

2024 Bill 30

---

First Session, 31st Legislature, 3 Charles III

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 30**

## **SERVICE ALBERTA STATUTES AMENDMENT ACT, 2024**

---

---

THE MINISTER OF SERVICE ALBERTA AND RED TAPE REDUCTION

---

---

First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

---

---

## BILL 30

2024

### SERVICE ALBERTA STATUTES AMENDMENT ACT, 2024

(Assented to \_\_\_\_\_, 2024)

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

#### Condominium Property Act

Amends RSA 2000 cC-22

**1(1) The *Condominium Property Act* is amended by this section.**

**(2) The following heading is added before section 1:**

#### Interpretation and Application

**(3) Section 1(1) is amended**

**(a) by repealing clause (j.1) and substituting the following:**

(j.1) “Director” means the individual appointed by the  
Minister as the Director under section 78.001;

**(b) in clause (r)(i) by striking out “all the persons present or  
represented by proxy at the meeting” and substituting “the  
votes cast by persons”;**

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

(v.2) “Registrar” means the Registrar of Titles appointed  
under the *Land Titles Act*;

## Explanatory Notes

### Condominium Property Act

1(1) Amends chapter C-22 of the Revised Statutes of Alberta 2000.

(2) Adds heading.

(3) Section 1(1) presently reads in part:

*1(1) In this Act,*

*(j.1) “Director” means an individual designated by the Minister as the Director for the purposes of this Act and the regulations;*

*(r) “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 bylaws, or*

*(x) “special resolution” means a resolution*

**(d) in clause (x)(i) and (ii) by striking out “of all the” and substituting “of the votes cast by”;**

**(e) by adding the following after clause (x):**

(x.1) “Tribunal” means the Condominium Dispute Resolution Tribunal established under section 68.2;

**(f) in clause (z) by striking out “or 20(6)” and substituting “, 20(6) or 26(1.3)”.**

**(4) The following heading is added before section 3:**

#### **Subdivision and Certificate of Title**

**(5) Section 9 is amended**

**(a) in subsection (2) by striking out “subsection (1)” and substituting “subsection (1) and subject to subsection (2.1)”;**

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

**(2.1) If**

- (a) immediately prior to September 1, 2000, the doors and windows of a unit that are located on exterior walls of the unit were part of the unit,
- (b) by virtue of subsection (2), on September 1, 2000, the doors and windows referred to in clause (a) became part of the common property, and
- (c) the corporation, by a special resolution, amended the condominium plan before September 1, 2002, so that the doors and windows referred to in clause (b) ceased being part of the common property and became part of the unit,

- (i) passed at a properly convened meeting of a corporation by a majority of not less than 75% of all the persons entitled to exercise the powers of voting conferred by this Act or the bylaws and representing not less than 75% of the total unit factors for all the units, or*
  - (ii) agreed to in writing by not less than 75% 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 bylaws and representing not less than 75% of the total unit factors for all the units;*
  - (z) “unit factor” means the unit factor for a unit as specified or apportioned in accordance with section 8(1)(j) or 20(6), as the case may be.*
- (4) Adds heading.

(5) Section 9 presently reads in part:

- (2) Notwithstanding subsection (1),*
  - (a) all doors and windows of a unit that are located on interior walls of the unit are part of the unit unless otherwise stipulated in the condominium plan, and*
  - (b) all doors and windows of a unit that are located on exterior walls of the unit are part of the common property unless otherwise stipulated in the condominium plan.*
- (3) For the purposes of subsection (2), a reference*
  - (a) to a door includes the door, the door frame and the door assembly components, if any, but does not include the door casing, trim or mouldings, and*
  - (b) to a window includes the glazing, the window frame and the window assembly components, if any, but does not include the window casing, trim or mouldings.*
- (4) Notwithstanding subsections (1) and (2), if a condominium plan was registered prior to January 1, 1979, the common boundary of any unit described in the condominium plan with another unit or*

the doors and windows referred to in clause (b) remain part of the unit.

- (c) **in subsection (3) by striking out** “subsection (2)” **and substituting** “subsections (2) and (2.1)”;
- (d) **in subsection (4) by striking out** “subsections (1) and (2)” **and substituting** “subsections (1), (2) and (2.1)”.

**(6) Section 10.1 is amended**

- (a) **in subsections (1) and (2) by striking out** “at the land titles office” **and substituting** “with the Registrar of Corporations appointed under the *Business Corporations Act*”;
- (b) **in subsection (9)**
  - (i) **by striking out** “appointment or continuance” **and substituting** “appointment, election or continuance”;
  - (ii) **by striking out** “appointed or” **and substituting** “appointed, properly elected or”.

**(7) The following is added after section 10.1:**

**Convening of meeting to elect interim board member**

**10.11(1)** A developer shall convene a meeting of the owners within 90 days from the day when the certificates of title to units representing 25% of unit factors have been issued in the name of the purchasers to allow the owners to elect an owner to the interim board.

**(2)** Notwithstanding subsection (1), if the developer does not convene a meeting of the owners within the time determined

*with common property is, unless otherwise stipulated in the condominium plan, the centre of the floor, wall or ceiling, as the case may be.*

(6) Section 10.1 presently reads in part:

*10.1(1) A developer shall, no later than 30 days after registration of a condominium plan, appoint an interim board of directors and file at the land titles office a notice in the prescribed form stating the names and addresses of the members of the interim board.*

*(2) A developer shall, following a change in*

*(a) the membership of the interim board,*

*(b) the name of a member of the interim board, or*

*(c) the address of a member of the interim board,*

*promptly file at the land titles office a notice in the prescribed form stating the change.*

*(9) All acts done in good faith by an interim board are, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the interim board, as valid as if the member had been properly appointed or had properly continued in office.*

(7) Convening of meeting to elect interim board member.

under subsection (1), the owners may convene the meeting themselves after that time.

(3) The owner elected under subsection (1) shall not have the power of voting on anything before the interim board.

(4) If the owner elected under subsection (1) ceases to be a member of the interim board, the developer shall convene a meeting of the owners to elect a new owner within 30 days of the owner ceasing to be a member.

**(8) Section 10.3 is repealed and the following is substituted:**

**Payment of contributions**

**10.3(1)** For the purpose of this section, “substantially completed” means when a unit is ready for use.

(2) Notwithstanding anything to the contrary in a bylaw, a developer must pay contributions at the same rate as other owners for all substantially completed units that the developer owns under a condominium plan once a unit in any building under the same condominium plan is transferred to a purchaser.

**(9) Section 12 is amended**

**(a) by repealing subsection (1)(j) and substituting the following:**

- (j) if the unit is a conversion unit,
  - (i) the building assessment report prepared
    - (A) under the *New Home Buyer Protection Act* or this Act as it read immediately before July 1, 2021, or
    - (B) under this Act as it read immediately before the coming into force of this clause,
  - or
  - (ii) the converted property study prepared under section 21.1 on or after the coming into force of this clause;



(8) Section 10.3 presently reads:

*10.3 Notwithstanding anything to the contrary in a bylaw, where units are located in a building in which one or more units have been transferred to a purchaser, the developer must pay contributions in respect of each unit in the building it owns on the same basis as owners of other units are required to pay contributions.*

(9) Section 12 presently reads in part:

*12(1) A developer shall not sell or agree to sell a unit or a proposed unit unless the developer has delivered to the purchaser a copy of*

*(j) if the unit is a conversion unit,*

*(i) a summary, in the prescribed form, of the deficiencies identified in the building assessment report prepared under section 21.1 or under the New Home Buyer Protection Act, as the case may be, and*

*(ii) the reserve fund report required by the regulations;*

*(3) A purchaser of a unit may, within 10 days of receiving a summary of the deficiencies identified in the building assessment report referred to in subsection (1)(j)(i), request in writing a copy of the building assessment report prepared under section 21.1 or under the New Home Buyer Protection Act, as the case may be, and the developer shall provide a copy of the report to the purchaser within 10 days of receiving the request.*

- (j.1) if the unit is a conversion unit, the reserve fund report required by the regulations;
- (j.2) any technical analysis required under section 21.2;

**(b) by repealing subsection (3).**

**(10) Section 16.1(1) is amended**

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

- (f) in the case of a conversion,
  - (i) any building assessment report prepared
    - (A) under the *New Home Buyer Protection Act* or this Act as it read immediately before July 1, 2021, or
    - (B) under this Act as it read immediately before the coming into force of this clause,

or

- (ii) any converted property study prepared under section 21.1 on or after the coming into force of this clause;

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

- (g.1) any technical analysis required under section 21.2;

**(11) The heading preceding section 20.1 is repealed and the following is substituted:**

**Conversions and Technical Analysis**

**(12) Section 21.1 is repealed and the following is substituted:**

**Preparation of converted property study**

**21.1(1)** Subject to subsection (2), a developer shall, in respect of a conversion, arrange for the preparation of a converted property study by a professional engineer or registered architect for the real and personal property of the corporation, the common property and managed property.

(10) Section 16.1(1) presently reads in part:

*16.1(1) The developer shall, at the meeting of the corporation convened under section 29, provide to the corporation without charge the original or a copy of the following documents:*

- (f) any building assessment report required under the New Home Buyer Protection Act or, in the case of a conversion, required under section 21.1;*

(11) The heading preceding section 20.1 presently reads:

*Conversions*

(12) Section 21.1 presently reads:

*21.1(1) This section applies to a conversion in respect of a building that is not subject to the New Home Buyer Protection Act.*

*(2) A developer shall, in respect of a conversion, arrange for the preparation of a building assessment report by a professional engineer, professional technologist or registered architect for real property of the corporation, the common property and managed property.*

(2) A converted property study referred to in subsection (1) must be prepared in accordance with the regulations.

**Preparation of technical analysis**

**21.2** Where a converted property study under section 21.1 is not required, a technical analysis of the units, the real and personal property of the corporation or the common property shall be prepared in accordance with the regulations.

**(13) Section 25(2)(b) is amended by striking out “or 61”.**

**(14) Section 26(1) is repealed and the following is substituted:**

**Voting rights**

**26(1)** In this section,

- (a) “owner vote” means a vote on the basis of one vote per owner;
- (b) “unit factor vote” means a vote on the basis of the unit factors for an owner’s unit or units.

**(1.1)** Subject to subsections (1.2), (1.3) and (1.4), voting at a general meeting shall be conducted as

- (a) an owner vote or, if provided for in the bylaws, on a basis other than an owner vote, or
- (b) a unit factor vote.

**(1.2)** In the case of an owner vote, where

- (a) a unit is owned by more than one person, each owner is entitled to one vote, and
- (b) a person owns more than one unit, that person is entitled to one vote and may not assign proxies to multiple persons.

*(3) A building assessment report must be prepared in accordance with the regulations.*

(13) Section 25(2)(b) presently reads:

*(2) A corporation consists of all those persons*

*(b) who are entitled to the parcel when the condominium arrangement is terminated pursuant to section 60 or 61.*

(14) Section 26(1) presently reads:

*26(1) The voting rights of the owner of a unit are determined by the unit factor for the owner's unit.*

**(1.3)** In the case of a unit factor vote, where a unit is owned by more than one person,

- (a) each owner represents the portion of the unit factors for the unit equal to the portion of the unit owned by that co-owner, or
- (b) if a co-owner does not attend a general meeting at which the unit factor vote is conducted, that co-owner's unit factors shall not be counted unless the co-owner assigns the co-owner's right to vote by proxy to another person attending the general meeting.

**(1.4)** If, at any time before the results of a vote conducted under subsection (1.1)(a) are announced, a person entitled to vote demands a unit factor vote, the vote conducted under subsection (1.1)(a) shall be nullified and a unit factor vote shall be conducted under subsection (1.1)(b).

**(1.5)** A corporation shall not exercise the power of voting for any unit owned by the corporation except in the case of a special resolution, in which case the corporation's vote shall be cast in accordance with the majority of the other votes cast.

**(15) Section 28 is amended**

**(a) by repealing subsection (5) and substituting the following:**

**(5)** A corporation shall, within 30 days from the conclusion of the corporation's annual general meeting, file with the Registrar of Corporations appointed under the *Business Corporations Act* a notice in the prescribed form stating the names and address or addresses for service of the members of the board.

**(b) in subsection (6)**

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

(c) the address for service of a member of the board,

(15) Section 28 presently reads in part:

*(5) A corporation shall, within 30 days from the conclusion of the corporation's annual general meeting, file at the land titles office a notice in the prescribed form stating the names and addresses of the members of the board.*

*(6) A corporation shall, following a change in*

*(c) the address of a member of the board,*

*promptly file at the land titles office a notice in the prescribed form stating the change.*

- (ii) **by striking out** “at the land titles office” **and substituting** “with the Registrar of Corporations appointed under the *Business Corporations Act*”.

**(16) Section 32(4)(a) and (b) are amended by striking out** “Registrar” **and substituting** “Registrar of Corporations appointed under the *Business Corporations Act*”.

**(17) Section 34.1(2) and (3) are repealed.**

**(18) Section 38.1 is amended by striking out** “section 39(1)(a) or (b)” **and substituting** “section 39(1)(a) or (c)”.

**(19) Section 39 is repealed and the following is substituted:**

**Contributions**

**39(1)** A board may, by resolution, determine from time to time the following to be levied as contributions:

- (a) for the purposes of the operating account and the reserve fund, amounts levied on the owners at regular intervals
  - (i) in proportion to the unit factors of the owners’ respective units, or
  - (ii) subject to the regulations, and if provided for in the bylaws, on a basis other than in proportion to the unit factors of the owners’ respective units;



(16) Section 32(4)(a) and (b) presently read:

*(4) An amendment, repeal or replacement of a bylaw does not take effect until*

*(a) the corporation files a copy of it with the Registrar, and*

*(b) the Registrar has made a memorandum of the filing on the condominium plan.*

(17) Section 34.1(2) and (3) presently read:

*(2) Notwithstanding section 32(3), in order to bring the bylaws in conformity with this Act and the regulations, a corporation, no later than one year after the coming into force of this section, may by ordinary resolution amend any of its bylaws to ensure that its bylaws do not conflict with this Act or the regulations.*

*(3) Subsection (2) does not apply to amending an existing bylaw that is not in conflict with this Act or the regulations nor to adding any new bylaws.*

(18) Updates cross-reference.

(19) Section 39 presently reads:

*39(1) A board may by resolution*

*(a) determine from time to time the amounts to be raised for the purposes of the operating account and the reserve fund and may raise those amounts by levying contributions on the owners at regular intervals*

*(i) in proportion to the unit factors of the owners' respective units, or*

*(ii) subject to the regulations, and if provided for in the bylaws, on a basis other than in proportion to the unit factors of the owners' respective units;*

(b) amounts levied against owners as chargebacks under section 39.01;

(c) a special levy in accordance with section 39.1.

(2) Subject to the regulations, a contribution may include reasonable and relevant administrative costs and legal fees, including expenses and interest, incurred by the corporation.

(3) A contribution shall not include

(a) any amount for the purpose of collecting from an individual owner a monetary sanction under a bylaw made under section 35(1), or

(b) any other prescribed amount.

#### **Chargebacks**

**39.01(1)** Subject to subsections (2) and (3) and the regulations, and if provided for in the bylaws, a chargeback may be levied on an owner to recover the corporation's costs when an act or omission by the owner or an occupant, or a person or persons for whom the owner or occupant is responsible, requires the corporation to repair, replace, maintain or protect any unit, real and personal property of the corporation or common property affected by that act or omission, as the case may be.

(2) The amount of a chargeback levied under subsection (1) may include the actual costs and any reasonable related service costs incurred by the corporation to repair, replace, maintain or protect any affected unit, real and personal property of the corporation or common property.

(3) The amount levied under subsection (1) shall be the lesser of

(a) the amount of the actual costs and reasonable related service costs referred to in subsection (2), and

(b) the deductible limit of the insurance policy held by the corporation, regardless of whether or not an insurance claim is made in respect of the act or omission referred to in subsection (1).

*(b) determine from time to time amounts to be raised by special levy and raise those amounts in accordance with section 39.1.*

*(2) A contribution shall not include any amount for the purpose of collecting from an individual owner*

*(a) a monetary sanction under a bylaw made under section 35(1).*

(4) An owner may dispute a chargeback levied under this section in accordance with the regulations.

**(20) Section 39.1(1) is amended by striking out “section 39(1)(b)” and substituting “section 39(1)(c)”.**

**(21) Section 39.2(1) is repealed and the following is substituted:**

**Payment and enforcement of contributions**

**39.2(1)** A contribution is due and payable on the passing of a resolution by the board under section 39 in accordance with the terms of the resolution of the board.

**(22) Section 42 is repealed and the following is substituted:**

**Recovery of expenses**

**42** Where a corporation takes any steps to collect any amount owing under section 39, the corporation may, if a caveat is registered against the title to the unit, recover from the owner all reasonable and prescribed expenses incurred by the corporation with respect to the preparation, registration, enforcement and discharge of the caveat.

**(23) Section 43.2 is repealed and the following is substituted:**

**Estoppel certificate**

**43.2(1)** On the written request of an owner, purchaser or mortgagee or the solicitor of an owner, purchaser or mortgagee, or a person authorized in writing by an owner, purchaser or mortgagee, the corporation shall, within 10 days after receiving the request, provide a certificate certifying all of the following in respect of all units owned by that owner:

- (a) the amount of any contribution payable by the owner;
- (b) the frequency at which contributions are payable;

(20) Updates cross-reference.

(21) Section 39.2(1) presently reads:

*39.2(1) A contribution levied as provided in section 39(1)(a) is due and payable on the passing of a resolution by the board to that effect and in accordance with the terms of the resolution, and a contribution levied under section 39(1)(b) is due and payable in accordance with a resolution of the board passed under section 39(1).*

(22) Section 42 presently reads:

*42 Where a corporation takes any steps to collect any amount owing under section 39, the corporation may*

- (a) recover from the person against whom the steps were taken all reasonable costs, including legal expenses and interest, incurred by the corporation in collecting the amount owing, and*
- (b) if a caveat is registered against the title to the unit, recover from the owner all reasonable prescribed expenses incurred by the corporation with respect to the preparation, registration, enforcement and discharge of the caveat.*

(23) Section 43.2 presently reads:

*43.2 On the written request of an owner, purchaser or mortgagee or the solicitor of an owner, purchaser or mortgagee, or a person authorized in writing by any of those persons, the corporation shall, within 10 days after receiving the request, certify*

- (a) the amount of any contribution payable by the owner,*
- (b) the frequency at which contributions are payable,*
- (c) the amount of contributions payable that is in arrears, if any, and*

- (c) the amount of contributions payable that is in arrears, if any;
- (d) the amount of interest owing, if any, on any unpaid balance of a contribution;
- (e) any other information required by the regulations.

**(2)** A certificate provided under subsection (1) is conclusive proof of the matters certified in it in favour of the person requesting the certificate in respect of the relevant unit or units as of the date of the certificate.

**(24)** Section 47(5)(b) is amended by striking out “sections 59, 60 and 61” and substituting “sections 59 and 60”.

**(25)** Section 59(1) is amended by striking out “or 61”.

**(26)** Sections 60 to 63 are repealed and the following is substituted:

#### **Termination of condominium**

**60** The condominium status of a building or parcel may be terminated

- (a) by an application to the Court by
  - (i) a corporation,
  - (ii) an owner,
  - (iii) a registered mortgagee of a unit, or
  - (iv) a vendor under an agreement of sale of a unit,
- or
- (b) by a resolution passed by all the owners unanimously.

#### **Termination by Court application**

**61(1)** On an application under section 60(a), if the Court is satisfied that, having regard to the rights and interests of the owners as a whole, it is just and equitable that the condominium

*(d) the amount of interest owing, if any, on any unpaid balance of a contribution*

*and, in favour of a person dealing with that owner, the certificate is conclusive proof of the matters certified in it as of the date of the certificate.*

(24) Updates cross-reference.

(25) Updates cross-reference.

(26) Sections 60 to 63 presently read:

*60 The condominium status of a building or parcel may be terminated by a special resolution.*

*61(1) An application to terminate the condominium status of a building or parcel may be made to the Court by the corporation, an owner, a registered mortgagee of a unit or a vendor under an agreement for sale of a unit.*

*(2) On an application under this section, if the Court is satisfied that, having regard to the rights and interests of the owners as a whole, it is just and equitable that the condominium status of the building or parcel should be terminated, the Court may make a declaration to that effect.*

*(3) When a declaration has been made pursuant to subsection (2), the Court may by order impose any conditions and give any directions, including directions for the payment of money, that it thinks fit for the purpose of adjusting as between the corporation and the owners and as among the owners themselves the effect of the declaration.*

*(4) On an application to the Court under this section, an insurer who has effected insurance on the building or a part of it, being insurance against destruction of units or damage to the building, has the right to appear in person or by agent or counsel.*

status of the building or parcel should be terminated, the Court may make a declaration to that effect.

**(2)** When a declaration has been made under subsection (1), the Court may by order

- (a) impose any conditions, and
- (b) give any directions, including directions for
  - (i) the transfer of the building or parcel or any portion of the building or parcel,
  - (ii) the sale or disposition of any other assets held by the corporation,
  - (iii) the payment of money, and
  - (iv) the method of distributing any funds on the transfer of the building or parcel, or any portion of the building or parcel, referred to in subclause (i) or the sale or disposition of any other assets referred to in subclause (ii), on a unit factor basis or any other basis,

that the Court thinks fit for the purpose of adjusting as between the corporation and the owners and as among the owners themselves the effect of the declaration.

**(3)** On an application to the Court under section 60(a), an insurer who has effected insurance on the building or parcel, or a portion of the building or parcel, against destruction of units or damage to the building or parcel has the right to appear in person or by agent or counsel.

#### **Transfer by corporation**

**62(1)** When a unanimous resolution is passed under section 60(b), the corporation may be directed, by a resolution passed by all the owners unanimously, in accordance with this section and the regulations, to wind up the affairs of the corporation.

**(2)** A unanimous resolution under subsection (1) must include directions for



*62(1) On the condominium status of the building or parcel being terminated under section 60 or 61, the corporation shall forthwith file with the Registrar a notice of the termination in the prescribed form.*

*(2) On receipt of the notice referred to in subsection (1), the Registrar shall make a notification in respect of the notice on the condominium plan in the manner prescribed by the regulations and on the notification being made, the owners of the units in the plan are entitled to the parcel as tenants in common in shares proportional to the unit factors of their respective units.*

*(3) On the filing of a notice of the termination with the Registrar,*

*(a) the corporation ceases to exist, and*

*(b) subject to any declaration of the Court made under section 61, any funds of the corporation that are left after the payment of the corporation's debts and liabilities shall be distributed to the owners of the units in the plan in shares proportional to the unit factors of the owners' respective units.*

*63(1) When the condominium status of a building or parcel is being terminated the corporation may be directed, by a special resolution, to transfer the parcel or any part of it.*

*(2) When the board is satisfied that the special resolution was properly passed and the requirements of the regulations have been complied with, the corporation shall execute the appropriate transfer.*

*(3) A transfer executed pursuant to subsection (2) is valid and effective without execution by any person having an interest in the parcel, and the receipt of the corporation is a sufficient discharge of and exonerates the person taking under the transfer from any responsibility for the application of the money expressed to have been so received.*

*(4) The Registrar shall not register a transfer executed pursuant to this section*

*(a) unless the transfer has endorsed on it or is accompanied with a certificate under the seal of the corporation stating that the special resolution was properly passed and that the requirements of the regulations have been complied with, and*

- (a) the transfer of the building or parcel, or any portion of the building or parcel, as applicable,
- (b) the sale or disposition of any other assets held by the corporation,
- (c) the payment of money, and
- (d) the method of distributing any funds on the transfer of the building or parcel, or any portion of the building or parcel, referred to in clause (a), or the sale or disposition of any other assets referred to in clause (b), on a unit factor basis or any other basis.

**(3)** Where the unanimous resolution under subsection (1) provides that the existing owners are entitled to the building or parcel as tenants in common in shares proportional to the unit factors of the respective units of the existing owners, the corporation must send to the Registrar a copy of the unanimous resolution under subsection (1) endorsed on it, or accompanied with a certificate under, the seal of the corporation stating that the unanimous resolution was passed and that the requirements of the regulations have been complied with.

**(4)** On the receipt of a copy of a unanimous resolution conforming with the requirements of subsection (3), the Registrar shall

- (a) cancel the certificates of title relating to the units, and
- (b) issue certificates of title to the existing owners accordingly.

**(5)** Subject to subsection (3), when the board is satisfied that the unanimous resolution under subsection (1) was properly passed and the requirements of the regulations have been complied with, the corporation shall execute the necessary documentation to give effect to the transfer.

**(6)** A transfer of the building or parcel, or any portion of the building or parcel, or a sale or disposition of any other assets held

*(b) until the notification required by section 62 has been made on the condominium plan.*

*(5) A certificate made pursuant to subsection (4) is,*

*(a) in favour of a purchaser of the parcel, and*

*(b) in favour of the Registrar,*

*conclusive proof of the facts stated in the certificate.*

*(6) When land is transferred by a corporation pursuant to this section, the Registrar*

*(a) shall cancel the certificates of title relating to the units, and*

*(b) shall register the transfer and issue to the transferee a certificate of title for the land transferred.*

by the corporation, executed under subsection (5) is valid and effective without execution by any person having an interest in the building or parcel, or any portion of the building or parcel, or any other assets held by the corporation, and the receipt of the corporation is a sufficient discharge of and exonerates the person under the transfer, sale or disposition, from any responsibility for the application of the money expressed to have been so received.

**(7)** The Registrar shall not register a transfer executed under this section or in accordance with an order of the Court under section 61 unless the transfer

- (a) is accompanied by the order of the Court made under section 61, or
- (b) has endorsed on it or is accompanied with a certificate under the seal of the corporation stating that the unanimous resolution was passed and that the requirements of the regulations have been complied with.

**(8)** A certificate made under subsection (7)(b) is conclusive proof of the facts stated in the certificate

- (a) in favour of a purchaser of the building or parcel, or a portion of the building or parcel, as applicable, and
- (b) in favour of the Registrar.

**(9)** When land is transferred by a corporation in accordance with subsection (7), the Registrar shall

- (a) cancel the certificates of title relating to the units, and
- (b) register the transfer and issue to the transferee or transferees a certificate of title or certificates of title, as the case may be, for the land transferred.

**(10)** If a unanimous resolution to terminate is passed under section 60(b) but no unanimous resolution is passed under subsection (1), an application may be made to the Court, and the Court shall have the same powers as under section 61(2).



**Effect of termination of condominium**

**63(1)** Following the passage of a unanimous resolution under section 60(b) or a declaration of the Court under section 61(1), and the execution of any documentation required to give effect to any transfer, sale or disposition, directed by the Court under section 61 or by the unanimous resolution under section 62(1), the corporation shall file with the Registrar a notice of the termination in the prescribed form.

(2) On receipt of the notice referred to in subsection (1), the Registrar shall make a notification in respect of the notice on the condominium plan in the manner prescribed by the regulations.

(3) On the filing of a notice of termination with the Registrar under subsection (1), the corporation ceases to exist.

**(27) The heading preceding section 65 is repealed and the following is substituted:**

**Liability of Corporation**

**(28) The heading preceding section 66 is repealed and the following is substituted:**

**Application to Court**

**(29) Section 67 is amended by adding the following after subsection (3):**

(4) Where an action brought against a member of the board for damages caused by an act or omission of the member acting on behalf of a corporation does not result in a judgment against the member, the Court may award costs on a solicitor-and-client basis in favour of the member.

**(30) The following is added after section 68:**

**Condominium Dispute Resolution Tribunal**

**Definitions**

**68.1** For the purposes of sections 68.2 to 68.9,

(27) The heading preceding section 65 presently reads:

*Assessment and Taxation*

(28) The heading preceding section 66 presently reads:

*Miscellaneous*

(29) Section 67(3) presently reads:

*(3) The Court may grant interim relief under subsection (2) pending the final determination of the matter by the Court.*

(30) Condominium Dispute Resolution Tribunal.

- (a) “application” means an application filed under section 68.4;
- (b) “dispute” means a dispute respecting any matter related to condominiums under this Act, the regulations or bylaws;
- (c) “member” means a member of the Tribunal.

#### **Establishment of Tribunal**

**68.2(1)** The Condominium Dispute Resolution Tribunal is established consisting of a chair and other members appointed by the Minister in accordance with the regulations.

(2) A member, including the chair of the Tribunal, must be appointed for a prescribed term.

(3) The members, including the chair of the Tribunal, shall be paid remuneration and expenses as prescribed by the regulations.

#### **Jurisdiction of Tribunal**

**68.3(1)** The Tribunal shall hear and resolve disputes under this Act and in accordance with the regulations.

(2) The Tribunal is not bound by the rules of evidence applicable in judicial proceedings.

#### **Application to Tribunal**

**68.4(1)** Any party to a dispute may file an application with the Tribunal in accordance with the regulations.

(2) No action in Court shall commence with respect to a dispute once a hearing before the Tribunal has concluded, and the proceedings of the Tribunal shall continue.

(3) If a party to a dispute commences an action in Court in respect of the dispute, no application can be filed with the Tribunal in respect of the same dispute, and the action in Court shall proceed.

#### **Proceedings**

**68.5(1)** The Tribunal shall conduct all proceedings and decide all applications

- (a) in accordance with this Act,





- (b) subject to any limitations and restrictions set out in the regulations, including
  - (i) alternative dispute resolution processes that the Tribunal may require the parties to a dispute to undertake,
  - (ii) the determination and treatment of related disputes, including multi-party applications for the same matter, and
  - (iii) the application fees to be paid to the Tribunal by the parties to a dispute,and
- (c) in accordance with the rules of practice and procedure established under the regulations.

(2) The Tribunal may publish the Tribunal's decisions and other documents of the Tribunal in accordance with the regulations.

#### **Binding nature of Tribunal's decision**

**68.6(1)** A decision of the Tribunal is binding on the parties to the dispute.

(2) A decision of the Tribunal may be filed in the Court and, on being filed, is enforceable in the same manner as an order of the Court.

#### **Judicial review**

**68.7(1)** Subject to subsection (2), an application for judicial review of a decision of the Tribunal may be made in accordance with the regulations and the *Alberta Rules of Court*.

(2) An application for judicial review must be filed and served no later than 30 days after a party to a dispute receives the Tribunal's decision.

(3) An application for judicial review does not stay the Tribunal's decision with respect to a dispute unless the Court directs otherwise.



**Appeal**

**68.8** Any party to a dispute may, no later than 30 days after receiving the Tribunal’s decision, appeal to the Court in accordance with the regulations.

**Fees payable by corporations**

**68.9** Corporations may be required to pay fees to support the operating costs of the Tribunal in accordance with the regulations.

**(31) The following heading is added before section 69:**

**Miscellaneous**

**(32) Section 69 is amended**

**(a) in subsection (1) by striking out “Any” and substituting “Subject to subsection (4), any”;**

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

**(3) If, under subsection (1),**

**(a) a mediation, conciliation or similar technique or arbitration is in progress, or**

**(b) the parties to a dispute resolve the dispute by mediation, conciliation or similar techniques or arbitration,**

no application shall be filed with the Tribunal with respect to the same dispute.

**(4) No mediation, conciliation or similar techniques or arbitration shall be undertaken under subsection (1) with respect to the same dispute if an application is filed with the Tribunal under section 68.4.**

**(5) Nothing in this section shall be construed so as to prohibit a party to the dispute from filing an application with the Tribunal under section 68.4 subsequent to an unsuccessful attempt to deal with the dispute by means of mediation, conciliation or a similar technique.**

**(33) The following is added after section 69:**

(31) Adds heading.

(32) Section 69 presently reads in part:

*69(1) Any dispute respecting any matter arising under this Act or in respect of the bylaws of a corporation may, with the agreement of the parties to the dispute,*

*(a) be dealt with by means of mediation, conciliation or similar techniques to encourage settlement of the dispute, or*

*(b) be arbitrated under the Arbitration Act.*

(33) Collection of information.

**Collection of information**

**69.1(1)** The Minister may collect, and require the disclosure of, any information relating to a board, corporation, condominium plan and the owners in accordance with the regulations.

(2) A corporation must disclose information required under subsection (1) in accordance with the regulations.

(3) The information collected and disclosed under this section may be used to assess fees established under section 68.9 to be payable by a corporation in accordance with the regulations.

**(34) Section 73 is amended**

(a) **in subsection (1.1) by striking out** “at a land titles office” **and substituting** “with the Registrar of Corporations appointed under the *Business Corporations Act*”;

(b) **by repealing subsection (2) and substituting the following:**

(2) A change of address for service under subsection (1) does not take effect until a notice of that change of address containing the information in the prescribed form is filed with the Registrar of Corporations appointed under the *Business Corporations Act*.

**(35) The following is added after section 78:**

**Appointment of Director**

**78.001(1)** The Minister may appoint an individual as Director for the purposes of this Act and the regulations.

(2) A Director appointed under subsection (1) may delegate any of the Director’s powers, duties or functions under this Act.

**(36) Section 78.01(1) is amended by striking out** “Minister” **and substituting** “Director”.

**(37) Sections 78.1(1)(a), 78.2(1)(a) and 78.3(1) are amended by adding** “or the interim board” **after** “a developer”.

(34) Section 73 presently reads in part:

*(1.1) A corporation shall promptly file a change of address for service made under subsection (1) at a land titles office.*

*(2) A change in the address for service under subsection (1) does not take effect until a notice of that change of address is filed in the prescribed form at the land titles office.*

(35) Appointment of Director.

(36) Section 78.01(1) presently reads:

*78.01(1) The Minister may appoint individuals as inspectors.*

(37) Sections 78.1(1)(a), 78.2(1)(a) and 78.3(1) presently read:

*78.1(1) When*

**(38) Section 81 is amended**

**(a) by adding the following after clause (c.2):**

(c.21) respecting a reserve fund report under this Act;

**(b) in clause (c.91)**

**(i) by striking out “building assessment report” wherever it occurs and substituting “converted property study”;**

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

(iv.1) the persons who must not enter a contract for or prepare a converted property study, and

**(c) by adding the following after clause (c.91):**

(c.92) respecting the preparation of a technical analysis required by section 21.2, including but not limited to

(i) any information that must be included in the technical analysis,

(ii) when the technical analysis must be prepared,



*(a) the Director is of the opinion that a developer has contravened this Act or the regulations, and*

*the developer may enter into an undertaking with the Director in the form and containing the provisions that the Director, on negotiation with the developer, considers proper.*

*78.2(1) If, in the opinion of the Director,*

*(a) a developer is contravening or has contravened this Act or the regulations, or*

*the Director may issue an order directed to the developer.*

*78.3(1) If the Director is of the opinion that a developer has contravened this Act or the regulations, the Director may, by notice in writing served on the developer, require the developer to pay to the Crown an administrative penalty in the amount set out in the notice.*

(38) Section 81 presently reads in part:

*81 The Lieutenant Governor in Council may make regulations*

*(c.91) respecting the preparation of a building assessment report required by section 21.1, including but not limited to*

*(i) any assessments or inspections that must be completed for inclusion in the building assessment report,*

*(ii) any information that must be included in the building assessment report,*

*(iii) the form of the building assessment report,*

*(iv) the qualifications of the person preparing the building assessment report, and*

*(v) persons to whom the building assessment report must be submitted;*

*(f.93) respecting other basis for levying contributions for the purpose of section 39(1)(a)(ii);*

*(f.94) respecting amounts for the purpose of section 39(2)(d);*

- (iii) the form and contents of the technical analysis,
- (iv) the qualifications of persons who must conduct the technical analysis, and
- (v) the persons
  - (A) who must arrange for the preparation of the technical analysis,
  - (B) who are liable to pay for the technical analysis, and
  - (C) who are prohibited from conducting a technical analysis;

**(d) by repealing clauses (f.93) and (f.94) and substituting the following:**

- (f.93) respecting other bases for levying contributions for the purpose of section 39(1)(a)(ii);
- (f.931) respecting the procedures for
  - (i) levying contributions under section 39(1)(a)(ii) and (2),
  - (ii) levying chargebacks under section 39.01(1), and
  - (iii) disputing chargebacks under section 39.01(4);
- (f.932) respecting reasonable and relevant administrative costs and legal fees under section 39(2);
- (f.933) prescribing amounts for the purpose of section 39(3)(b);
- (f.94) respecting persons for whom the owner or occupant is responsible for the purpose of section 39.01(1);

**(e) in clause (g.1) by striking out “42(b)” and substituting “42”;**

**(f) by adding the following after clause (g.1):**

- (g.1) prescribing reasonable expenses for the purpose of section 42(b);*
- (h.1) respecting the transfer or lease of the real property of the corporation or the common property under section 49, the grant of an easement or restrictive covenant burdening a parcel under section 52 or the transfer of a building or parcel on the termination of its condominium status under section 63;*
- (h.2) respecting the deposit a corporation may require under section 53 and the manner in which it is held and in which the deposit and interest earned, if any, are repaid;*

- (g.11) respecting other information required to be provided under section 43.2(1)(e);
- (g) in clause (h.1) by striking out “on the termination of its condominium status under section 63” and substituting “under section 62 following the termination of the condominium status of the building or parcel”;**
- (h) by repealing clause (h.2) and substituting the following:**
  - (h.2) for the purpose of section 53(4), respecting a deposit a corporation may require, including the manner in which
    - (i) the deposit is held, and
    - (ii) the deposit, including any interest earned, is repaid;
- (i) by adding the following after clause (s):**
  - (s.1) for the purposes of sections 68.2 to 68.9,
    - (i) respecting the establishment of the Tribunal and the appointment of a chair and other members of the Tribunal;
    - (ii) prescribing terms of office for the chair and other members of the Tribunal;
    - (iii) prescribing the payment of remuneration and expenses to the chair and other members of the Tribunal;
    - (iv) specifying the matters in respect of which the Tribunal may hear a dispute;
    - (v) respecting applications to the Tribunal, including the form and manner of applications;
    - (vi) respecting the rules of practice and procedure governing proceedings before the Tribunal, including any limitations and restrictions;
    - (vii) respecting a code of conduct applicable to Tribunal members;



- (viii) respecting the powers, functions and duties of Tribunal members, including the chair of the Tribunal;
- (ix) respecting
  - (A) fees required to be paid for filing applications with the Tribunal, including waiver of fees, and
  - (B) fees required to be paid by corporations to support the operating costs of the Tribunal;
- (x) respecting the service of notices, documents and decisions made with respect to a dispute heard and decided by the Tribunal;
- (xi) respecting the publication of decisions and other documents of the Tribunal;
- (xii) respecting judicial review of the Tribunal's decisions;
- (xiii) respecting appeals to the Court of the Tribunal's decisions;
- (s.2) respecting the collection, disclosure and use of information under section 69.1;

### **Prompt Payment and Construction Lien Act**

#### **Amends RSA 2000 cP-26.4**

**2(1) The *Prompt Payment and Construction Lien Act* is amended by this section.**

**(2) Section 1.1 is amended**

**(a) in subsection (1) by adding "subject to section 5 and" after "may,";**

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

**(1.1)** Except as provided in the *Public Works Act*, this Act does not apply in respect of a public work as defined in the *Public Works Act*.

### **Prompt Payment and Construction Lien Act**

**2(1)** Amends chapter P-26.4 of the Revised Statutes of Alberta 2000.

(2) Section 1.1 presently reads in part:

*1.1(1) This Act or a provision of this Act may, in accordance with the regulations, apply to a prescribed class of professionals acting in a consultative capacity.*

*(2) This Act does not apply in respect of*

*(a) public works as defined in the Public Works Act,*

(c) by repealing subsection (2)(a).

**(3) The heading preceding section 5 and section 5 are repealed and the following is substituted:**

**Waiver**

**5(1)** Subject to subsections (2), (3) and (4), an agreement by any person that this Act does not apply or that the remedies provided by this Act are not to be available for the person's benefit is void.

(2) A member of a prescribed class of professionals acting in a consultative capacity may, in accordance with the regulations, waive any right or obligation under Part 2.

(3) Any waiver under this section must be set out in a contract or subcontract, as applicable, and must apply only to the extent that it does not conflict with and is not inconsistent with the regulations.

(4) In the event of a conflict or inconsistency between the contract or subcontract referred to in subsection (3) and the regulations, the regulations prevail to the extent of the conflict or inconsistency.

**(4) The following heading is added before section 6:**

**Part 2  
Creation of Lien**

**(5) Section 33.4 is repealed and the following is substituted:**

**Adjudication of dispute**

**33.4(1)** A party to a contract or subcontract may refer to adjudication a dispute with the other party to the contract or subcontract, as the case may be, respecting any prescribed matter in accordance with this section and the regulations or the procedures established by the Nominating Authority responsible for that matter.

(2) An adjudication may not be commenced if the notice of adjudication is given more than 30 days after the date of final payment under the contract or subcontract, unless the parties to the adjudication agree otherwise.



(3) The heading preceding section 5 and section 5 presently read:

*Part 2*  
*Creation of Lien*

*5 An agreement by any person that this Act does not apply or that the remedies provided by it are not to be available for the person's benefit is against public policy and void.*

(4) Part 2 Creation of Lien.

(5) Section 33.4 presently reads:

*33.4(1) Provided that no party has commenced an action in court with respect to a dispute, a party to a contract or subcontract may refer to adjudication a dispute with the other party to the contract or subcontract, as the case may be, respecting any prescribed matter in accordance with this section and the regulations or the procedures established by the Nominating Authority responsible for that matter.*

*(2) An adjudication may not be commenced if the notice of adjudication is given after the date the contract or subcontract is completed, unless the parties to the adjudication agree otherwise.*

*(3) If a party commences an action in court with respect to a dispute on the same date that the dispute is referred to adjudication*

**(3)** For the purpose of subsection (2), “date of final payment” means, subject to subsection (4), the earlier of

- (a) the date on which complete payment of the amount set out in the contract or subcontract, as applicable, is made, and
- (b) the date on which complete payment of the amount set out in the contract or subcontract, as applicable, is required to be made under section 32.2, 32.3 or 32.5, as the case may be.

**(4)** For the purposes of subsections (2) and (3), “final payment” does not include

- (a) payment of the major lien fund,
- (b) payment of the minor lien fund, or
- (c) payment for any work done or material furnished
  - (i) after the certificate of substantial performance is issued, or
  - (ii) in a case where a certificate of substantial performance is not issued, after the work to be done under the contract or subcontract is capable of completion or correction at a cost of not more than
    - (A) 3% of the first \$500 000 of the contract or subcontract price,
    - (B) 2% of the next \$500 000 of the contract or subcontract price, and
    - (C) 1% of the balance of the contract or subcontract price.

**(5)** If a party commences an action in court with respect to a dispute on or after the day the dispute is referred to adjudication under subsection (1), the adjudication and the action in court may both proceed unless, on the application of a party or on the court’s own motion, the court directs otherwise.

*under subsection (1), the adjudicator shall discontinue the adjudication and the action shall proceed.*

(6) If the court makes an order in respect of the matter in dispute on the merits of the dispute while the adjudication is still ongoing, the adjudication is automatically terminated.

**(6) Section 33.6(5)(a), (b), (c) and (d) are repealed and the following is substituted:**

- (a) the court directs otherwise,
- (b) an arbitrator has been appointed by the parties under the *Arbitration Act* and the arbitrator has made an award in respect of the matter, or
- (c) the parties have entered into a written agreement that resolves the matter.

**(7) Section 33.61 is amended**

**(a) by repealing subsection (1) and substituting the following:**

**Registration and enforcement**

**33.61(1)** The clerk of the court shall register an adjudicator's order referred to in section 33.6(4) as an order of the court if all of the following are met:

- (a) the adjudicator's order is submitted to the clerk of the court not less than 30 days after the parties have received the order;
- (b) no court order has been made affecting the binding nature of the determination of the matter by the adjudicator;
- (c) no arbitration has commenced and is in progress under the *Arbitration Act*;
- (d) no award has been made under the *Arbitration Act*;
- (e) the parties have not entered into a written agreement that resolves the matter in dispute;

(6) Section 33.6(5) presently reads:

*(5) The determination of a matter by the adjudicator is binding on the parties to the adjudication, except where*

- (a) a court order is made in respect of the matter,*
- (b) a party applies for a judicial review of the decision under section 33.7,*
- (c) the parties have entered into a written agreement to appoint an arbitrator under the Arbitration Act, or*
- (d) the parties have entered into a written agreement that resolves the matter.*

(7) Section 33.61 presently reads in part:

*33.61(1) If a party meets all of the following requirements, the clerk of the court shall register an adjudicator's order referred to in section 33.6(4) as an order of the court:*

- (a) the order is submitted to the clerk of the court not less than 30 days after the parties have received the order;*
- (b) neither party has applied for a judicial review of the decision under section 33.7;*
- (c) the parties have not entered into a written agreement to appoint an arbitrator under the Arbitration Act;*
- (d) the parties have not entered into a written agreement that resolves the matter;*
- (e) the additional requirements, if any, set out in the regulations.*

*(2) On being registered, the order has, from the date it is registered, the same effect as if it were an order made by an Alberta court.*

(f) the additional requirements, if any, set out in the regulations.

**(b) in subsection (2) by striking out “the order” and substituting “the adjudicator’s order”.**

**(8) Sections 33.7 and 33.8 are repealed and the following is substituted:**

**Judicial review**

**33.7(1)** An application for judicial review of a determination of a matter by an adjudicator may be made in accordance with this section, the regulations and the *Alberta Rules of Court*.

(2) An application for judicial review shall be filed with the court and served no later than 30 days from the date of the notice of determination.

(3) An application for judicial review does not stay the determination of a matter by an adjudicator unless the court directs otherwise.

**(9) Section 70 is amended**

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

(a.001) make regulations for the purpose of section 5(2) respecting the waiver of any right or obligation under Part 2 by a member of a prescribed class of professionals acting in a consultative capacity;

**(b) in clause (a.2)(x) by striking out “section 33.61(1)(e)” and substituting “section 33.61(1)(f)”.**

**Public Works Act**

**Amends RSA 2000 cP-46**

**3(1) The *Public Works Act* is amended by this section.**

**(2) The following heading is added before section 1:**

(8) Sections 33.7 and 33.8 presently read:

*33.7 An application for judicial review of a determination of an adjudicator may be made in accordance with this Part, the regulations and the Alberta Rules of Court (AR 124/2010).*

*33.8 An application for judicial review of the determination of an adjudicator shall be filed with the court and served no later than 30 days from the date of the notice of determination.*

(9) Section 70 presently reads in part:

*70 The Lieutenant Governor in Council may*

*(a.2) make regulations for the purposes of Part 5*

*(x) respecting the additional requirements referred to in section 33.61(1)(e);*

## **Public Works Act**

**3(1)** Amends chapter P-46 of the Revised Statutes of Alberta 2000.

(2) Part heading added.

## **Part 1 General**

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

### **Definitions**

**1** In this Act,

- (a) “claimant” means a contractor or subcontractor who delivers a notice of claim under section 14;
- (b) “contract” means a contract between the Crown, or an agent of the Crown, and a contractor to provide labour, equipment, material or services with respect to a public work;
- (c) “contractor” means an individual or a legal entity recognized under the laws of Alberta that enters into a contract and includes a consultant advising the Crown with respect to a public work, but does not include a legal or financial advisor;
- (d) “Court” means the Court of King’s Bench of Alberta;
- (e) “Crown” means His Majesty in right of Alberta;
- (f) “Minister” means, with respect to a public work, the Minister who is responsible for or otherwise administers that public work;
- (g) “public work” includes the undertaking and all the works and property that may be acquired, made, built, constructed, erected, extended, enlarged, repaired, maintained, improved, formed, excavated, operated, reconstructed, replaced or removed under a contract or subcontract;
- (h) “subcontract” means a subcontract between a contractor and a subcontractor or between subcontractors to provide labour, equipment, material or services with respect to a public work;



(3) Section 1 presently reads:

*1 In this Act,*

- (a) “Crown” means His Majesty in right of Alberta;*
- (b) “Minister” means, with respect to a public work, the Minister who is responsible for or otherwise administers that public work;*
- (c) “public work” includes the undertaking and all the works and property that may be acquired, made, built, constructed, erected, extended, enlarged, repaired, maintained, improved, formed, excavated, operated, reconstructed, replaced or removed pursuant to a contract entered into by the Minister on behalf of the Crown or by an agent of the Crown.*

- (i) “subcontractor” means an individual or a legal entity recognized under the laws of Alberta that enters into a subcontract and includes a consultant advising a contractor with respect to a public work, but does not include a legal or financial advisor.

**Waiver prohibited**

**1.1** An agreement by any person that this Act or any provision of this Act does not apply or that the remedies provided by this Act are not to be available for the person’s benefit is void.

**Act binds Crown**

**1.2** This Act binds the Crown.

**(4) The heading preceding section 2 is repealed and the following is substituted:**

**Part 2  
Contracts**

**(5) Section 2(1) is repealed and the following is substituted:**

**Contracts on behalf of Crown**

**2(1)** Any contract may be entered into on behalf of the Crown by the Minister, the Deputy Minister or any employee authorized to do so by the Minister.

**(6) Sections 5 and 6 are repealed and the following is substituted:**

**Notice of tenders**

**5(1)** A notice calling for tenders must provide instructions for tendering, including the method for submitting tenders and the date and time up to which tenders will be received.

**(2)** The Minister may, by public notice, extend the time for receiving tenders.

(4) The heading preceding section 2 presently reads:

*Contracts*

(5) Section 2(1) presently reads:

*2(1) Any contract or undertaking that is considered necessary or advisable for the purpose of carrying out the functions, duties or powers of the Minister may be entered into on behalf of the Crown by the Minister, the Deputy Minister or any employee authorized to do so by the Minister.*

(6) Sections 5 and 6 presently read:

*5 A notice calling for tenders shall state the place where and the time up to which tenders will be received, but the Minister may, by public notice, extend the time for receiving tenders.*

*6 At the time and place fixed for receiving tenders, all tenders received shall be publicly opened and the amount of each tender shall then and there be made known.*

**Opening tenders**

**6** The identity of each tenderer submitting a compliant tender and the amount of the successful tender must be publicly disclosed.

**(7) Section 9(1) is repealed and the following is substituted:****Failure of tenderer to perform**

**9(1)** If a tenderer whose tender is accepted refuses or fails within the time provided for in the tender documents

- (a) to enter into a contract for the public work covered by the tender, and
- (b) where the furnishing of security is required, to furnish the security for the performance of the contract,

the tenderer is liable to the Crown for the difference between the amount of the tender and any higher amount that the Crown contracts for with another contractor with respect to the same public work.

**(8) Section 11 is repealed and the following is substituted:****Completion of work under a contract**

**11(1)** A contract that specifies a date by which or a time within which any work under the contract is to be completed may also provide for a penalty for failure to complete the work by that date or within that time.

**(2)** The contract may provide for the penalty to be either or both of the following:

- (a) the actual loss or damages suffered by the Crown because of the failure to complete the work under the contract;
- (b) a stipulated sum for each day that the work under the contract is incomplete after the date or time agreed on, regardless of the actual loss or damages.

**(3)** When a contract provides for a penalty as mentioned in this section, the amount of the penalty may be realized out of any

(7) Section 9(1) presently reads:

*9(1) If a tenderer whose tender is accepted refuses or fails within the time period provided for in the tender documents*

*(a) to enter into a contract with the Crown for the performance of the work or the supplying of the material covered by the tender, and*

*(b) where the furnishing of security is required, to furnish the security for the performance of the contract,*

*the tenderer is liable to the Crown for the difference in the amount between the amount of the tender and the amount that the Crown contracts for with another person to perform the work or supply the material, as the case may be.*

(8) Section 11 presently reads:

*11(1) A contract that specifies a date by which or a time within which any work is to be done or material is to be supplied may also provide for a penalty for failure to complete the work or supply the material by that date or within that time.*

*(2) The contract may provide for the penalty to be either or both of:*

*(a) the actual loss or damages suffered by the Crown because of the failure;*

*(b) a stipulated sum for each day that the work is unfinished or the material not supplied in full after the date or time agreed on, regardless of actual loss or damages.*

*(3) When a contract provides for a penalty as mentioned in this section, the amount of the penalty may be realized out of the security required under section 10 or it may be withheld from any money payable by the Crown under the contract, or both.*

security required under the contract, or it may be withheld from any money payable by the Crown to the contractor, as applicable.

**(9) The heading after section 12 is repealed and the following is substituted:**

**Part 3  
Payment for Public  
Works and  
Adjudication**

**(10) The following is added before section 14:**

**Proper invoice**

**13.1(1)** For the purposes of this section and sections 13.2 to 13.5, “proper invoice” means a written bill or other request for payment under a contract or subcontract if the written bill or request for payment contains the following information and meets any other requirements as may be specified in the contract or subcontract, as applicable:

- (a) the name and business address of the contractor or subcontractor, as applicable;
- (b) the date of the proper invoice and the period during which the labour, equipment, material or services were provided;
- (c) information identifying the contract or subcontract under which the labour, equipment, material or services were provided;
- (d) a description of the work done under the contract or subcontract, or the labour, equipment, material or services provided;
- (e) the amount requested for payment and the corresponding payment terms broken down for the labour, equipment, material or services provided;
- (f) the name, title and contact information of the person to whom the payment is to be sent;

(9) The heading after section 12 presently reads:

*Payment of Public Works Creditors*

(10) Proper invoice; payment deadline — Crown to contractor; payment deadline — contractor to subcontractor; payment deadline — subcontractor to subcontractor; interest on late payments; no effect on wages.

(g) a statement indicating that the invoice provided is intended to constitute a proper invoice and the date when the payment is due.

(2) A provision in a contract or subcontract that makes the giving of a proper invoice conditional on the prior approval of the party to be invoiced is of no force or effect.

(3) A proper invoice may be revised if

- (a) the parties to the proper invoice agree to a revision, and
- (b) the proper invoice continues to meet the requirements referred to in subsection (1).

(4) Proper invoices must be given to the Crown, contractor or subcontractor, as applicable, at least every 31 days after work begins under the relevant contract or subcontract.

**Payment deadline — Crown to contractor**

**13.2** If the Crown owes money under a proper invoice received from a contractor, the Crown must pay the undisputed amount payable under the proper invoice no later than 28 days after receiving the proper invoice.

**Payment deadline — contractor to subcontractor**

**13.3** A contractor who receives a proper invoice from a subcontractor must pay the undisputed amount payable under the proper invoice no later than 35 days after receiving the proper invoice, regardless of whether or not the Crown has made any payment to the contractor in respect of the labour, equipment, material or services described in the proper invoice provided to the contractor.

**Payment deadline — subcontractor to subcontractor**

**13.4** A subcontractor who receives a proper invoice from its own subcontractor must pay the undisputed amount payable under the proper invoice no later than 42 days after receiving the proper invoice, regardless of whether or not the Crown, the contractor or a subcontractor has made any payment in respect of the labour, equipment, material or services described in the proper invoice provided to the subcontractor.





**Interest on late payments**

**13.5** Interest begins to accrue at the rate prescribed under section 4 of the *Judgment Interest Act* and the regulations made under that Act on any amount owed by any party under a proper invoice that remains unpaid for more than 45 days from the date of that party's receipt of the proper invoice.

**No effect on wages**

**13.6** Nothing in sections 13.1 to 13.5 in any way reduces, derogates from or alters the obligations of a contractor or subcontractor to pay wages to an employee as provided for by a statute, enactment, contract or collective bargaining agreement.

**(11) Section 14(1) is repealed and the following is substituted:**

**Notice of claim**

**14(1)** When a contractor or subcontractor

- (a) provides any labour, equipment, material or services with respect to a public work, and
- (b) is not paid by the entity that is legally obliged to pay that contractor or subcontractor,

the contractor or subcontractor may deliver a notice of that contractor's or subcontractor's claim, as applicable, to the Minister or agent of the Crown that is responsible for the public work.

**(12) The following is added after section 14:**

**Application of Part 5 of Prompt Payment and Construction Lien Act**

**14.1(1)** For the purposes of sections 14.2 to 14.5,

- (a) "adjudication" means an adjudication of a dispute under this Part;
- (b) "adjudicator" means an adjudicator referred to in section 14.2(a);
- (c) "dispute" means a dispute over the subject-matter of a notice of claim referred to in section 14;

(11) Section 14(1) presently reads:

*14(1) When*

- (a) a person provides labour, equipment, material or services used or reasonably required for use in the performance of a contract with the Crown for the construction, alteration, demolition, repair or maintenance of a public work, and*
- (b) that person is not paid by the party who is legally obliged to pay that person,*

*that person may send a notice of that person's claim to the Minister, or agent of the Crown that is responsible for the public work.*

(12) Application of Part 5 of Prompt Payment and Construction Lien Act; nominating authority; adjudication of dispute; adjudication procedures; non-application of certain provisions; transitional.

(d) “Nominating Authority” means a Nominating Authority referred to in section 14.2.

(2) Provisions with respect to adjudication in Part 5 of the *Prompt Payment and Construction Lien Act* apply to adjudication as defined in subsection (1)(a) with all necessary modifications and subject to other provisions of this Act.

#### **Nominating Authority**

**14.2** Notwithstanding anything to the contrary in any other enactment, a Nominating Authority designated under the *Prompt Payment and Construction Lien Act* must perform the following duties for the purposes of this Act:

- (a) qualify and appoint adjudicators;
- (b) develop and oversee programs for the training of adjudicators;
- (c) establish and maintain a publicly available registry of adjudicators;
- (d) provide the Crown with timely notice of the commencement and completion of all adjudications, including copies of the referral to the Nominating Authority, the relevant notice of claim and the written determination of the dispute by the adjudicator;
- (e) perform any other duties set out in the regulations.

#### **Adjudication of dispute**

**14.3(1)** Subject to section 14.5, a party to a contract or subcontract may refer a dispute to adjudication in accordance with this Act and the procedures established by the Nominating Authority.

(2) Notwithstanding anything in this Act, the following matters may not be referred to adjudication under subsection (1):

- (a) any dispute seeking relief other than the payment of a contractor or subcontractor for the provision of labour, equipment, material or services with respect to a public work;



- (b) subject to subsection (3), any dispute in respect of a monetary claim valued in excess of the maximum amount referred to in section 9(1)(i) of the *Court of Justice Act*, exclusive of costs and interest;
- (c) any dispute seeking a determination, order or declaration in respect of
  - (i) the validity of the termination of a contract or subcontract,
  - (ii) the validity or enforcement of a determination, order or declaration of another decision maker, including a court or an arbitrator,
  - (iii) any delay or modification of a construction schedule under a contract or subcontract,
  - (iv) the achievement of any milestone date under, or the completion of, a contract or subcontract, or
  - (v) the interpretation of any of the following in a contract or subcontract:
    - (A) a relief event;
    - (B) a designated change in law;
    - (C) a remedial action;
    - (D) a force majeure event.

**(3)** If the monetary value of a dispute exceeds the amount referred to in subsection (2)(b), the claimant may abandon the part of the claim that is in excess by filing a notice to that effect with the Nominating Authority and the Crown.

**(4)** Where a notice is filed under subsection (3), the claimant forfeits the excess part of the claim and is not entitled to recover that excess part of the claim in the adjudication or in any court or arbitration.

**(5)** If a party commences an action in court, or an arbitration under the *Arbitration Act*, with respect to a dispute referred to



adjudication under subsection (1), the adjudication, action in the court and arbitration may all proceed unless the Court directs otherwise.

(6) If the Court makes an order in respect of the dispute on the merits of the dispute while the adjudication is still ongoing, the adjudication is automatically terminated.

#### **Adjudication procedures**

**14.4(1)** Subject to subsections (2) and (3), an adjudication must be conducted in accordance with the adjudication procedures under the *Prompt Payment and Construction Lien Act* or as established by the responsible Nominating Authority.

(2) When a dispute is referred to adjudication, any dispute resolution procedures set out in a contract or subcontract apply to that dispute only to the extent that they do not conflict with the adjudication procedures under the *Prompt Payment and Construction Lien Act* or as established by the responsible Nominating Authority.

(3) Notwithstanding anything to the contrary under the *Prompt Payment and Construction Lien Act*, an adjudication may be commenced any time after delivery of a notice of claim under section 14, until

- (a) a determination of the dispute to be adjudicated is made by the Court,
- (b) after 180 days have passed since the notice of claim was delivered under section 14, or
- (c) a notice is given by the Crown under section 15(1).

(4) Subject to this section, sections 33.6 to 33.9 of the *Prompt Payment and Construction Lien Act* apply to adjudication.

#### **Non-application of certain provisions**

**14.5(1)** In this section,

- (a) “capital asset” means a capital asset as defined in the *Infrastructure Accountability Act*;





- (b) “capital asset upkeep contract” means a contract relating only to the management or reasonable care and maintenance of a capital asset, identified as a capital asset upkeep contract in the contract itself, but that does not
    - (i) require the contractor to repair or prevent normal or reasonable wear and tear,
    - (ii) require the contractor to perform capital maintenance and renewal,
    - (iii) require the achievement of any construction milestone, including but not limited to the completion, acceptance or warranty of construction, or
    - (iv) extend the normal useful life or improve the value or productivity of a capital asset;
  - (c) “capital maintenance and renewal” means work that replaces or upgrades components or systems extending the useful life of a capital asset or that functionally upgrades a capital asset to enhance usability, capacity or efficiency of the capital asset;
  - (d) “special scope contract” means a contract where a contractor also provides financing with respect to a public work, identified as a special scope contract in the contract itself.
- (2)** Sections 13.1 to 13.5 and 14.1 to 14.4 do not apply in respect of
- (a) a capital asset upkeep contract,
  - (b) a special scope contract, and
  - (c) any contract or subcontract related to a capital asset upkeep contract or special scope contract.
- (3)** If a contract or subcontract is related to a capital asset upkeep contract or special scope contract under subsection (2)(c), the contractor must ensure that a notification that sections 13.1 to



13.5 and 14.1 to 14.4 of this Act do not apply to that contract or subcontract, as applicable, is delivered to each subcontractor and displayed as required under section 17(1).

**Transitional**

**14.6(1)** In this section,

- (a) “former provisions” means the provisions of this Act as they read immediately before the coming into force of this section;
- (b) “new provisions” means the provisions of this Act as they read on the coming into force of this section.

(2) Any contract entered into on or after the coming into force of this section is governed by the new provisions.

(3) Subject to the regulations, any contract or subcontract entered into prior to the coming into force of this section is governed by the former provisions.

**(13) Section 15 is amended**

(a) **in subsection (4) by striking out “Court of King’s Bench” and substituting “Court”;**

(b) **by repealing subsection (5) and substituting the following:**

(5) Notwithstanding anything to the contrary in any other Act, and subject to section 13.6, a claimant has priority over any person, other than the Crown, having a claim under any other enactment or at common law with respect to any money payable under the contract or subcontract.

**(14) Section 17(1) is amended by striking out “and” at the end of clause (a) and by adding the following after clause (a):**

- (a.1) a notification under section 14.5(3), if applicable, and

(13) Section 15 presently reads in part:

*15(4) Instead of paying the claimant as provided in this section, the Crown may apply to the Court of King's Bench to pay the money into Court on the terms and conditions, if any, determined by the Court and, on the money being paid into Court, the Court may determine the persons who are entitled to the money and direct payment of the money in accordance with that determination.*

*(5) Notwithstanding anything to the contrary in any other Act, a person having a claim under section 14 with respect to a public work has priority over any other claimant with respect to any money payable under the contract with the Crown for the construction, alteration, demolition, repair or maintenance of that public work.*

(14) Section 17(1) presently reads in part:

*17(1) Every contractor shall, where practicable, display and keep displayed in a conspicuous place on the public work to which the contract relates*

*(a) a copy of section 14, and*

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

**Part 4  
Expropriation**

(16) The heading preceding section 25 is repealed and the following is substituted:

**Part 5  
Public Works  
Development Areas**

(17) The heading preceding section 31 is repealed and the following is substituted:

**Part 6  
Miscellaneous**

(18) Section 34 is repealed and the following is substituted:

**Regulations**

**34** The Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act may make regulations

- (a) respecting other duties of a Nominating Authority referred to in section 14.2(e);
- (b) respecting the application of transitional provisions referred to in section 14.6(3);
- (c) defining any term used but not defined in this Act;
- (d) respecting any matter that the Minister considers necessary or advisable to carry out the intent and purposes of this Act.

**4 This Act comes into force on Proclamation.**

(15) The heading preceding section 20 presently reads:

*Expropriation*

(16) The heading preceding section 25 presently reads:

*Public Works Development Areas*

(17) The heading preceding section 31 presently reads:

*Miscellaneous*

(18) Section 34 presently reads:

*34 The Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act may make regulations respecting any matters that the Minister considers necessary or advisable to carry out effectively the intent and purpose of this Act.*

**4** Coming into force.

**RECORD OF DEBATE**

Stage	Date	Member	From	To
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>
<b>Stage</b>	<b>Date</b>	<b>Member</b>	<b>From</b>	<b>To</b>
		<b>Interventions</b>	<b>From</b>	<b>To</b>