (b), (c) and (f)(ii) and the first member appointed under section 2.1(1)(e), 3 years;
- (b) in the case of other members, 2 years.

(2) The term of office of a member initially appointed under section 2.2 is 3 years.

(3) Except in the case of a vacancy, all appointments to replace members initially appointed and to replace members subsequently appointed are for a term of 3 years.

Limit on terms

2.5(1) A member of the Board is eligible for reappointment for a 2nd term of office, but not for a further term of office until the expiration of a period of 3 years following the end of the 2nd term.

(2) Notwithstanding subsection (1), a member of the Board may, with the Minister's approval, be appointed for a further term where the 3-year period referred to in subsection (1) has not expired.

Vacancies

2.6(1) A vacancy in the membership of the Board must be filled by an appointment for the unexpired portion of the term of office, made in the same manner as the member who is being replaced was appointed.

(2) A vacancy in the membership of the Board does not invalidate the constitution of the Board or impair the right of members of the Board to act if the number of remaining members constitutes a quorum.

Prohibitions

2.7(1) No person, while a member of the Board, shall do any of the following:

- (a) engage directly or indirectly in any business transaction or private arrangement for a pecuniary benefit, knowledge of which is gained from or based on the person's being a member of the Board, or from confidential or non-public information gained by reason of the member's position or authority with the Board;
- (b) act in a manner, whether or not prohibited by this Act, the regulations or the by-laws, that may result in, or create the appearance of,
 - (i) using the member's position for private gain,
 - (ii) giving preferential treatment to any person,
 - (iii) impeding the Board from carrying out its purposes,
 - (iv) forgoing independence or impartiality, or
 - (v) adversely affecting the integrity of the Board;

- (c) represent the Board, explicitly or impliedly, or act in an official capacity on any matter in which the member has a real or potential personal interest, direct or indirect, in a manner that is incompatible with the member's duties under this Act or the by-laws;
- (d) unless approved by the Board, accept a fee or benefit from another person on account of an occasion at which the member appears or provides a speech, lecture or publication, if the occasion is part of the official duties of the member for which compensation is being paid by the Board;
- (e) contravene this Act, the regulations or the by-laws.

(2) Subject to subsection (3), a member who contravenes subsection (1) shall resign immediately on becoming aware of the contravention.

(3) Instead of accepting a resignation under subsection (2), the Board may suspend the member from all or any Board activities for any period of time and subject to any terms and conditions that the Board considers appropriate.

(4) If a member contravenes subsection (2) or any terms and conditions under subsection (3), the Board may apply by originating notice to a judge of the Court of Queen's Bench for

- (a) an order determining whether the member was never qualified to be or has ceased to be qualified to remain a member under this section, or
- (b) an order declaring the member to be disqualified from membership on the Board.

(5) An application under subsection (4) may be made within 6 years of the date on which the contravention is alleged to have occurred, but not after that period.

Fidelity bond

2.8 The Board must obtain a fidelity bond

- (a) in the amount required under the regulations, and
- (b) covering the persons specified under the regulations.

(4) Section 3 is amended

(4) Section 3 presently reads:

3(1) For the purpose of performing any duty or function or exercising any power that is conferred or imposed on the Board by

(a) in subsection (1) by adding “in accordance with a written delegation by the Board under section 8” after “on behalf of the Board”;

(b) by repealing subsection (3) and substituting the following:

(3) The Board may pay remuneration and expenses, in accordance with the regulations, to its members, officers, employees and delegates.

(5) Section 4(h) is repealed and the following is substituted:

(h) generally to provide to all Albertans counselling and education relating to family and personal money management including debt, credit and budgeting.

(6) Section 5 is repealed.

(7) Section 7 is repealed and the following is substituted:

By-laws

7(1) The Board may make by-laws

(a) respecting the procedure for appointing members of the Board other than the member appointed by the Minister;

(b) prescribing time periods for the purposes of section 2.1(2) and (3);

this Act, any member of the Board may act for and on behalf of the Board, and any act or thing so done shall be deemed to have been done by the Board.

(2) The Board may authorize a person who is not a member of the Board to do any act or thing required or permitted to be done by the Board.

(3) If the person authorized to do any act or thing under subsection (2) is not an employee of the Government, that person may be paid the fees and expenses that the Board sees fit.

(5) Section 4(h) presently reads:

4 The Board has the following powers, duties and functions:

(h) generally to render service, advice and assistance to debtors who are unable to meet their liabilities and who, through proceedings in the courts or otherwise, are being pressed for payment or harassed by their creditors.

(6) Section 5 presently reads:

5 The Board and a person authorized by the Board in writing may make all inquiries the Board considers advisable with regard to the property of a debtor and for that purpose the Board, or a person authorized by the Board in writing,

(a) may examine under oath

(i) a debtor and his servants and agents, and

(ii) any person who appears to the Board, or the person authorized by the Board, to have any knowledge of the affairs of the debtor,

and

(b) has all the powers in that behalf of a commissioner appointed under the Public Inquiries Act.

(7) New sections added relating to the Board.

- (c) respecting the appointment and election of officers of the Board;
- (d) respecting the duties of members and officers of the Board;
- (e) respecting the services and other things to be provided by or on behalf of the Board;
- (f) respecting the conduct of the business and affairs of the Board;
- (g) respecting the receipt, management and investment of contributions, donations, bequests and any other revenue received by the Board other than payments made to the Board by debtors for the purpose of repaying debts;
- (h) designating the location in Alberta of the offices of the Board.

(2) The *Regulations Act* does not apply to by-laws made under this section.

Delegation

8(1) The Board may delegate in writing to any person any or all of its powers, duties or responsibilities under this Act, except the power to make by-laws.

(2) The Board may, when delegating a matter, authorize the further delegation of the matter.

(3) A delegation may be made subject to any terms and conditions the Board considers appropriate.

Immunities

9 No action or other proceeding for damages may be commenced against the Board or a member, officer, employee or delegate of the Board

(a) for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act, the regulations or the by-laws, or

(b) for any neglect or default in the performance or exercise in good faith of the duty or power.

Annual report

10(1) Not later than 120 days after the last day of the Board's fiscal year, the Board shall prepare an annual report for the previous fiscal year, which must contain

- (a) an audited financial statement summarizing the income and expenditures of the Board,
- (b) a list of current members and officers of the Board,
- (c) any other information that the Board determines relevant or necessary,
- (d) the information referred to in section 14(2) of the *Government Accountability Act*, if required by the Minister, and
- (e) any other information required under the regulations.

(2) The Minister may require the Board to disclose in the annual report the amount of remuneration and expenses paid in the fiscal year to the members, officers, employees or delegates of the Board specified in the regulations.

(3) The Board must send a copy of the annual report to the Minister.

Audit of Board accounts

11 The accounts of the Board must be audited annually by a person appointed by the Board who is authorized to engage in exclusive accounting practice on a fee for service basis under the *Chartered Accountants Act*, the *Certified General Accountants Act* or the *Certified Management Accountants Act*.

Confidentiality of information

12 Part 2 of the *Freedom of Information and Protection of Privacy Act* applies to the Board as if it were a public body.

Reviews

13(1) The Minister may, whenever the Minister considers it necessary, review or appoint a person to review

- (a) the conduct of the Board, or
- (b) any matter relating to the Board.

(2) The Minister or other person conducting a review

- (a) may require the attendance of any member, officer or employee of the Board or of any other person whose presence is considered necessary during the course of the review, and
- (b) has the same powers, privileges and immunities as a commissioner under the *Public Inquiries Act*.

(3) When required to do so by the Minister or other person conducting a review, a person referred to in subsection (2)(a)

shall produce for review all books and records that are in that person's control that are relevant to the matter being reviewed.

(4) A person, other than the Minister, who conducts a review shall forthwith on the conclusion of the review report in writing to the Minister.

(5) On conducting a review or receiving a report under subsection (4), the Minister may by order direct that the Board, or any member, officer or employee of the Board, take any action that the Minister considers appropriate in the circumstances.

(6) If an order under subsection (5) is not carried out to the satisfaction of the Minister, the Minister may by order do either or both of the following:

- (a) appoint a comptroller to oversee the management of the affairs of the Board, and attach terms and conditions to the continued operation of the Board;
- (b) dismiss all or any of the members of the Board or the member, officer or employee who fails to carry out the order.

(7) If the Minister dismisses the Board, the Minister may in the same or a subsequent order do either or both of the following:

- (a) appoint an official administrator to manage the affairs of the Board until a new Board is appointed;
- (b) direct that a new Board be appointed under this Act.

(8) An order under subsection (7)(a) may provide for the payment of remuneration and expenses to the official administrator and may provide that the remuneration and expenses are the responsibility of the Board.

(9) An official administrator has all the powers and is subject to all the obligations of the Board under this Act.

(10) An order or direction under subsection (5), (6) or (7) takes effect on the service of a copy of it on the person to whom it is directed.

**Powers of the
Minister**

14(1) The Minister may make regulations

- (a) respecting fidelity bonds for the purposes of section 2.8(a) and (b);

- (b) respecting remuneration and expenses payable by the Board under section 3(3);
- (c) respecting fees for services performed by the Board or a delegate of the Board or in respect of any act or thing done under this Act;
- (d) respecting the contents of annual reports required under section 10(1)(e);
- (e) specifying members, officers, employees and delegates of the Board for the purposes of section 10(2);
- (f) respecting the manner in which the Board must handle payments made to the Board by a debtor as part of a repayment plan;
- (g) respecting any other matter the Minister considers necessary to carry out this Act.

(2) The Minister may establish any forms required under this Act.

Transitional

15 Notwithstanding section 7, the Minister shall make the initial by-laws under that section, and those by-laws are considered to have been made by the Board, and after they are made may be amended or repealed only by the Board.

(8) This section comes into force on Proclamation.

Municipal Government Act

Amends SA
1994 cM-26.1

3(1) The *Municipal Government Act* is amended by this section.

(2) The following is added after section 212:

Fidelity bond

212.1(1) Starting with the 1998 financial year, the council of each municipality must annually obtain a fidelity bond, or equivalent insurance, in an amount the council considers appropriate.

- (2) The fidelity bond or equivalent insurance must cover
 - (a) the chief administrative officer of the municipality,
 - (b) the designated officers of the municipality, and
 - (c) other employees of the municipality

(8) Coming into force.

Municipal Government Act

3(1) Amends chapter M-26.1 of the Statutes of Alberta, 1994.

(2) Bond.

while carrying out duties relating to any money or security belonging to or held by the municipality.

(3) Section 359.1(4)(b) is amended by adding “that are to be combined” after “for all assessment classes”.

(4) Section 359.2(4)(b) is amended by adding “that are to be combined” after “for all assessment classes”.

(5) Section 440(6) is amended by adding “if a bailee’s undertaking relating to the seized goods has been signed pursuant to subsection (2)” after “section”.

(6) Section 720(1) is amended by striking out “section 618(6)” and substituting “section 711(6)”.

(3) Section 359.1(4)(b) presently reads:

(4) The tax rate required to raise the revenue needed to pay the Alberta School Foundation Fund requisition

(b) must be the same for all assessment classes if the requisition applies to a combination of assessment classes, and

(4) Section 359.2(4)(b) presently reads:

(4) The tax rate required to raise the revenue needed to pay the school board requisitions

(b) must be the same for all assessment classes if the requisition applies to a combination of assessment classes, and

(5) Section 440 presently reads:

440(1) When a distress warrant has been issued, a civil enforcement agency or a person referred to in section 439(2) must place sufficient goods under seizure to satisfy the amount of the claim shown in the warrant.

(2) The person placing goods under seizure may ask the person who owns or has possession of the seized goods to sign a bailee's undertaking agreeing to hold the seized goods for the municipality.

(3) If a person refuses to sign a bailee's undertaking, the person placing goods under seizure may remove the goods from the premises.

(4) When a bailee's undertaking has been signed under subsection (2), the goods specified in it are deemed to have been seized.

(5) A seizure under this section continues until the municipality

(a) abandons the seizure by written notice, or

(b) sells the goods.

(6) The municipality is not liable for wrongful or illegal seizure or for loss of or damage to goods held under a seizure under this section.

(6) Corrects a cross-reference.

Real Estate Act

Amends SA
1995 cR-4.5

4(1) The *Real Estate Act* is amended by this section.

(2) Section 11(j) is repealed and the following is substituted:

- (j) respecting the costs that may be ordered under section 40(4) or 43(2) or awarded under section 50(5) and the amount of those costs;

(3) Section 25(1) is repealed and the following is substituted:

Trust accounts

25(1) An industry member who is required by the rules to keep and operate a trust account shall

- (a) keep a trust ledger in which the industry member shall maintain a separate record for each person on whose behalf the industry member is acting of all
 - (i) money received in trust,
 - (ii) money held in trust,
 - (iii) interest earned on money held in trust, and
 - (iv) disbursements made from money received or held in trust,in respect of a dealing or trade for that person,
- (b) deposit money received in trust in respect of a dealing or trade within 2 banking days after receipt of the money, or within any longer period agreed to in writing by the parties to the dealing or trade, in an interest-bearing account that is
 - (i) maintained in a bank, loan corporation, trust corporation, credit union or treasury branch, and
 - (ii) kept in the name of the industry member and designated as a trust account,
- (c) keep money received or held in trust in respect of a dealing or trade separate from money that belongs to the industry member or any industry members the industry member employs, and

Real Estate Act

4(1) Amends chapter R-4.5 of the Statutes of Alberta, 1995.

(2) Section 11(j) presently reads:

11 The Council may make by-laws

(j) respecting the costs that may be required to be paid under section 38(6) or ordered under section 40(4) or 43(2) and the amount of those costs;

(3) Section 25(1) presently reads:

25(1) An industry member shall

(a) maintain a trust account,

(b) keep a trust ledger in which the industry member shall maintain a separate record for each person on whose behalf the industry member is acting of all

(i) money received in trust,

(ii) money held in trust,

(iii) interest earned on money held in trust, and

(iv) disbursements made from money received or held in trust,

in respect of a dealing or trade for that person,

(c) deposit money received in trust in respect of a dealing or trade within 2 banking days after receipt of the money or within any longer period agreed to in writing by the parties to the dealing or trade in an interest-bearing account that is

(i) maintained in a bank, loan corporation, trust corporation, credit union or treasury branch, and

(ii) kept in the name of the industry member and designated as a trust account under clause (a),

(d) keep money received or held in trust in respect of a dealing or trade separate from money that belongs to the industry member or any industry members the industry member employs, and

(e) disburse money received or held in trust in respect of a dealing or trade only in accordance with the rules and

- (d) disburse money received or held in trust in respect of a dealing or trade only in accordance with the rules and with the terms of the trust governing the use of that money.

(4) Section 39(1)(b) is repealed and the following is substituted:

- (b) if the executive director determines that there is sufficient evidence of conduct deserving of sanction,
 - (i) refer the matter to a Hearing Panel, or
 - (ii) impose an administrative penalty on the industry member in accordance with section 82 and the by-laws, where the matter involves a contravention by the industry member of a provision referred to in section 82(1).

(5) Section 43(1) is amended by adding the following after clause (c):

- (c.1) an order requiring the industry member to pay to the Council a fine, not exceeding \$25 000, for each finding of conduct deserving of sanction;

(6) Section 50(5) is amended by adding “determined in accordance with the by-laws” after “appeal”.

(7) The following is added after section 55:

with the terms of the trust governing the use of that money.

(4) Section 39(1) presently reads:

39(1) On completion of an investigation or on receipt of a report under section 38(5), as the case may be, the executive director shall

(a) direct that no further action be taken, if the executive director is of the opinion that

(i) the complaint is frivolous or vexatious, or

(ii) there is insufficient evidence of conduct deserving of sanction,

or

(b) refer the matter to a Hearing Panel, if the executive director determines that there is sufficient evidence of conduct deserving of sanction to warrant a hearing by the Hearing Panel.

(5) Section 43(1) presently reads:

43(1) If a Hearing Panel finds that the conduct of an industry member was conduct deserving of sanction, the Hearing Panel may make any one or more of the following orders:

(a) an order cancelling or suspending any authorization issued to the industry member by the Council;

(b) an order reprimanding the industry member;

(c) an order imposing any conditions or restrictions on the industry member and on that industry member's carrying on of the business of an industry member that the Hearing Panel, in its discretion, determines appropriate;

(d) any other order agreed to by the parties.

(6) Section 50(5) presently reads:

(5) The Appeal Panel may make an award as to the costs of an appeal.

(7) Recovery of fine, costs.

Recovery of
fine, costs

55.1 A fine ordered under section 43(1)(c.1) and costs ordered or awarded under section 40(4), 43(2) or 50(5) are a debt due to the Council and may be recovered by the Council in an action in debt.

Residential Tenancies Act

Amends RSA
1980 cR-15.3

5(1) The *Residential Tenancies Act* is amended by this section.

(2) Section 16.1 is amended by adding the following after subsection (2):

(2.1) When

- (a) the Banff Housing Corporation is the landlord under a residential tenancy agreement,
- (b) the tenant under that agreement is a person other than the Crown, and
- (c) that agreement has a fixed term of 25 or more years,

the only grounds on which the Banff Housing Corporation may refuse to give its consent to an assignment or sublease are those set out in the regulations.

(3) Section 51 is amended by adding the following after clause (d):

- (e) setting out the grounds on which the Banff Housing Corporation may refuse to give its consent to the assignment or sublease of a residential tenancy agreement described in section 16.1(2.1).

(4) This section comes into force on Proclamation.

Residential Tenancies Act

5(1) Amends chapter R-15.3 of the Revised Statutes of Alberta 1980.

(2) Section 16.1 presently reads:

16.1(1) No assignment or sublease of a tenancy by a tenant is valid without the written consent of the landlord.

(2) A landlord shall not refuse consent to an assignment or sublease unless there are reasonable grounds for the refusal.

(3) If a landlord does not respond to a request for a consent within 14 days after receiving the request, the landlord is deemed to have given consent.

(4) A landlord who refuses to give consent shall provide the tenant who requested consent with written reasons for the refusal.

(5) A landlord shall not charge for giving consent to an assignment or sublease.

(3) Section 51 presently reads:

51 The Lieutenant Governor in Council may make regulations

(a) governing the practice and procedures in matters before the Provincial Court under this Act;

(b) respecting the rate of interest under section 38(1);

(c) prescribing that any class of residential premises is exempt from the application of this Act;

(d) defining any word that is not defined in this Act for the purposes of this Act and the regulations.

(4) Coming into force.