

*Bill 56*  
*Dr. Brown*

## **BILL 56**

2005

### **BUSINESS CORPORATIONS AMENDMENT ACT, 2005 (NO. 2)**

*(Assented to* , 2005)

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

#### **Amends RSA 2000 cB-9**

**1 The *Business Corporations Act* is amended by this Act.**

#### **2 Section 15.2 is amended**

**(a) by renumbering it as section 15.2(1);**

**(b) by adding the following after subsection (1):**

**(2)** Notwithstanding subsection (1), but subject to any immunity from liability otherwise available on pleading the *Limitations Act* as a defence, a former shareholder of an unlimited liability corporation is not liable for any liability, act or default of the unlimited liability corporation unless an action to enforce a claim arising out of that liability, act or default is brought within 2 years from the date on which the former shareholder last ceased to be a shareholder of the unlimited liability corporation.

**(3)** A former shareholder of an unlimited liability corporation is not liable for any liability, act or default of the unlimited liability corporation that did not exist on or prior to the date on which the former shareholder last ceased to be a shareholder of the unlimited liability corporation.

**3 Section 15.7(b) is amended by striking out** “including a past shareholder” **and substituting** “including a former shareholder who last ceased to be a shareholder within 2 years prior to the date of dissolution”.

**4 Section 136 is amended**

**(a) in subsection (1)**

**(i) by striking out** “A registered shareholder or beneficial owner of shares entitled to vote at an annual meeting of shareholders” **and substituting** “A registered holder of shares entitled to vote at an annual meeting of shareholders, or a beneficial owner of shares,”;

**(ii) in clauses (a) and (b) by striking out** “registered shareholder” **and substituting** “registered holder”;

**(b) by repealing subsection (4) and substituting the following:**

**(4)** A proposal may include nominations for the election of directors if the proposal is signed by one or more registered holders of shares representing in the aggregate not less than 5% of the shares or 5% of the shares of a class of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, or by beneficial owners of shares representing in the aggregate the same percentage of shares, but this subsection does not preclude nominations made at a meeting of shareholders.

**5 Section 140(4) is amended by striking out** “the telephone corporation” **and substituting** “the corporation”.

**6 Section 142(1) is amended by adding** “, but the beneficial owners of shares do not hereby acquire the direct right to vote at the meeting that is the subject of the requisition” **after** “in the requisition”.

## **7 Section 191 is amended**

**(a) in subsection (1) by adding the following after clause (b):**

(b.1) amend its articles under section 173 to add or remove an express statement establishing the unlimited liability of shareholders as set out in section 15.2(1),

**(b) in subsection (6) by adding “, or to fix the time at which a shareholder of an unlimited liability corporation who dissents under this section ceases to become liable for any new liability, act or default of the unlimited liability corporation” after “under this section”;**

**(c) in subsection (13) by striking out “and” at the end of clause (b), adding “and” at the end of clause (c) and adding the following after clause (c):**

(d) fixing the time at which a dissenting shareholder of an unlimited liability corporation ceases to become liable for any new liability, act or default of the unlimited liability corporation.

### **Explanatory Notes**

**1** Amends chapter B-9 of the Revised Statutes of Alberta 2000.

**2** Section 15.2 presently reads:

*15.2 The liability of each of the shareholders of a corporation incorporated under this Act as an unlimited liability corporation for any liability, act or default of the unlimited liability corporation is unlimited in extent and joint and several in nature.*

**3** Section 15.7 presently reads:

*15.7 Section 227 applies to a body corporate that before its dissolution was an unlimited liability corporation, and in addition*

- (a) *the liability of the shareholders for obligations of the unlimited liability corporation arising from actions and proceedings commenced by or against it before its dissolution or within 2 years after its dissolution is unlimited, and*
- (b) *any shareholder, including a past shareholder, may be held responsible for the full amount of any claim against the unlimited liability corporation that originated before dissolution, regardless of the amount, if any, received by the shareholder on the distribution of the corporation's property at dissolution.*

**4** Section 136(1) and (4) presently read:

*136(1) A registered shareholder or beneficial owner of shares entitled to vote at an annual meeting of shareholders may*

- (a) *submit to the corporation notice of any matter related to the business or affairs of the corporation that the registered shareholder or beneficial owner of shares proposes to raise at the meeting, referred to in this section as a "proposal", and*
- (b) *discuss at the meeting any matter in respect of which the registered shareholder or beneficial owner of shares would have been entitled to submit a proposal.*

*(1.1) To be eligible to make a proposal a person must*

- (a) *be a registered holder or beneficial owner of the prescribed number of shares for the prescribed period,*
- (b) *have the prescribed level of support of other registered holders or beneficial owners of shares,*
- (c) *provide to the corporation his or her name and address and the names and addresses of those registered holders or beneficial owners of shares who support the proposal, and*

(d) *continue to hold or own the prescribed number of shares up to and including the day of the meeting at which the proposal is to be made.*

(4) *A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5% of the shares or 5% of the shares of a class of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations made at a meeting of shareholders.*

**5** Section 140(4) presently reads:

*(4) Notwithstanding subsection (1), unless the bylaws provide otherwise, any vote referred to in subsection (1) may be held, in accordance with the regulations, if any, entirely by electronic means, telephone or other communication facility, if the telephone corporation makes such a communication facility available.*

**6** Section 142(1) presently reads:

*142(1) The registered holders or beneficial owners of not less than 5% of the issued shares of a corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition.*

**7** Section 191 presently reads in part:

*191(1) Subject to sections 192 and 242, a holder of shares of any class of a corporation may dissent if the corporation resolves to*

(a) *amend its articles under section 173 or 174 to add, change or remove any provisions restricting or constraining the issue or transfer of shares of that class,*

(b) *amend its articles under section 173 to add, change or remove any restrictions on the business or businesses that the corporation may carry on,*

- (c) amalgamate with another corporation, otherwise than under section 184 or 187,*
- (d) be continued under the laws of another jurisdiction under section 189, or*
- (e) sell, lease or exchange all or substantially all its property under section 190.*

*(6) An application may be made to the Court by originating notice after the adoption of a resolution referred to in subsection (1) or (2),*

- (a) by the corporation, or*
- (b) by a shareholder if the shareholder has sent an objection to the corporation under subsection (5),*

*to fix the fair value in accordance with subsection (3) of the shares of a shareholder who dissents under this section.*

*(13) On an application under subsection (6), the Court shall make an order*

- (a) fixing the fair value of the shares in accordance with subsection (3) of all dissenting shareholders who are parties to the application,*
- (b) giving judgment in that amount against the corporation and in favour of each of those dissenting shareholders, and*
- (c) fixing the time within which the corporation must pay that amount to a shareholder.*