

2000 BILL 16

Fourth Session, 24th Legislature, 49 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

**CONDOMINIUM PROPERTY
AMENDMENT ACT, 2000**

MRS. LAING

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 16
Mrs. Laing

BILL 16

2000

CONDOMINIUM PROPERTY AMENDMENT ACT, 2000

(Assented to _____, 2000)

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

Amends SA
1996 c12

**1 The *Condominium Property Amendment Act, 1996* is
amended by this Act.**

2 Section 2(a) is amended

**(a) by repealing subclause (i) and substituting the
following:**

**(i) by repealing clause (a) and substituting the
following:**

(a) "architect" means

(i) a registered architect, visiting project
architect or architects corporation, or

(ii) a joint firm or an architects and engineers
firm,

as defined in the *Architects Act*;

(a.01) "bare land unit" means a unit defined in clause
(v)(ii);

**(i.1) in clause (e) by striking out "a plan of redivision
registered under section 15" and substituting "any
amendment to a condominium plan referred to in
section 14.1 or 15, any plan or condominium plan,
as the case may be, relating to development in**

Explanatory Notes

1 Amends chapter 12 of the Statutes of Alberta, 1996.

2 Section 2(a)(i) presently reads:

2 *Section 1 is amended*

(a) *in subsection (1)*

(i) *by repealing clause (h) and substituting the following:*

(h) *“developer” means a person who, alone or in conjunction with other persons, sells or offers for sale to the public units or proposed units that have not previously been sold to the public by means of an arm’s length transaction;*

phases referred to in section 14.2 or any plan or condominium plan, as the case may be, relating to redivision referred to in section 15 that is registered in the land titles office”;

(i.2) by repealing clause (h) and substituting the following:

(h) “developer” means a person who, alone or in conjunction with other persons, sells or offers for sale to the public units or proposed units that have not previously been sold to the public by means of an arm’s length transaction;

(h.1) “engineer” means

(i) a professional engineer registered or licensed under the *Engineering, Geological and Geophysical Professions Act*, or

(ii) a holder of a permit issued under the *Engineering, Geological and Geophysical Professions Act*, if that holder is authorized to engage in the practice of engineering;

(h.2) “land surveyor” means an Alberta land surveyor registered, or the holder of a permit issued, under the *Land Surveyors Act*;

(b) by adding the following after subclause (v):

(v.1) by adding the following after clause (m):

(m.1) “ordinary resolution” means a resolution

(i) passed at a properly convened meeting of a corporation by a majority of all the persons present or represented by proxy at the meeting entitled to exercise the powers of voting conferred by this Act or the by-laws, or

(ii) signed by a majority of all the persons who, at a properly convened meeting of a corporation, would be entitled to exercise the powers of voting conferred by this Act or the by-laws and representing more than 50% of the total unit factors for all the units;

3 Section 3 is repealed.

4 Section 6 is repealed and the following is substituted:

6 Section 8 is amended

(a) in subsection (1)(a)

(i) by striking out “registered, or a holder of a permit issued, under the *Land Surveyors Act*”;

(ii) by striking out “and” at the end of subclause (i) and by adding the following after subclause (i):

(i.1) that there are not any projections from other property infringing on the external boundaries of the parcel, or if there are projections from other property infringing on the external boundaries of the parcel, that an appropriate easement exists in respect of the parcel for those projections, and

(iii) in subclause (ii) by striking out “eaves or guttering” **and substituting** “any projections”;

3 Section 3 presently reads:

3 Section 5 is amended by renumbering it as section 5(1) and by adding the following after subsection (1):

(2) Where payment is made to the holder of the interest referred to in subsection (1) of an amount that is sufficient to discharge the owner's proportion of the liability with respect to that interest that relates to the owner's unit and the owner's share in the common property, the holder of the interest shall, on the demand of the owner, provide to the owner a discharge of the interest from the owner's unit and the owner's share in the common property.

(3) The rights of an owner under subsection (2) do not apply to

(a) a developer, or

(b) any person who acquired a unit from a developer in a transaction that was not at arm's length.

4 Section 6 of the Condominium Property Amendment Act, 1996 presently reads:

6 Section 8 is amended

(a) in subsection (1)(a)

(i) by striking out "and" at the end of subclause (i) and by adding the following after subclause (i):

(i.1) that there are not any projections from other property infringing on the external boundaries of the parcel, or if there are projections from other property infringing on the external boundaries of the parcel, that an appropriate easement exists in respect of the parcel for those projections, and

(ii) in subclause (ii) by striking out "eaves or guttering" and substituting "any projections";

(b) in subsection (1) by repealing clause (b) and substituting the following:

(b) where there is a building shown on the plan that is to contain units,

(b) in subsection (1) by repealing clause (b) and substituting the following:

- (b) where there is a building shown on the plan that is to contain units,
 - (i) a certificate of an architect, an engineer or a land surveyor stating, with respect to that building,
 - (A) that the units shown in the plan are the same as those existing, and
 - (B) whether there are any post tensioned cables located anywhere on or within that building or the property on which that building is located,

and

- (ii) a certificate of the municipal authority or of a person designated by the municipal authority stating that the proposed division of the building, as illustrated in the plan, has been approved by the municipal authority.

(c) in subsection (2) by striking out “local authority” and substituting “municipal authority”.

- (i) a certificate of
 - (A) a registered architect, visiting project architect, architects corporation or joint firm under the Architects Act,
 - (B) an Alberta land surveyor registered, or a holder of a permit issued, under the Land Surveyors Act,
 - (C) a professional engineer registered or licensed under the Engineering, Geological and Geophysical Professions Act, or
 - (D) a holder of a permit issued under the Engineering, Geological and Geophysical Professions Act, if that holder is authorized to engage in the practice of engineering,stating, with respect to that building,
 - (E) that the units shown in the plan are the same as those existing, and
 - (F) whether there are any post tensioned cables located anywhere on or within that building or the property on which that building is located,

and

- (ii) a certificate of the municipal authority or of a person designated by the municipal authority stating that the proposed division of the building, as illustrated in the plan, has been approved by the municipal authority.

- (c) in subsection (2) by striking out “local authority” and substituting “municipal authority”.

Section 8 of the Condominium Property Act presently reads:

8(1) Every plan presented for registration as a condominium plan shall be endorsed with or accompanied by

- (a) a certificate of a land surveyor registered, or a holder of a permit issued, under the Land Surveyors Act stating
 - (i) that the boundaries of the parcel have been established or re-established in accordance with the Surveys Act, and
 - (ii) where there is a building shown on the plan, that the building is within the external surface boundaries of the parcel that is the subject of the plan and, if eaves or guttering project

beyond those external boundaries, that an appropriate easement has been granted as an appurtenance to the parcel,

and

(b) where there is a building shown on the plan that is to contain units,

(i) a certificate of

(A) a registered architect, visiting project architect, architects corporation or joint firm under the Architects Act,

(B) an Alberta land surveyor registered, or a holder of a permit issued, under the Land Surveyors Act,

(C) a professional engineer registered or licensed under the Engineering, Geological and Geophysical Professions Act, or

(D) a holder of a permit issued under the Engineering, Geological and Geophysical Professions Act, if that holder is authorized to engage in the practice of engineering,

stating that the units shown in the plan are the same as those existing,

and

(ii) a certificate of the local authority or of a person designated by the local authority stating that the proposed division of the building, as illustrated in the plan, has been approved by the local authority.

(2) If an application is made for a certificate under subsection (1)(b)(ii), the local authority

(a) may, with respect to a building that was constructed prior to August 1, 1966 or for which the building permit was issued prior to August 1, 1966, prohibit the issue of the certificate if it considers it proper to do so, and

(b) shall, with respect to a building for which a building permit was issued on or after August 1, 1966, direct the issue of the certificate if it is satisfied that the building conformed to

(i) the development scheme, development control by-law, zoning by-law or land use by-law, as the case may be, and

(ii) any permit issued under that scheme or by-law,

5 Section 10 is repealed and the following is substituted:

10 Section 11 is repealed and the following is substituted:

Payments held
in trust

11(1) For the purposes of this section,

- (a) “common property” includes facilities and property that are intended for common use by the owners notwithstanding that the facilities or property may be located in or comprise a unit or any part of a unit;
- (b) “cost consultant” means a person who meets the requirements of the regulations to be a cost consultant or is otherwise designated as a cost consultant pursuant to the regulations;
- (c) “developer” includes any person who, on behalf of a developer, acts in respect of the sale of a unit or a proposed unit or receives money paid by or on behalf of a purchaser of a unit or a proposed unit pursuant to a purchase agreement;
- (d) “financial institution” means a bank, treasury branch, credit union or trust corporation;
- (e) “substantially completed” means, subject to the regulations,
 - (i) in the case of a unit, when the unit is ready for its intended use, and
 - (ii) in the case of related common property, when the related common property is ready for its intended use.

(2) A reference in this section to “related common property” is, in relation to a unit, a reference to the following:

- (a) the common property or a portion of the common property that is necessarily incidental to the completion of the unit;
- (b) the common property or a portion of the common property that is necessarily incidental to the intended use of the unit;

that existed at the time the building permit was issued.

5 Section 10 of the Condominium Property Amendment Act, 1996 amended section 11 of the Condominium Property Act. Section 11 of the Condominium Property Act is now being repealed and replaced instead of being amended. Section 11 of the Condominium Property Act presently reads:

11(1) A developer or a person acting on his behalf shall hold in trust all the money paid by a purchaser under a purchase agreement, other than rents, security deposits or mortgage advances, and

(a) if the improvements that the developer is obligated to provide to the residential unit and the common property are substantially completed, that money may be paid to the developer on delivery of the title document to the purchaser, or

(b) if the improvements that the developer is obligated to provide to the residential unit are substantially completed but the improvements that the developer is obligated to provide to the common property are not substantially completed,

(i) not more than 50% of that money less the interest earned on it may be paid to the developer on delivery of the title document to the purchaser, and

(ii) on the improvements that the developer is obligated to provide to the common property being substantially completed, the balance of that money and all the interest earned on the total amount held in trust in respect of that purchase agreement may be paid to the developer.

(2) The developer or a person acting on his behalf who receives money that is to be held in trust under subsection (1) shall forthwith deposit the money into an interest bearing trust account maintained in a bank, treasury branch, loan corporation, trust corporation or credit union in Alberta.

(3) Money deposited under subsection (2) shall be kept on deposit in Alberta.

(4) If money is being held in trust under subsection (1) and the purchaser of the residential unit takes possession of or occupies the unit prior to receiving the title document, the interest earned on that money from the day the purchaser takes possession or occupies the unit to the day he receives the title document shall be applied against the purchase price of the unit.

(5) Subject to subsection (4), the developer is entitled to the interest earned on money held in trust under this section.

- (c) in the case of a unit other than a bare land unit, the common property or a portion of the common property consisting of
 - (i) utilities required to service the unit and the common property,
 - (ii) a facility providing for reasonable access to or entrance into the unit,
 - (iii) a facility providing for reasonable access to highways, municipal roads or streets,
 - (iv) waste removal facilities or other facilities for handling waste, and
 - (v) any other improvements or areas
 - (A) designated by the regulations, or
 - (B) required under any other Act or regulations,that are necessarily incidental to the intended use of the unit;
- (d) in the case of a unit other than a bare land unit, in addition to the common property referred to in clauses (a) to (c), any common property or any portion of the common property that has been represented in the purchase agreement by the developer as being or as going to be available for the use of the owner of the unit and, without limiting the generality of the foregoing, may include any one or more of the following:
 - (i) roadways, parking areas and walkways;
 - (ii) fences or similar structures;
 - (iii) landscaped areas and site lighting;
- (e) in the case of a bare land unit, the common property or a portion of the common property consisting of
 - (i) a facility providing for reasonable access to or entrance into the unit,
 - (ii) a facility providing for reasonable access to highways, municipal roads or streets, and

(6) For the purpose of this section, improvements to the residential unit or the common property, as the case may be, are deemed to be substantially completed when the improvements are ready for use or are being used for the purpose intended.

(7) This section does not apply in respect of money paid to a developer, or to a person acting on behalf of a developer, under a purchase agreement if that money is held under the provisions of a plan, agreement, scheme or arrangement approved by the Minister that provides for the receipt, handling and disbursing of all or a portion of that money or indemnifies against loss of all or a portion of that money or both.

(iii) any other improvements or areas

(A) designated by the regulations, or

(B) required under any other Act or regulations,

that are necessarily incidental to the intended use of the unit;

(f) in the case of a bare land unit, in addition to the common property referred to in clauses (a), (b) and (e), any common property or any portion of the common property that has been represented in the purchase agreement by the developer as being or as going to be available for the use of the owner of the unit and, without limiting the generality of the foregoing, may include one or more of the following:

(i) utilities required to service the unit and the common property;

(ii) roadways, parking areas and walkways;

(iii) fences or similar structures;

(iv) landscaped areas and site lighting;

(v) waste removal facilities or other facilities for handling waste.

(3) A developer shall hold in trust all money, other than rents or security deposits, paid by the purchaser of a unit up to the time that the certificate of title to the unit is issued in the name of the purchaser in accordance with the purchase agreement.

(4) Notwithstanding subsection (3), if a unit is not substantially completed, the developer shall hold in trust money, other than rents or security deposits, paid by the purchaser of the unit so that the amount of money held in trust will be sufficient, when combined with the unpaid portion of the purchase price of the unit, if any, to pay for the cost of substantially completing the construction of the unit as determined by a cost consultant.

(5) Notwithstanding subsection (3), if the related common property is not substantially completed, the developer shall hold in trust money, other than rents or security deposits,

paid by the purchaser of the unit so that the amount of money held in trust will be sufficient, when combined with the unpaid portion of the purchase price of the unit, if any, to pay for the proportionate cost of substantially completing the construction of the related common property as determined by a cost consultant based on the unit factors of the units sharing the same related common property.

(6) The developer who receives money that is to be held in trust under this section shall forthwith deposit the money into an interest-bearing trust account maintained in a financial institution in Alberta.

(7) Money deposited under subsection (6) is to be kept on deposit in Alberta.

(8) If money is being held in trust under this section and the purchaser of the unit takes possession of or occupies the unit prior to the certificate of title being issued in the name of the purchaser, the interest earned on that money from the day that the purchaser takes possession or occupies the unit to the day that the certificate of title is issued in the name of the purchaser is to be applied against the purchase price of the unit.

(9) Subject to subsection (8), the developer is entitled to the interest earned on money held in trust under this section.

(10) Subject to subsection (11), this section does not apply in respect of money paid to a developer under a purchase agreement if that money is held, secured or otherwise dealt with under the provisions of a plan, agreement, scheme or arrangement approved by the Minister that provides for the receipt, handling and disbursing of all or a portion of that money or indemnifies against loss of all or a portion of that money or both.

(11) Where

- (a) money is to be held, secured or otherwise dealt with under the provisions of a plan, agreement, scheme or arrangement referred to in subsection (10), and
- (b) an amount of that money that is to be held, secured or otherwise dealt with exceeds the limits of the protection against loss provided for under the plan, agreement, scheme or arrangement,

that amount that exceeds the limits of the protection against loss under the plan, agreement, scheme or arrangement is to be held in trust under this section.

(12) Notwithstanding subsections (3) to (11),

- (a) where in relation to a unit or related common property, or both, a developer is required to provide security under another enactment for the purposes of completing construction, and
- (b) that construction referred to in clause (a) is the same or substantially the same construction with respect to a unit or related common property in respect of which money is to be held in trust under this section,

the developer may, subject to the regulations, reduce the amount of money to be held in trust under this section by the amount of the security provided under the enactment referred to in clause (a).

(13) Where, with respect to a unit or related common property, or both,

- (a) money is held in trust under this section or held, secured or otherwise dealt with pursuant to the provisions of a plan, agreement, scheme or arrangement approved under subsection (10), and
- (b) the developer has not met the requirements under which that money is to be paid out of the trust or otherwise disbursed,

the corporation or an interested party may apply to the Court for an order for that money to be paid out

- (c) for the purposes of substantially completing the unit or related common property, as the case may be, or
- (d) to be used as directed by the Court.

(14) On hearing an application under subsection (13), the Court may do one or more of the following:

- (a) give directions as to to whom the money is to be paid;

- (b) give directions as to how the money is to be used for the purposes of substantially completing the unit or related common property, or both, as the case may be;
- (c) give directions as to how the money is to be used or otherwise disposed of if it is not to be used for the purposes referred to in clause (b);
- (d) appoint an administrator, a receiver or a receiver and manager for the purposes of carrying out any matters dealt with pursuant to the application;
- (e) give any other directions, not referred to in clauses (a) to (d), that the Court considers appropriate in the circumstances;
- (f) award costs.

(15) Once the unit or the related common property, or both, as the case may be, in respect of which money is being held in trust under this section are, as determined by a cost consultant, substantially completed, any money remaining in trust may be paid to the developer.

6 Section 12 is repealed and the following is substituted:

12 The following is added after section 14:

Amendment of Condominium Plans

Amendments

14.1 Notwithstanding anything in this Act, a condominium plan may, in accordance with the regulations, be amended.

Phased Development

Development of units in phases

14.2 Notwithstanding anything in this Act,

- (a) any building or land that is subject to a condominium plan or a proposed condominium plan may, in accordance with the regulations, be developed in phases, and
- (b) in the process of carrying out the development of a building or land in phases, additional units and additional common property may, in accordance with the regulations, be created.

6 Section 12 presently reads:

12 The following is added after section 14:

Phased Development

14.1 In accordance with the regulations, any building or land that is subject to a condominium plan or a proposed condominium plan may be developed in phases.

7 Section 20 is repealed and the following is substituted:

20 Section 21 is amended

(a) by repealing subsection (2) and substituting the following:

(2) When an owner's interest is subject to a registered mortgage, a power of voting conferred on the owner by this Act or the by-laws may be exercised as follows:

- (a) first, by the mortgagee, if any, that is first entitled in priority if that mortgagee has notified the corporation of the mortgage in writing and is present at the meeting at which the vote is being conducted;
- (b) second, by the owner;
- (c) third and subsequently, in order of their priority among themselves, by any other mortgagees who are subsequent in priority to the mortgagee referred to in clause (a) if the subsequent mortgagee wishing to exercise the power of voting has notified the corporation of the mortgage in writing and is present at the meeting at which the vote is conducted.

(b) in subsection (3) by adding "at the corporation's address for service" after "to the corporation";

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

(5) Notwithstanding anything in this section, neither an owner nor a mortgagee is entitled to exercise the power of voting conferred on the owner by this Act or the regulations where

- (a) any contribution payable in respect of the owner's unit, or
- (b) any other obligation owing to the corporation in respect of the owner's unit or the common property,

7 Section 20 of the Condominium Property Amendment Act, 1996 presently reads:

20 Section 21 is amended

(a) in subsection (2)

(i) in clause (a) by striking out “unanimous” and substituting “special”;

(ii) by repealing clause (b) and substituting the following:

(b) in other cases, is exercisable

(i) by the registered mortgagee first entitled in priority, or

(ii) if neither the registered mortgagee first entitled in priority nor the owner exercises the power of voting, by the subsequent registered mortgagees in order of their priority as among themselves,

and may not be exercised by the owner if the mortgagee who is entitled to vote is present personally or by proxy.

(b) in subsection (3) by adding “at the corporation’s address for service” after “to the corporation”;

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

(5) Notwithstanding anything in this section, unless the board by resolution otherwise consents, neither an owner nor a mortgagee is entitled to exercise the power of voting conferred on the owner by this Act or the regulations where

(a) any contribution payable in respect of the owner’s unit, or

(b) any other obligation owing to the corporation in respect of the owner’s unit or the common property,

is in arrears for more than 30 days prior to the day that the power of voting may be exercised.

Section 21 of the Condominium Property Act presently reads:

is in arrears for more than 30 days prior to the day that the power of voting may be exercised.

(6) Notwithstanding that anything under this Act or the by-laws may require a meeting of the corporation to be convened for the purposes of allowing the owners or other persons permitted under this Act or the by-laws to exercise the power of voting, instead of a meeting being convened for the purpose of exercising the powers of voting,

- (a) in the case of an ordinary resolution, the ordinary resolution may be passed by being signed as described in section 1(1)(m.1), and
- (b) in the case of a special resolution, a special resolution may be passed by being signed as described in section 1(1)(s).

8 Section 30 is amended in the new section 29(1) by repealing clause (a) and substituting the following:

(a) take proceedings under Part 4 of the *Provincial Court Act* to recover from the person

(i) a monetary sanction, or

(ii) damages, in the case of any other sanction,

in an amount not exceeding the amount that may be granted in damages under the *Provincial Court Act*, or

21(1) The voting rights of the owner of a unit are determined by the unit factor for his unit.

(2) When an owner's interest is subject to a registered mortgage, a power of voting conferred on an owner by this Act or the by-laws,

(a) if a unanimous resolution is required, may not be exercised by the owner, but is exercisable by the registered mortgagee first entitled in priority, and

(b) in other cases, is exercisable by the mortgagee first entitled in priority and may not be exercised by the owner if the mortgagee is present personally or by proxy.

(3) Subsection (2) does not apply unless the mortgagee has given written notice of his mortgage to the corporation.

(4) An owner or mortgagee, as the case may be, may exercise his right to vote personally or by proxy.

8 Section 30 of the Condominium Property Amendment Act, 1996 with respect to section 29(1) of the Condominium Property Act presently reads:

30 Section 29 is repealed and the following is substituted:

29(1) If a person fails to comply with a sanction or to pay a monetary sanction imposed pursuant to a by-law, the corporation may, in respect of the contravention,

(a) take proceedings under Part 4 of the Provincial Court Act to recover from the person

(i) a monetary sanction of not more than \$4000, or

(ii) damages of not more than \$4000, in the case of any other sanction,

or

(b) take proceedings in the Court of Queen's Bench to recover from the person

(i) a monetary sanction of not more than \$10 000, or

(ii) damages of not more than \$10 000, in the case of any other sanction.

9 Section 33(c) is repealed and the following is substituted:

(c) by adding the following after subsection (1):

(2) Notwithstanding subsection (1), the rate of interest charged under subsection (1) is not to be greater than the rate of interest provided for by regulation.

10 Section 38(a) is repealed and the following is substituted:

(a) in subsection (1)(a), (a.1) and (b) by striking out “fire and those other perils specified in the by-laws” **and substituting** “any peril prescribed by or otherwise required by the regulations to be insured against”;

(a.1) in subsection (1)(c) by striking out “specified in the Act or the by-laws” **and substituting** “required to be insured against under clause (a), (a.1) and (b)”;

(a.2) by adding the following after subsection (1):

(1.1) Notwithstanding subsection (1)(a.1), a corporation is not required to place and maintain insurance against perils to which the common property is not subject.

(a.3) in subsection (2) by striking out “place insurance” **and substituting** “place and maintain insurance for replacement cost value”;

9 Section 33(c) presently reads:

33 Section 32 is amended

(c) by adding the following after subsection (1):

(2) Notwithstanding subsection (1), the rate of interest charged under subsection (1) shall not be greater than the rate of interest that may be charged pursuant to the Judgment Interest Act in an action for payment of a debt.

10 Section 38(a) of the Condominium Property Amendment Act, 1996 presently reads:

38 Section 38 is amended

(a) in subsection (1)(a), (a.1) and (b) by striking out "fire and those other perils specified in the by-laws" wherever it occurs and substituting "any peril except those excluded by regulation";

Section 38(1) and (2) of the Condominium Property Act presently read:

38(1) A corporation

(a) where a building is divided into units, shall place and maintain insurance on the units, other than improvements made to the units by the owners, and the common property against loss resulting from destruction or damage caused by fire and those other perils specified in the by-laws,

(a.1) where a parcel is divided into bare land units, shall place and maintain insurance on the common property against loss resulting from destruction or damage caused by fire and those other perils specified in the by-laws,

(b) shall, if required to do so by by-law, place and maintain insurance on the improvements made to the units by the owners against loss resulting from destruction or damage caused by fire and those other perils specified in the by-laws, and

(c) may place and maintain insurance on the units and the common property or either of them against additional perils other than those specified in the Act or the by-laws,

and for that purpose the corporation has an insurable interest in the units and the common property.

11 Section 55 is repealed and the following is substituted:

55 Section 73 is amended

(a) by adding the following after clause (b):

- (b.1) with respect to anything that must be contained in or on, attached to or endorsed on a condominium plan or a plan presented for registration as a condominium plan,
 - (i) for the purposes of section 6, prescribing any other information or feature that must be contained in a condominium plan;
 - (ii) providing that additional pages or material attached or otherwise annexed to the condominium plan form part of the condominium plan;
 - (iii) providing for alternate methods or an alternate manner by which a condominium plan may contain information or material or be endorsed;
 - (iv) respecting information or any other material to be included in a condominium plan with respect to the amendment of a condominium plan, the development in phases of units and common property or the modification of a condominium plan;
- (b.2) for the purposes of section 11,
 - (i) providing for and governing the requirements for and the designation of persons as cost consultants;
 - (ii) respecting the determination as to what common property constitutes related common property;

(2) In complying with subsection (1), the corporation must place insurance that provides that if

(a) the insured property is destroyed or damaged, and

(b) that property is replaced or repaired,

no deduction shall be made from the settlement for depreciation to the property.

11 Section 55 of the Condominium Property Amendment Act, 1996 amends section 73 of the Condominium Property Act, which provides for the making of regulations.

- (iii) respecting the determination as to when a unit or related common property is substantially completed;
 - (iv) designating improvements or areas as related common property;
 - (v) respecting when a unit or related common property is substantially completed;
 - (vi) governing the reduction pursuant to section 11(12) of the amount of money to be held in trust;
 - (vii) governing the criteria to be met in order for a plan, agreement, scheme or arrangement to be approved under section 11(10);
 - (viii) governing when a plan, agreement, scheme or arrangement or coverage under a plan, agreement, scheme or arrangement commences to apply in respect of a unit;
- (b.3) governing amendments to condominium plans;
 - (b.4) governing the modification of a condominium plan under section 15(1.1);
 - (b.5) for the purposes of section 32, providing for the maximum rate of interest to be charged;
 - (b.6) for the purposes of section 38, prescribing the perils that must be insured against;
 - (b.7) subject to sections 51 to 54, governing the termination of condominium status of real property;
 - (b.8) subject to section 55, governing the dissolution and winding-up of a corporation;
 - (b.9) providing for and governing the amalgamation of adjacent parcels;
 - (b.91) governing the development of units and common property in phases under a condominium plan, including, in respect of a development in phases, the creation of additional units and common property;

- (b.92) governing the cancellation or the non-completion of a development of units and common property in phases under a condominium plan;
- (b.93) in the case of the amalgamation of adjacent parcels, the development of units and common property in phases or the cancellation or non-completion of a development of units and common property in phases, providing for and governing
 - (i) the assignment of or the re-apportionment of unit factors to or among the units;
 - (ii) the amalgamation of corporations arising out of the amalgamation of adjacent parcels;
 - (iii) any other matter not referred to in subclauses (i) and (ii) that is necessary or expedient so that the parcels, corporations, units and common property or any one or more of them are able to function and to be administered under this Act;
- (b.94) governing the requirements to be met by developers;
- (b.95) governing capital replacement reserve funds maintained by corporations;
- (b.96) governing the preparation and distribution of financial statements and annual budgets under section 25(3);

(b) by adding the following after clause (d):

- (d.1) authorizing an association or organization that in the opinion of the Minister represents the interests of owners, corporations, developers, managers of corporations and persons other than owners who have interests in units
 - (i) to establish and enforce standards of conduct for corporations, managers and developers with respect to matters that come under this Act;
 - (ii) to provide for mediation, conciliation, arbitration or similar techniques to encourage settlement of

disputes arising in respect of units, common property, management of units, of common property or of corporations, the sale or rental of units or any other matter coming under this Act;

(iii) to carry out functions or duties under this Act that are delegated to the association or organization by the Minister;

(d.2) authorizing the Minister to delegate to an association or organization referred to in clause (d.1) the carrying out of any function or duty under this Act;

12 Section 61 is repealed and the following is substituted:

Transitional

61(1) In this section,

- (a) “amended Act” means the *Condominium Property Act* as amended by this Act;
- (b) “previous Act” means the *Condominium Property Act* as it read immediately before it was amended by this Act.

(2) Where a purchaser enters into a purchase agreement, as defined in the previous Act, before the coming into force of the amended Act, section 11 of the previous Act applies in respect of that purchase agreement in the same manner as if that section had not been repealed by section 10 of this Act and replaced by section 11 as enacted by section 10 of this Act.

(3) If an action is commenced under section 29 of the previous Act and is not concluded before the coming into force of this Act, the previous Act continues to apply to that action as if that section had not been repealed by section 30 of this Act and replaced by section 29 as enacted by section 30 of this Act.

(4) Where under the amended Act a special resolution is required in respect of a matter for which a unanimous resolution was required under the previous Act, the amended Act applies and that matter is to be dealt with by means of a special resolution.

12 Section 61 presently reads:

61(1) In this section,

(a) "amended Act" means the Condominium Property Act as amended by this Act;

(b) "previous Act" means the Condominium Property Act as it read immediately before it was amended by this Act.

(2) If an action is commenced under section 29 of the previous Act and is not concluded before the coming into force of section 31 of this Act, the previous Act continues to apply to that action as if section 31 of this Act had not come into force.

(3) Where

(a) under the amended Act a special resolution is required in respect of a matter for which a unanimous resolution was required under the previous Act, and

(b) a corporation wishes to continue to require a unanimous resolution under the amended Act in respect of a matter for which a unanimous resolution was required under the previous Act,

the corporation may before January 1, 1998 enact by special resolution a by-law requiring that a unanimous resolution continue to be required under the amended Act in respect of that matter.

(4) Until a by-law is enacted under subsection (3) the amended Act applies and a matter that under the previous Act required a unanimous resolution may be dealt with by means of a special resolution.

13 Section 65 is repealed and the following is substituted:

65 This Act comes into force on September 1, 2000.

13 Section 65 presently reads:

65 This Act comes into force on Proclamation.