

The Condominium Property Act, 1993

being

Chapter C-26.1* of the *Statutes of Saskatchewan, 1993* (consult Table of Statutes of Saskatchewan for effective dates) as amended by the *Statutes of Saskatchewan, 1997, c.S-50.11* and *c.7*; *2000, c.68*; *2001, c.33*; *2002, c.C-11.1*; *2003, c.19*; *2005, c.M-36.1* and *c.12*; *2006, c.R-22.0001*; *2007, c.P-13.2*; *2009, c.T-23.01* and *c.10*; *2010, c.B-12*; *c.E-9.22* and *c.N-5.2*; *2013, c.O-4.2* and *c.7*; *2016, c.27*; *2018, c.42* and *c.47*; *2021, c.6*; and *2022, c.26*.

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the original Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER C-26.1
An Act respecting Condominiums

PART I
Introductory Matters

Short title

1 This Act may be cited as *The Condominium Property Act, 1993*.

Interpretation

2(1) In this Act:

- (a) **“additional common facilities”** means common facilities described in a declaration;
- (b) **“additional unit”** means a unit not described in a condominium plan but described in a declaration;
- (b.1) **“approval”** or **“approved”** means, respecting a condominium plan, approval or approved by the Controller of Surveys in accordance with *The Land Surveys Act, 2000*, this Act and the regulations, unless otherwise indicated;
- (b.2) **“assessing Act”** means an Act pursuant to which an assessing authority is empowered to assess and levy rates, charges or taxes on land or with respect to the ownership of land, and includes any bylaws or regulations made pursuant to that Act;
- (b.3) **“assessing authority”** means a local authority or a school board or other authority that has the power to assess and levy rates, charges or taxes on land or with respect to the ownership of land;
- (c) **“bare land unit”** means a unit as defined in subclause (bb)(ii);
- (d) **“board”** means the board of directors of a corporation mentioned in section 37;
- (e) **“building”** means one or more buildings situated on a parcel;
- (f) **“common expenses fund”** means a common expenses fund established pursuant to clause 55(1)(a);
- (g) **“common facilities”** means improvements on the common property and includes any laundry room, playground, swimming pool, recreation centre, clubhouse, tennis court and landscaping;
- (h) **“common property”** means the part of the land and buildings included in a condominium plan that is not included in any unit shown in the condominium plan;

- (i) **“condominium”** means the land included in a condominium plan together with the buildings and units and the common property and common facilities belonging to them;
- (j) **“condominium plan”** means a plan that:
 - (i) is described in the heading of the plan as a condominium plan;
 - (ii) shows the whole or any part of the buildings and land included in the plan as being divided into two or more units; and
 - (iii) meets the requirements of section 9;
- (j.1) **“Controller of Surveys”** means the Controller of Surveys appointed pursuant to *The Land Surveys Act, 2000*;
- (j.2) **“conversion unit”** means a unit contained on a condominium plan that converts existing premises used for any purpose into units used for residential purposes;
- (k) **“corporation”** means a corporation constituted or continued pursuant to section 34;
- (l) **“court”** means the Court of Queen’s Bench;
- (m) **“declaration”** means a declaration mentioned in section 5.2 or subsection 16(3) as the case may be, and includes any amendments to a declaration made pursuant to section 18;
- (n) **“developer”**:
 - (i) means a person who was the registered owner of the buildings and land included in a condominium plan on the day on which:
 - (A) the plan was presented for registration before the coming into force of this clause;
 - (B) the plan was approved pursuant to *The Land Surveys Act, 2000*;
 - or
 - (C) titles were issued pursuant to the approved plan; and
 - (ii) includes a person who, as a result of a registration of a transfer executed by a person mentioned in subclause (i), becomes the registered owner of all parts of buildings and land included in the plan that are not sold pursuant to section 26;
- (n.1) **“Director”** means the Registrar of Corporations;
- (n.2) **“interest that affects all the owners”** includes:
 - (i) an interest mentioned in subsection 5.1(3) respecting a parcel;
 - (ii) an interest based on an endorsed declaration pursuant to section 5.2;
 - (iii) an interest based on a permanent encroachment agreement pursuant to subsection 10(6);
 - (iv) an interest based on a notice of an application pursuant to subsection 14(6);
 - (v) an interest based on a developer’s reservation pursuant to section 16;

- (vi) an interest based on a lease pursuant to section 71.1;
 - (vi.1) an interest based on the exclusive use of common property pursuant to section 72.1;
 - (vii) an interest based on an easement or restrictive covenant accepted pursuant to section 73;
 - (viii) an interest based on an easement or restrictive covenant granted pursuant to section 74;
 - (ix) an interest based on a notice of termination of condominium status pursuant to clause 87(1)(b);
 - (x) an interest based on a judgment pursuant to section 109;
 - (xi) a interest based on notice of a security interest pursuant to clause 110(2)(b);
 - (xii) an interest based on a claim against the condominium corporation;
 - (xiii) an interest based on a right granted by the condominium corporation; and
 - (xiv) any other interest not respecting a particular title or titles;
- (o) **“local authority”**:
- (i) means:
 - (A) a city;
 - (A.1) **Repealed.** 2005, c.M-36.1, s.419.
 - (B) a municipality incorporated or continued pursuant to *The Municipalities Act*;
 - (C) a town, northern village or northern hamlet within the meaning of *The Northern Municipalities Act, 2010*;
 - (D) the Saskatchewan portion of the City of Lloydminster; or
 - (E) any other local authority that may be prescribed by regulation;
 - (ii) means, in relation to a parcel, the local authority governing the area in which the parcel is situated;
- (p) **“management agreement”** means an agreement entered into by a corporation with any person for the purpose of providing for the general control, management and administration of:
- (i) the real and personal property of the corporation that is associated with the units; and
 - (ii) the common property associated with the units;
- (q) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (r) **“owner”** means the registered owner of a title and includes persons prescribed in the regulations for prescribed purposes;
- (s) **“parcel”** means all the land included in a condominium plan;

- (s.1) **“parking space”** means an area of the common property or services unit used for parking;
- (s.2) **“parking unit”** means a unit used for parking;
- (t) **“prescribed”** means prescribed in the regulations;
- (u) **“purchase agreement”** means an agreement with a developer by which a person purchases a unit or proposed unit or acquires a right to purchase a unit or proposed unit;
- (v) **“registered”** means, respecting a condominium plan, previously registered in the Land Titles register before the coming into force of *The Condominium Property Amendment Act, 2000*;
- (w) **“registrar”** means Registrar as defined in *The Land Titles Act, 2000*;
- (x) **“replacement plan”** means a condominium plan that shows the parcel, buildings and units, together with any additional units and additional common facilities;
- (y) **“reserve fund”** means a reserve fund established pursuant to clause 55(1)(b);
- (y.1) **“sector”** means a sector of a corporation established in the bylaws of that corporation made pursuant to the authority conferred in clause 47(1)(m.1);
- (y.2) **“services unit”** means any unit owned by a corporation and described as a unit in a condominium plan and includes any laundry room, recreational facility, landscaping area, roadway, hallway or other area intended for the benefit and use of all owners;
- (y.3) **“short-term rental management pool”** means a rental management agreement pursuant to which one or more units within the corporation will be rented out for periods of less than one month;
- (z) **“special resolution”** means:
- (i) a resolution that is approved by a majority of not less than two-thirds of the persons entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation:
 - (A) at a properly convened meeting of a corporation by persons who:
 - (I) are present personally or who cast their votes by proxy; and
 - (II) vote with respect to that resolution; and
 - (B) by the signature on the resolution of persons who are not present personally or who do not cast their votes by proxy at the meeting; or
 - (ii) a resolution that is approved by the signature on the resolution of a majority of not less than two-thirds of the persons entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation;

(z.01) **“standard unit description”** means the standard unit description for each unit or class of units that is:

- (i) prepared by the developer and accompanies an application to issue titles pursuant to section 5.1; or
- (ii) contained in the bylaws;

(z.1) **“title”** means, respecting a condominium unit, the right to:

- (i) an ownership share in the condominium unit; and
- (ii) a share in the common property;

(aa) **“unanimous resolution”** means:

- (i) a resolution that is:
 - (A) passed at a properly convened meeting of a corporation by all votes cast by persons who:
 - (I) are present personally or who cast their votes by proxy;
 - (II) vote with respect to that resolution; and
 - (III) are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation; and
 - (B) approved by the signature on the resolution of all persons who:
 - (I) are not present personally or who do not cast their votes by proxy at the meeting; and
 - (II) are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation; or
- (ii) a resolution that is approved by the signature on the resolution of all the persons who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation;

(bb) **“unit”** means:

- (0.i) a parking unit;
- (0.ii) a services unit;
- (0.iii) a conversion unit;
- (i) in the case of a building, a space that is situated within the building and described as a unit in a condominium plan by reference to floors, walls or ceilings or other monuments as defined in *The Land Surveys Act, 2000* within the building; and
- (ii) in any other case, land that is situated within a parcel and described as a unit in a condominium plan by reference to boundaries governed by monuments placed pursuant to the provisions of *The Land Surveys Act, 2000* and the regulations made pursuant to that Act respecting subdivision surveys;

(cc) **“unit factor”** means the unit factor for a unit as specified in the unit factor schedule described in clause 9(1)(e) or apportioned in accordance with subsection 25(3), as the case may be.

(2) Except as otherwise provided in this Act or the regulations, the terms used in this Act have the meanings given to them in *The Land Titles Act, 2000*.

(3) A condominium plan is deemed to be:

- (a) a plan pursuant to *The Land Surveys Act, 2000*; and
- (b) a plan of subdivision pursuant to *The Planning and Development Act, 2007*.

1993, c.C-26.1, s.2; 1997, c.7, s.3; 2000, c.68, s.3; 2002, c.C-11.1, s.375; 2003, c.19, s.3; 2005, c.M-36.1, s.419; 2007, c.P-13.2, s.258; 2009, c.10, s.3; 2010, c.B-12, s.26 and c.N-5.2, s.449; 2010, c.E-9.22, s.148; 2013, c.7, s.3; 2018, c.42, s.65; 2021, c.6, s.23-26.

Application of other laws

3(1) The provisions relating to the subdivision of land contained in *The Planning and Development Act, 2007* or the regulations made pursuant to that Act do not apply to the division of a building pursuant to subsection 4(1) if the surface boundaries of the parcel correspond to the boundaries of a lawful parcel within the meaning of *The Planning and Development Act, 2007* and any disposition of common property does not contravene the provisions of that Act.

(2) Subject to subsection (1) and any regulations made pursuant to clause 112(c), *The Planning and Development Act, 2007* applies to any land that is subject to a condominium plan or proposed condominium plan or with respect to which a condominium plan is terminated.

1993, c.C-26.1, s.3; 2007, c.P-13.2, s.258.

Non-application of Act

3.1 All or any prescribed portion of any prescribed provision of this Act does not apply:

- (a) to any prescribed unit or any prescribed class of units;
- (b) to any prescribed sector or any prescribed class of sectors;
- (c) to any prescribed person or any prescribed class of persons; or
- (d) in any prescribed circumstance.

2009, c.10, s.4.

PART II Formation of Condominiums

Subdivision by issuance of titles

4(1) A building or land may be divided into units by the issuance of titles pursuant to an approved condominium plan in the manner provided by this Act and the regulations.

(2) This Act applies only with respect to land held in fee simple, and nothing done pursuant to this Act includes, confers or affects any interest in mines and minerals within, on or under the parcel included in the plan.

2000, c.68, s.4.

Titles

- 5(1) A title must not reference more than one condominium unit.
- (2) Every title that is issued pursuant to this Act is for an estate in fee simple in the condominium unit to which the title refers.
- (3) Subject to section 11, after a title is issued pursuant to this Act, the title may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner as any title held pursuant to *The Land Titles Act, 2000*.

2000, c.68, s.4; 2009, c.10, s.5.

Issuance of titles to developer

5.1(1) An application to issue titles pursuant to an approved condominium plan is to be submitted to the registrar in the prescribed manner and must be accompanied by the prescribed information that is to be provided to the Director pursuant to section 34 and any of the following that apply to the application:

- (a) an application to register an interest based on an endorsed declaration pursuant to section 5.2;
- (b) an application to register an interest based on a developer's reservation pursuant to section 16;
- (c) an application to register an interest based on a permanent encroachment agreement pursuant to subsection 10(6); and
- (d) one of the following for each new unit intended for residential purposes:
- (i) a description, in the prescribed form, of the parking space that is designated for the unit, if required by clause 11(1)(a);
- (ii) a description, in the prescribed form, of the parking unit that is designated for the unit, if required by clause 11(1)(b);
- (iii) a description, in the prescribed form, indicating that the unit contains a parking area or garage within the boundaries of the unit, if clause 11(2)(c) applies.
- (2) On receipt of an application mentioned in subsection (1), the registrar shall:
- (a) advise the developer of the condominium corporation number obtained pursuant to subsection 34(1);
- (b) cancel the ownership register for the parcel described in the plan;
- (c) cancel the title to the parcel described in the plan, except as to any mines and minerals included in the parcel;
- (d) establish an ownership register for each unit in the plan;
- (d.1) designate a parking space or a parking unit for each unit intended for residential purposes, if required by section 11; and
- (e) issue in the name of the developer a title for each unit in the plan.
- (3) Any interests affecting the parcel that are noted on a title cancelled pursuant to clause (2)(c) are to be registered against the titles issued pursuant to clause (2)(e).

2000, c.68, s.4; 2009, c.10, s.6; 2013, c.7, s.4.

Endorsed declaration

5.2(1) In this section, an **'endorsed declaration'** means a declaration in the prescribed form that is endorsed with:

- (a) a certificate of acceptance granted by the minister where required by the regulations; or
 - (b) a waiver of the requirement to obtain security where authorized by the regulations.
- (2) An application pursuant to subsection 5.1(1) must be accompanied by an application in the prescribed manner to register an interest based on an endorsed declaration if an approved plan purports to:
- (a) divide a parcel into bare land units;
 - (b) divide a parcel into units, some or all of which are intended for residential purposes; or
 - (c) create conversion units.
- (3) A person may apply to the minister for a certificate of acceptance mentioned in clause (1)(a) by providing evidence satisfactory to the minister that the developer has obtained the security prescribed for the purpose of providing a remedy to owners if the developer:
- (a) fails to complete the common property, common facilities and services units described in the declaration and in the plan that creates bare land units;
 - (b) fails to complete the common property, common facilities and services units described in the declaration and in the plan that creates units, some or all of which are intended for residential purposes; or
 - (c) fails to complete any improvements that the developer undertakes to provide to the common property, common facilities and services units described in the declaration and in the plan that creates conversion units.
- (4) The minister may endorse a declaration with a certificate of acceptance if:
- (a) there is evidence satisfactory to the minister that the developer has obtained the prescribed security; and
 - (b) in the minister's opinion, the declaration adequately describes:
 - (i) in the case of a plan that creates bare land units, the common property, common facilities and services units on the parcel that the developer undertakes to provide;
 - (ii) in the case of a plan that creates units intended for residential purposes, the common property, common facilities and services units on the parcel that the developer undertakes to provide; or

(iii) in the case of a plan that creates conversion units, the common property, common facilities and services units and any improvements to the common property, common facilities and services units that the developer undertakes to provide.

(5) The Lieutenant Governor in Council may make regulations prescribing the circumstances where the security mentioned in clause (4)(a) is not required.

2000, c.68, s.4; 2013, c.7, s.5.

Common property

6(1) The common property included in a condominium plan pursuant to which titles have issued is held by the owners of all the units as tenants in common in shares proportional to the unit factors for their respective units.

(2) A share in the common property mentioned in subsection (1) shall be shown on any title issued, in accordance with subsection 12(6) of *The Land Titles Act, 2000*.

(3) Except as provided in this Act, a share in the common property shall not be disposed of or become subject to any charge except as belonging to the unit of an owner, and any disposition of or charge on a unit operates to dispose of or charge that share in the common property without express reference to it.

1993, c.C-26.1, s.6; 2000, c.68, s.5.

Owner's interest

7(1) An owner owns title subject to any interest that affects the unit or any interest that affects all the owners.

(1.1) Any interest that affects all the owners is to be registered against all titles issued pursuant to a condominium plan.

(2) An owner is only liable with respect to an interest that affects all the owners in proportion to the unit factor for the owner's unit, except to the extent that the interest relates to a particular unit.

(3) Where an interest based on a mortgage is registered against the titles and is an interest that affects all the owners, the mortgagee is entitled to enforce the mortgage against any owner who has not paid the portion of the mortgage that is attributable to that owner's unit.

(4) Where a portion of a mortgage mentioned in subsection (3) that is attributable to a unit is fully paid, the mortgagee shall furnish to the mortgagor, within 30 days after payment, a discharge of the interest based on the mortgage for the unit.

1993, c.C-26.1, s.7; 2000, c.68, s.6.

Boundaries of units

8(1) Subject to subsection (2), unless otherwise stipulated in the condominium plan:

(a) doors and windows are part of a unit; and

(b) the only portion of a floor, wall or ceiling that forms part of a unit is the finishing material that is in the interior of the unit, including any lath and plaster, panelling, gypsum board, flooring material, floor covering and any other material that is attached to, laid on, glued to or applied to the floor, wall or ceiling, where:

- (i) a boundary of the unit is described by reference to a floor, wall or ceiling; or
- (ii) a wall located within the unit is a load-bearing wall.

(2) With respect to condominium plans registered before the coming into force of this section, the common boundary of one unit described in a condominium plan with another unit or with common property is an imaginary line drawn equidistant between the two lateral surfaces of the floor, wall or ceiling, as the case may be, unless the condominium plan stipulates otherwise.

1993, c.C-26.1, s.8.

Requirements of plans

9(1) A plan submitted for approval as a condominium plan must:

- (a) show the external surface boundaries of the parcel and the location of any buildings in relation to the boundaries;
- (b) bear a statement containing any particulars that are necessary to identify the title to the parcel;
- (c) illustrate the units and distinguish the units by numbers;
- (d) illustrate common property and indicate in the prescribed manner any prescribed common facilities;
- (e) have attached to it in the prescribed manner a unit factor schedule that specifies in whole numbers the unit factor for each unit in the parcel;
- (f) be signed by the developer; and
- (g) contain any prescribed elements.

(2) Where a building is to be divided into units, a plan submitted for approval as a condominium plan must:

- (a) show the boundaries of each unit in the building by reference to floors, walls or ceilings or other monuments as defined in *The Land Surveys Act, 2000*; and
- (b) show the approximate floor area of each unit.

(3) Where the land is to be divided into bare land units, a plan submitted for approval as a condominium plan must:

- (a) show the boundaries of each unit by reference to boundaries governed by monuments placed pursuant to the provisions of *The Land Surveys Act, 2000* respecting subdivision surveys; and
- (b) show the approximate area of each unit

(4) The requirements set out in clauses (2)(b) and (3)(b) do not apply to services units unless required by the Controller of Surveys.

2000, c.68, s.7; 2013, c.7, s.6.

Plans to be certified

10(1) Every plan submitted for approval as a condominium plan must be accompanied, in the prescribed manner, by:

- (a) a certificate of a Saskatchewan land surveyor stating that:
 - (i) subject to clause (c), if buildings are shown on the plan, they are within the external surface boundaries of the parcel that is the subject of the plan;
 - (ii) if eaves or guttering project beyond the external surface boundaries of the parcel, an appropriate easement has been granted as belonging to the parcel and an interest based on the easement has been registered against the title to the parcel;
 - (iii) the units shown in the plan are the same as the units that exist;
 - (b) a certificate of the clerk of the local authority stating that the proposed division of the buildings or land, as shown in the plan, has been approved by the local authority or an official designated by the local authority for that purpose; and
 - (c) where a portion of a building shown on the plan, other than eaves or guttering, encroaches on a street or lane, a copy of a permanent encroachment agreement in the prescribed form respecting the street or lane that is entered into by the local authority, the Department of Highways and Transportation and the developer.
 - (d) **Repealed.** 2000, c.68, s.8.
- (2) **Repealed.** 2000, c.68, s.8.
- (3) **Repealed.** 2000, c.68, s.8.
- (4) **Repealed.** 2000, c.68, s.8.
- (5) Subject to the regulations, on an application for a certificate pursuant to clause (1)(b), the local authority shall direct the issue of the certificate if it is satisfied that:
- (a) separate occupation of the proposed units will not contravene any development control or zoning bylaw;
 - (b) any consent or approval required pursuant to a zoning bylaw or an interim development control bylaw has been given in relation to the separate occupation of the proposed units;
 - (c) the construction of any buildings and the division of the buildings and lands into units for separate occupation will not interfere with the existing or likely future amenity of the neighbourhood, having regard to the circumstances of the case and the public interest;

- (d) the requirement to designate parking spaces or parking units pursuant to section 11 has been or will be complied with; and
 - (e) if the application relates to the conversion of existing premises used for apartments, flats or tenements into units intended for residential purposes:
 - (i) the conversion will not reduce below the prescribed level the availability of rental accommodation in the area;
 - (ii) the conversion will not create significant hardship for any or all of the tenants of the existing premises, taking into consideration any mitigation plan proposed by the developer;
 - (iii) the building and the parcel have the physical characteristics considered necessary by the local authority to make the premises suitable for conversion; and
 - (iv) any other prescribed conditions are met.
- (6) An application to issue titles pursuant to an approved condominium plan must include an application to register an interest based on a permanent encroachment agreement where required pursuant to clause (1)(c).

1993, c.C-26.1, s.10; 1997, c.7, s.6; 2000, c.68, s.8; 2003, c.19, s.4; 2013, c.7, s.7.

Parking

- 11(1)** A condominium plan that is submitted for approval must indicate in the prescribed manner that the developer has designated:
- (a) at least one parking space as an exclusive use area for each unit; or
 - (b) at least one parking unit for each unit.
- (2) Subsection (1) does not apply where:
- (a) the zoning requirements of the local authority do not require sufficient parking spaces or parking units for compliance with subsection (1);
 - (b) units shown in the plan are not intended for residential purposes; or
 - (c) a parking area or garage is included as part of a unit.
- (2.1) A parking unit designated for a unit pursuant to clause (1)(b) remains with the unit unless:
- (a) an application, in the prescribed form, to transfer title to the parking unit is submitted to the registrar in the prescribed manner; and

- (b) the application mentioned in clause (a) is accompanied by an application, in the prescribed form, to transfer title to another parking unit, and that parking unit is to be designated for the unit from which the parking unit mentioned in clause (a) was transferred.
- (3) A parking space designated for a unit pursuant to subsection (1) remains with the unit unless:
- (a) the following persons give written approval in the prescribed form for a redesignation of the parking space to another unit or redesignation as a non-exclusive use area:
- (i) the owner of the unit;
 - (ii) the holder of a registered interest based on a mortgage of the unit who is first entitled in priority;
- (b) **Repealed.** 2013, c.7, s.8.
- (c) an interest based on the redesignation in the prescribed form and accompanied by the written approval mentioned in clause (a) is registered against:
- (i) the title for the unit for which a parking space was designated before the parking space was redesignated; and
 - (ii) if the redesignation is in favour of another unit, the title for the unit that is acquiring the parking space.
- (4) The developer may retain any amount received by the developer for providing a parking space, or a parking unit, pursuant to subsection (1).
- (5) Notwithstanding subsection 70(1), a corporation may, in accordance with its bylaws, lease to an owner a parking space that is not designated pursuant to subsection (1).
- (6) The regulations may provide that provisions of *The Planning and Development Act, 2007* relating to leases do not apply to leases granted pursuant to subsection (5).
- (7) A parking space may become a parking unit in the prescribed manner.

1993, c.C-26.1, s.11; 2000, c.68, s.9; 2007,
c.P-13.2, s.258; 2009, c.10, s.7; 2013, c.7, s.8.

Documents turned over to corporation

12(1) Not later than one year after the day on which titles are issued pursuant to a condominium plan, the developer shall provide to the corporation, without charge, any keys or combinations used to access the common property, common facilities, services units or units, the corporate seal and the original or a copy of the following documents:

- (a) all manuals, warranties and guarantees on the real and personal property of the corporation and the common property for which the corporation is responsible and a description of any action that has been taken on the warranties and guarantees;

- (b) all of the following that exist for the common property for which the corporation is responsible:
 - (i) structural, electrical, mechanical and architectural working drawings and specifications; and
 - (ii) as-built drawings;
 - (c) all plans that exist showing the location of underground utility services, sewer pipes and cable television lines that are located on the common property;
 - (d) a list of the names of the subcontractors who have worked on the common property;
 - (e) all records that exist with respect to the corporation and that are required to be kept pursuant to section 39 and all written agreements to which the corporation is a party;
 - (f) all certificates, approvals and permits issued by a local authority, the Government of Saskatchewan or an agent of the Government of Saskatchewan;
 - (g) a statement indicating the procedure used by the developer to determine the unit factor for each unit in a condominium plan.
 - (h) all insurance policies obtained to cover common property, common facilities, services units and units as required by this Act;
 - (i) the standard unit description for each type of unit shown on the plan;
 - (j) all records relating to employees of the corporation;
 - (k) audited financial statements for the corporation for the period before the election of the board of directors at the first annual general meeting of the corporation;
 - (l) in the case of a plan that creates conversion units, a copy of the reserve fund study;
 - (m) any plans or agreements in relation to establishing a short-term rental management pool for units within the corporation;
 - (n) a copy of all claims and liens against the corporation;
 - (o) a summary of all outstanding payments owed to or by the corporation.
- (2) At any time before a corporation receives a document pursuant to subsection (1), the corporation may make a written request to the developer for a copy of that document, and the developer shall provide a copy to the corporation without charge within 20 days after receiving the request if the document is in the developer's possession.

Proprietary leases

13(1) In this section:

- (a) **“apartment”** includes a flat or tenement;
 - (b) **“proprietary lease”** means a lease, agreement or arrangement by which a person acquires:
 - (i) a tenancy, or an extension of an existing tenancy, of residential premises; and
 - (ii) a direct or indirect ownership interest in residential premises through any agreement or arrangement that includes the acquisition of shares of, or a membership interest in, a corporation, other than a co-operative incorporated or continued pursuant to *The Co-operatives Act, 1989*;
 - (c) **“purchase agreement”** means an agreement for the sale and purchase of residential premises;
 - (d) **“residential premises”**:
 - (i) means:
 - (A) any premises that are intended for residential purposes, including the land on which the premises are situated; or
 - (B) an apartment or all or part of any other place that is or may be occupied by one or more individuals as a residence; and
 - (ii) includes fixtures that, pursuant to a tenancy agreement, are to be supplied by the landlord, but does not include any other premises used for residential purposes that the Lieutenant Governor in Council may exempt by regulation from the operation of this section.
- (2) Subject to subsection (3), this section applies to apartments in existing buildings where:
- (a) two or more of the apartments:
 - (i) are rented, or have been rented within the previous 12 months, to tenants for residential purposes; and
 - (ii) are not included in a condominium plan; and
 - (b) one or more of the apartments are:
 - (i) sold pursuant to a purchase agreement; or
 - (ii) rented pursuant to a proprietary lease.

(3) This section does not apply to apartments that were sold pursuant to a purchase agreement or rented pursuant to a proprietary lease on or before June 30, 1981.

(4) A purchase agreement or proprietary lease with respect to an apartment to which this section applies is deemed to be conditional on the issuance of titles pursuant to a condominium plan that includes the apartments described in clause (2)(b) within three months after the day on which the apartments were sold or rented.

(5) Moneys paid pursuant to a purchase agreement or proprietary lease mentioned in subsection (4) are to be held in trust for the purpose for which the moneys were paid until titles are issued pursuant to a condominium plan that includes the apartments.

(6) A person who receives moneys that are to be held in trust pursuant to subsection (5) shall immediately deposit those moneys in a chartered bank, credit union or trust corporation in a separate account that is held in Saskatchewan and designated as a trust account.

(7) Where titles are not issued pursuant to a condominium plan within the time specified in subsection (4), the person mentioned in subsection (6) shall refund all moneys required to be held in trust with respect to each apartment to the persons from whom the moneys were received, together with interest at the prescribed rate.

(8) Where a person mentioned in subsection (6) fails to refund moneys as required by subsection (7) within 15 days after receiving a written demand for the moneys, the failure is, in the absence of evidence to the contrary, proof that the person has used or applied the moneys for a purpose other than the purpose for which the moneys were entrusted to the person, and the moneys are recoverable with costs in a civil action by the person from whom they were received.

1993, c.C-26.1, s.13; 2000, c.68, s.11.

Amendment of plans

14(1) Subject to subsections (3) and (3.1), a condominium plan may be amended:

- (a) where written consent has been obtained from:
 - (i) the owners of every unit in the plan; and
 - (ii) every holder of a registered interest based on a mortgage with respect to a unit and the common property that is affected by the amendment;
- (b) by obtaining the approval of the Controller of Surveys of:
 - (i) a new condominium plan; or
 - (ii) an amendment to an existing condominium plan; and

- (c) by obtaining the issuance of titles pursuant to the new condominium plan or amendment to an existing condominium plan described in clause (b), if required, by making an application in the prescribed manner accompanied by:
 - (i) an amending instrument in the prescribed form; and
 - (ii) a certificate in the prescribed form under the seal of the corporation stating that the consents required pursuant to clause (a) have been obtained.
- (2) Subject to subsections (3) and (3.1), a condominium plan may be amended:
 - (a) where written consent has been obtained from 80% of the owners of units and holders of registered interests based on mortgages with respect to the units and the common property that are affected by the amendment;
 - (b) by obtaining the approval of the Controller of Surveys of:
 - (i) a new condominium plan; or
 - (ii) an amendment to an existing condominium plan; and
 - (c) by obtaining the issuance of titles pursuant to the new condominium plan or amendment to an existing condominium plan described in clause (b), if required, by making an application in the prescribed manner accompanied by:
 - (i) an amending instrument in the prescribed form;
 - (ii) proof of service of a notice of the amending instrument, effected not less than 30 days before submitting the application to issue titles pursuant to the plan mentioned in clause (b), in the prescribed form, on:
 - (A) all owners of units and all holders of registered interests based on mortgages with respect to units and the common property that are affected by the amending instrument, except those unit owners and holders of registered interests based on mortgages that have consented pursuant to clause (a); and
 - (B) the local authority;
 - (iii) a certificate in the prescribed form under the seal of the corporation stating that the consents required pursuant to clause (a) have been obtained.
- (3) Where the amendment affects property in addition to the property included in a condominium plan, the amending instrument is to include a statement setting out the priority that is to be given to each of the registered interests that exist with respect to all of the property that is affected by the amendment.
- (3.1) Where the amendment affects the unit factors, the amending instrument is to include a statement showing the existing units, with accompanying unit factors and registered owners, together with the units and unit factors that the registered owners will own as a result of the amendment.
- (4) An owner, a holder of a registered interest based on a mortgage mentioned in paragraph (2)(c)(ii)(A) or the local authority may apply to the court within 30 days after being served with the notice mentioned in subclause (2)(c)(ii) to object to the proposed amendment.

- (5) An applicant mentioned in subsection (4) shall serve notice of the application on:
 - (a) the board of directors of the corporation;
 - (b) the owners of units;
 - (c) the holders of registered interests based on mortgages mentioned in paragraph (2)(c)(ii)(A); and
 - (d) the local authority.
- (6) An applicant mentioned in subsection (4) shall register an interest based on the notice of the application against the titles issued pursuant to the condominium plan.
- (7) Where notice has been received pursuant to subsection (5), the condominium corporation shall not submit an application to issue titles pursuant to the plan described in clause (2)(b), except in accordance with an order made pursuant to subsection (8).
- (8) On an application pursuant to subsection (4), the court may:
 - (a) accept any evidence that the court considers appropriate; and
 - (b) make any order that the court considers fair and equitable.
- (9) The applicant shall forward a certified copy of an order made pursuant to subsection (8) to the registrar.
- (10) Subject to any further requirements that may be prescribed in the regulations:
 - (a) the registrar or Controller of Surveys shall take any steps necessary to give effect to the amendment or to a court order made pursuant to subsection (8); and
 - (b) on receipt of an application to issue titles pursuant to this section, the registrar shall:
 - (i) take any steps necessary to issue those titles;
 - (ii) register against the new title issued for a unit any interest registered against the cancelled title to that unit that has not been discharged; and
 - (iii) register against the new title issued for a unit any additional interest that affects all the owners based on the statement provided in subsection (3).
- (11) For the purposes of this section, a redesignation pursuant to clause 11(3)(a), or a change from a parking space to a parking unit pursuant to subsection 11(7), does not constitute an amendment to a condominium plan.

(12) Where there is an omission, clerical error or other defect in an approved condominium plan, the Controller of Surveys may order a correction pursuant to section 41 of *The Land Surveys Act, 2000*, and that correction does not constitute an amendment to a condominium plan for the purposes of this section.

1993, c.C-26.1, s.14; 2000, c.68, s.12; 2003, c.19, s.7; 2009, c.10, s.8.

Amalgamations

15(1) Two or more corporations may amalgamate pursuant to the procedure set out in this section and section 14.

(2) The board of each amalgamating corporation shall call a meeting of all owners and holders of registered interests based on mortgages for the purpose of approving the amalgamation.

(3) The board of each amalgamating corporation shall provide all owners and holders of registered interests based on mortgages with notice of the meeting and:

- (a) a copy of the proposed condominium plan;
- (b) a copy of the proposed bylaws;
- (c) a statement indicating the number of unit factors to be allotted to each unit;
- (d) an estoppel certificate in the prescribed form for each amalgamating corporation;
- (e) a statement setting out the priority that is to be given to each of the registered interests with respect to the common property and the units that are affected by the amalgamation; and
- (f) any other documentation that may be prescribed by the regulations.

(4) Where the amalgamating corporations are proposing an amalgamation:

- (a) pursuant to subsection 14(1), the unanimous consent of all unit owners and holders of registered interests based on mortgages for each of the amalgamating corporations must be obtained; or
- (b) pursuant to subsection 14(2), the consent of 80% of all unit owners and holders of registered interests based on mortgages for each of the amalgamating corporations must be obtained.

(5) An application to issue titles pursuant to a condominium plan described in clause (3)(a) for which approval has been obtained is not to be submitted unless it is accompanied by:

- (a) a certificate required pursuant to subclause 14(1)(c)(ii) or 14(2)(c)(iii) from each of the amalgamating corporations; and

- (b) the prescribed information that is to be provided to the Director pursuant to section 34.
- (5.1) On receipt of an application mentioned in subsection (5), the registrar shall:
- (a) advise the amalgamated corporation of the new condominium corporation number obtained pursuant to subsection 34(1);
 - (b) cancel the ownership registers for the units described in the existing plans;
 - (c) cancel the titles to the units described in the existing plans;
 - (d) establish an ownership register for each unit in the approved plan;
 - (e) issue titles pursuant to the approved plan; and
 - (f) register interests affecting a unit for which titles were cancelled pursuant to clause (c) against the titles for the same unit issued pursuant to clause (e) and register in the prescribed manner against all titles any interest that affects all of the owners.
- (6) On the issuance of titles pursuant to this section:
- (a) any condominium plan pursuant to which titles had issued respecting the parcels affected by the amalgamation ceases to apply;
 - (b) the amalgamating corporations are amalgamated and continued as one corporation;
 - (c) the amalgamated corporation possesses all the assets, rights and privileges and is subject to all the liabilities including civil, criminal and quasi-criminal, and all the contracts, agreements and debts of each amalgamating corporation;
 - (d) a conviction against, or a ruling, order or judgment in favour of or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
 - (e) the amalgamated corporation shall be deemed to be the plaintiff or defendant, as the case may be, in any civil action commenced by or against an amalgamating corporation before the amalgamation becomes effective;
 - (f) units and common interests in an amalgamating corporation are units and common interests in the amalgamated corporation.
- (7) On the issuance of titles pursuant to this section, the members of the boards of the amalgamating corporations shall constitute the members of the board of the amalgamated corporation and shall hold office until the election of the members of the board at the first annual meeting of owners of the amalgamated corporation.

Amendment of unit factors

15.1(1) A condominium corporation may amend the unit factors in accordance with the following provisions respecting amendment of plans, with any necessary modification:

- (a) subsection 14(1), other than clause (b);
- (b) subsection 14(2), other than clause (b);
- (c) subsections 14(3.1) to (9).

(1.1) For the purposes of this section, a change from a parking space to a parking unit pursuant to subsection 11(7) does not constitute an amendment to the unit factors.

(2) An application to amend unit factors may be submitted to the registrar in the prescribed form and must be accompanied by a new unit factor schedule that specifies in whole numbers the unit factor for each unit in the plan.

(3) On receipt of an application to amend the unit factors, the registrar shall amend the unit factors by:

- (a) cancelling the title to each unit;
- (b) issuing a new title to the unit showing the amended unit factor; and
- (c) providing the new unit factor schedule to the Controller of Surveys.

(4) Where there is an omission, clerical error or other defect in the unit factors that has been noted on a title, the registrar may order a correction pursuant to section 97 of *The Land Titles Act, 2000*, and that correction does not constitute an amendment to the unit factors for the purposes of this section.

2000, c.68, s.14.

Developer's reservation

16(1) An application to register an interest based on a developer's reservation in the prescribed form against the titles issued pursuant to a plan may accompany:

- (a) an application to issue titles to units in a condominium plan pursuant to section 5.1; or
- (b) an application to issue titles to additional units in a replacement plan pursuant to section 23.

(2) Subject to subsection 17(2), the effect of registering an interest based on a developer's reservation pursuant to subsection (1) is to reserve to the developer the right to construct additional units and additional common facilities on the parcel.

(3) An interest registered pursuant to subsection (1) must be accompanied by a declaration in the prescribed form that is endorsed with:

- (a) a certificate of acceptance granted by the minister where required by the regulations; or
- (b) a waiver of the requirement to obtain security where authorized by the regulations.

- (4) A developer may apply to the minister for a certificate of acceptance for the purposes of clause (3)(a) by providing the minister with:
- (a) evidence that the developer has obtained security as prescribed by the regulations that is for the purpose of providing a remedy to owners where the developer fails to complete the common facilities or the units as described in the declaration;
 - (b) a copy of the declaration; and
 - (c) any other information that the minister may require.
- (5) The minister may endorse a declaration with a certificate of acceptance for the purposes of clause (3)(a) where:
- (a) there is evidence satisfactory to the minister that the developer has obtained security as prescribed by the regulations; and
 - (b) in the minister's opinion, the declaration adequately describes the additional units or additional common facilities on the parcel that the developer undertakes to provide.
- (6) An interest based on a developer's reservation shall not be registered against titles issued pursuant to a replacement plan unless the intention to register that interest was disclosed in the declaration that accompanied the developer's reservation registered against titles issued pursuant to the original condominium plan.
- (7) **Repealed.** 2000, c.68, s.15.
- (8) The regulations may prescribe circumstances where security as prescribed by the regulations is not required.

1993, c.C-26.1, s.16; 1997, c.7, s.8; 2000, c.68, s.15; 2003, c.19, s.8.

Replacement plans

- 17(1) For each phase of development disclosed in the declaration that accompanied the developer's reservation registered against titles issued pursuant to the original condominium plan, a developer must submit an application for and obtain the issuance of titles pursuant to an approved replacement plan pursuant to section 23 within:
- (a) two years after the day on which an interest based on a developer's reservation was registered for the phase against titles issued pursuant to the previous plan; or
 - (b) any period of extension allowed pursuant to section 19 or 20.
- (2) Subject to any extension pursuant to section 19 or any order of the court pursuant to section 20, where issuance of titles is not obtained within the time required by subsection (1), all rights reserved to the developer under the developer's reservation cease.

2000, c.68, s.16; 2013, c.7, s.10.

Amendment of declarations

18(1) Subject to subsection (2), a developer may amend a declaration by:

- (a) obtaining approval of the amendment by a special resolution of the corporation;
- (b) obtaining a certificate of acceptance granted by the minister; and
- (c) registering, before the expiry of the period mentioned in clause 17(1)(a), an amendment to the interest based on a developer's reservation accompanied by:
 - (i) a notice of amendment to the declaration in the prescribed form; and
 - (ii) a declaration endorsed with the certificate of acceptance mentioned in clause (b).

(2) A developer may apply to the minister for a certificate of acceptance for the purposes of clause (1)(b) by providing the minister with a copy of the proposed amendment.

(3) The minister may endorse a declaration with a certificate of acceptance for the purposes of subclause (1)(c)(ii) where:

- (a) in the minister's opinion, the amendment adequately describes the changes in the undertaking of the developer; and
- (b) the minister has received a copy of the special resolution certified by an officer of the corporation.

(4) No amendment to a declaration is effective unless an amendment to the interest based on a developer's reservation has been registered.

1993, c.C-26.1, s.18; 2000, c.68, s.17.

Extension of time for completion

19(1) Subject to subsections (2) and (3), the time allowed for the completion of any additional units or additional common facilities may be extended where:

- (a) the corporation, by special resolution, approves the extension;
- (b) a certificate of acceptance is granted by the minister; and
- (c) before the expiry of the time allowed for completion, an amendment to the interest based on a developer's reservation has been registered, accompanied by:
 - (i) a notice of extension in the prescribed form; and
 - (ii) a declaration endorsed with the certificate of acceptance mentioned in clause (b).

(2) A developer may apply to the minister for a certificate of acceptance for the purposes of clause (1)(b) by providing the minister with a copy, certified by an officer of the corporation, of the special resolution that extends the time for completion of the additional units or common facilities.

(3) The minister may endorse a declaration with a certificate of acceptance for the purposes of subclause (1)(c)(ii) where the minister has received a copy of the special resolution.

(4) The period or periods of extension granted pursuant to this section for the submission of an application for titles pursuant to a replacement plan for a particular phase of a phased development must not exceed four years after the day on which the interest based on a developer's reservation for that phase is registered pursuant to section 16.

(5) No extension of time is effective unless an amendment to the interest based on a developer's reservation has been registered.

1993, c.C-26.1, s.19; 2000, c.68, s.18; 2013, c.7, s.11.

Extension of time for issuance of replacement plan

20(1) A developer may, not later than one year after the expiration of the time allowed for obtaining the issuance of titles pursuant to a replacement plan, apply to the court for an order amending the declaration or extending the time for obtaining the issuance of titles pursuant to the replacement plan.

(2) An application pursuant to subsection (1) is to be served on the corporation, the local authority, the minister and any other person the court considers appropriate, and each party is entitled to appear and be heard in person or by counsel.

(3) On hearing an application pursuant to subsection (1), the court may make any order it considers appropriate including:

- (a) restoring the rights of the developer under the developer's reservation on any terms and conditions that the court considers appropriate;
- (b) directing the minister to grant a certificate of acceptance;
- (c) directing the Controller of Surveys to approve the replacement plan;
- (c.1) directing the registrar to issue titles pursuant to the approved replacement plan; or
- (d) directing the developer's reservation to lapse and directing the registrar to take any necessary steps to give effect to the order.

1993, c.C-26.1, s.20; 1997, c.7, s.9; 2000, c.68, s.19.

Transfer of developer's interest

21(1) Where the developer described in subclause 2(1)(n)(i) wishes to transfer his or her interest in a condominium to a developer described in subclause 2(1)(n)(ii), the developer described in subclause 2(1)(n)(i) is not discharged from the responsibility to maintain security as prescribed by the regulations until the transferee has submitted a declaration to the minister and the minister has endorsed the declaration with:

- (a) a certificate of acceptance where required by the regulations; or
- (b) a waiver of the requirement to obtain security where authorized by the regulations.

(2) A transferee may apply to the minister for a certificate of acceptance for the purposes of subsection (1) by providing the minister with:

- (a) a copy of the transfer, sales agreement or contract;
- (b) prior to completion of the common property or common facilities as described in the plan or declaration, evidence that the transferee has obtained security as prescribed by the regulations that is for the purpose of providing a remedy to owners where the developer described in subclause 2(1)(n)(ii) fails to complete the common property, common facilities or units as described in the plan or declaration; and
- (c) any other information that the minister may require.

(3) The minister may endorse a declaration with a certificate of acceptance for the purposes of subsection (1) where there is evidence satisfactory to the minister that the developer described in subclause 2(1)(n)(ii) has obtained security as prescribed by the regulations.

(4) The regulations may prescribe circumstances where security as prescribed by the regulations is not required.

(5) The developer described in subclause 2(1)(n)(ii) must register an assignment of the interest based on a developer's reservation registered by the developer described in subclause 2(1)(n)(i) in order to obtain the rights reserved under the developer's reservation.

(6) A developer described in subclause 2(1)(n)(ii) who has registered an assignment pursuant to subsection (5) must subsequently amend the interest based on the developer's reservation by providing the endorsed declaration mentioned in subsection (1);

(7) In the case of a condominium involving bare land units, the developer described in subclause 2(1)(n)(ii) must:

- (a) register an assignment of the interest based on the endorsed declaration registered by the developer described in subclause 2(1)(n)(i); and
- (b) following registration of the assignment pursuant to clause (a), amend the interest by attaching a copy of the declaration endorsed pursuant to subsection (1).

1993, c.C-26.1, s.21; 1997, c.7, s.10; 2000, c.68, s.20; 2003, c.19, s.9.

Minister's powers re certificates of acceptance

22(1) Before granting a certificate of acceptance, the minister may:

- (a) make any inquiries that the minister considers necessary; and
- (b) where information is provided in writing, require the information to be verified by affidavit or otherwise.

(2) The minister may delegate his or her authority regarding the granting of certificates of acceptance and waivers of the requirement to obtain security to the registrar or deputy registrar.

(3) In subsection (2), “**deputy registrar**” means Deputy Registrar as defined in *The Land Titles Act, 2000*.

1993, c.C-26.1, s.22; 2009, c.10, s.10.

Issuance of titles pursuant to replacement plan

23(1) An application to issue titles pursuant to an approved replacement plan may be submitted to the registrar in the prescribed manner.

(2) An application mentioned in subsection (1) must be accompanied by a certificate of a member of the board stating that the corporation, by a resolution of the board, approves or does not oppose the issuance of titles pursuant to the plan.

(2.1) An application to issue titles pursuant to an approved replacement plan may be accompanied by a developer’s reservation mentioned in section 16.

(3) On receipt of an application pursuant to this section, the registrar shall:

(a) discharge the interest based on a developer’s reservation registered on titles;

(b) cancel the ownership registers for the units described in the condominium plan;

(c) cancel the titles to the units described in the condominium plan;

(d) establish an ownership register for each unit in the replacement plan;

(e) issue to the owners titles for their units as described in the replacement plan, subject to all interests affecting those units that are registered on the cancelled titles;

(f) issue to the developer titles to the additional units;

(f.1) designate a parking space or a parking unit for each additional unit described in clause (f) that is intended for residential purposes, if required by section 11.

(g) register against the titles issued pursuant to clause (f) any interest that affects all of the owners; and

(h) do any other thing that the registrar considers necessary or advisable to carry out the purposes of this section.

(4) The developer:

(a) is responsible for all expenses and liabilities incurred on or in connection with the additional units, additional common facilities and any land to be added to the common property up to the date that titles are issued pursuant to a replacement plan, including property taxes, local improvement charges and fire and public liability insurance premiums;

(b) shall indemnify the owners of the units described in the condominium plan and the corporation for all costs, damages, claims and demands of any kind resulting from the exercise of any of the rights reserved to the developer under the interest based on a developer's reservation registered pursuant to section 16; and

(c) is responsible for the fees of the registrar and Controller of Surveys for services provided pursuant to this section.

2000, c.68, s.21; 2013, c.7, s.12.

Claims against developer

24 A corporation, an owner or a mortgagee has a claim against a developer and may bring an action or proceeding against the developer in a court of competent jurisdiction for the recovery of damages with respect to the claim, for:

- (a) any misrepresentation by or on behalf of a developer in a declaration or in the information provided to a purchaser pursuant to subsection 26(1); or
- (b) failure to reasonably pursue remedies under warranties in existence with respect to construction of common property, common facilities and services units.

1993, c.C-26.1, s.24; 2013, c.7, s.13.

Redivision of units

25(1) Subject to subsection (1.1), with the approval of the local authority, the owner of a unit may redivide the unit by obtaining:

- (a) the Controller of Surveys' approval of a new condominium plan or of an amendment to an existing condominium plan;
- (b) the issuance of titles pursuant to the new condominium plan or the amendment to an existing condominium plan; and
- (c) specify the parking space or parking unit that is designated for each new unit intended for residential purposes, if required by section 11.

(1.1) If a new condominium plan or an amendment to an existing condominium plan mentioned in clause (1)(a) proposes to create a new services unit or additional common property, approval of the corporation in the prescribed form must accompany the plan or amendment when it is submitted to the Controller of Surveys for approval.

(2) Except as provided in this section, the provisions of this Act relating to condominium plans apply, with any necessary modification, to a new condominium plan or an amendment to an existing condominium plan submitted to the Controller of Surveys for redivision.

(3) The schedule required pursuant to clause 9(1)(e) that is attached to the new condominium plan or the amendment to an existing condominium plan mentioned in subsection (1) must apportion among the units involved in the redivision the unit factors for any units in the original plan that are included in the redivision.

(4) If required by the registrar or the Controller of Surveys, an application for approval of a new condominium plan or an amendment to an existing condominium plan or for the issuance of titles pursuant to subsection (1) must:

- (a) identify the existing unit that is to be redivided;
- (b) specify the unit or units into which the existing unit is to be redivided; and
- (c) specify the parking space or parking unit that is designated for each new unit intended for residential purposes, if required by section 11.

(5) In the case of a proposed redivision, the Controller of Surveys may:

- (a) if the Controller of Surveys considers it useful or necessary in the circumstances, require a new condominium plan to be submitted for approval; or
- (b) permit the redivision to occur by an amendment to an existing condominium plan.

(6) An application to issue titles pursuant to a new condominium plan or an amendment to an existing condominium plan must:

- (a) be made in the prescribed manner; and
- (b) be accompanied by:
 - (i) the written consent of the owner of the unit to be redivided;
 - (ii) the written consent of any holder of an interest based on a mortgage that is registered against the title to the unit to be redivided;
 - (iii) if required by the regulations, the approval of the following persons in the prescribed manner:
 - (A) the owner of any other unit in the condominium;
 - (B) the holder of an interest based on a mortgage that is registered against the title to any other unit in the condominium; and
 - (iv) either:
 - (A) a description, in the prescribed form, of the parking space that is designated for each new unit intended for residential purposes, if required by section 11; or
 - (B) a description, in the prescribed form, of the parking unit that is designated for each new unit intended for residential purposes, if required by section 11.

(7) If an application for issuance of titles is made pursuant to the approval of a new condominium plan described in clause (5)(a), the registrar may:

- (a) surrender the title to any unit in the condominium plan that is not being redivided; and

- (b) issue a new title for each unit mentioned in clause (a) that:
 - (i) references the new condominium plan;
 - (ii) contains the same ownership, value and interest registration information as the title surrendered pursuant to clause (a); and
 - (iii) references the parking space or parking unit designated for each unit, if required by section 11.
- (8) For the purposes of clause (7)(a), the registrar has the authority to surrender the title with or without the consent of:
 - (a) the owner of the unit; and
 - (b) any holder of an interest based on a mortgage that is registered against the title to the unit.

2003, c.19, s.10; 2009, c.10, s.12; 2013, c.7, s.14.

Sale of units by developer

26(1) A developer shall not sell or agree to sell a unit or a proposed unit unless the developer delivers to the purchaser a copy or description of:

- (a) a purchase agreement;
- (b) the bylaws or proposed bylaws of the corporation and of any sector;
- (c) any management agreement or proposed management agreement, including the name and contact information for the property manager;
- (d) any recreational agreement or proposed recreational agreement;
- (e) in the case of a unit sold for residential purposes, any mortgage that affects, or proposed mortgage that may affect, the title to a unit or proposed unit;
- (e.1) in the case of a unit sold for residential purposes, the standard unit description for the unit;
- (f) any lease or transfer or proposed lease or transfer of common property;
- (g) a statement that specifies:
 - (i) the number and type of parking spaces and other exclusive use areas that are included in the purchase price;
 - (ii) whether there is to be any additional monthly charge for the use of the parking space or other exclusive use area;
 - (iii) the number and type of parking units that are included in the purchase price; and
 - (iv) whether there are additional parking spaces available or additional parking units for sale;
- (h) the condominium plan if one exists;
- (i) prior to issuance of titles pursuant to the condominium plan, the proposed condominium plan with a reasonably specific description of the units and common facilities and common property;

- (j) a statement that indicates the number or proportion of the units that, as of the date of the purchase agreement, are:
 - (i) occupied by tenants; or
 - (ii) designated for occupancy by tenants rather than for sale to owners;
- (j.1) any plans or agreements that establish a short-term rental management pool for units within the corporation;
- (k) a statement that indicates whether a caretaker's suite is included;
- (k.1) a statement that identifies all services units shown on the condominium plan and indicates the intended use for each of the services units;
- (l) a statement that:
 - (i) indicates whether any of the units are designed for non-residential use and, if so, the number of units and the unit factors that are allocated for non-residential use; and
 - (ii) contains any other additional prescribed information concerning units designed for non-residential use;
- (m) in the case of a bare land unit, a reasonably specific description of any buildings and common facilities that the developer intends to construct on the land;
- (n) a copy of this Act and the regulations;
- (o) a statement that indicates the dates when contributions to the common expenses fund and the reserve fund will commence;
- (p) any security obtained by the developer as required by this Act and the amount of the security, its terms and its purposes or a statement that security is not required or has not yet been obtained;
- (q) a statement that indicates how the developer is allocating or disposing of parking spaces that are in excess of those required pursuant to section 11;
- (r) a statement that indicates whether the unit has been converted from a previous use as an apartment, tenement, flat or other purpose;
- (s) a copy of the reserve fund study for a condominium plan that creates conversion units;
- (t) a copy of the developer's declaration or developer's reservation, if one is required by this Act;
- (u) a statement specifying any parts of the common property, common facilities or services units, if any, that the unit owner is not entitled to use;
- (v) if the construction of the common property, common facilities and services units is not yet complete, a detailed list of the expected attributes of those facilities and a proposed schedule of the construction and completion of any unfinished common property, common facilities and services units;

(w) in the case of a completed unit, a copy of the final inspection report by the local authority detailing compliance with zoning requirements and building and fire code requirements; and

(x) any additional prescribed documents or information.

(2) Subject to subsection (3), a purchaser of a unit pursuant to this section may, in writing, rescind the purchase agreement within 10 days after the day on which the purchase agreement was signed by the parties without incurring liability for rescinding the agreement.

(3) A purchaser may not rescind a purchase agreement pursuant to subsection (2) if all of the documents mentioned in subsection (1) are delivered to the purchaser not less than 10 days before the parties sign the purchase agreement.

(4) A developer shall return to the purchaser all of the moneys paid with respect to the purchase of a unit within 10 days after receiving from the purchaser a written notice of rescission pursuant to subsection (2).

(5) Where the units and common facilities have been completed, and the requirements of sections 12 and 38 have been satisfied, subsections (1) to (4) no longer apply.

1993, c.C-26.1, s.26; 1997, c.7, s.12; 2000, c.68, s.23; 2009, c.10, s.13; 2013, c.7, s.15.

Waiver of rights

27 A purchaser may waive the right to rescind a purchase agreement pursuant to subsection 26(2) where the purchaser has obtained a certificate of independent legal advice in the prescribed form.

1993, c.C-26.1, s.27.

Requirements for purchase agreements

28 A developer who enters into a purchase agreement shall include in the purchase agreement the following:

(a) a notice that:

(i) is at least as prominent as the rest of the contents of the purchase agreement;

(ii) is bordered in black ink on the outside front cover or on the first page of the purchase agreement; and

(iii) states:

“The purchaser may rescind this agreement within 10 days after the day on which the parties sign it without incurring liability for rescinding this agreement unless all of the documents mentioned in subsection 26(1) of *The Condominium Property Act, 1993* are delivered to the purchaser not less than 10 days before the parties sign this agreement”;

- (b) a description, drawing or photograph that shows the following features as they will exist when the developer has fulfilled the obligations of the developer pursuant to the purchase agreement:
- (i) where there is a building:
 - (A) the interior finishing of and all major improvements to the common property located within the building; and
 - (B) the exterior finishing of the building;
 - (ii) the common facilities, equipment and other amenities that are to be used by the persons who reside in or on the units;
 - (iii) the equipment that is to be used for the maintenance of the common property;
 - (iv) the location of roadways, walkways, fences, parking areas and common facilities; and
 - (v) the landscaping;
- (c) the amount or estimated amount of the monthly unit contributions with respect to the unit; and
- (d) the unit factor of the unit and the basis of unit factor apportionment for all units in the condominium plan.

1993, c.C-26.1, s.28.

Developer's management agreements

- 29(1)** In this section and in clause 114(d), “**developer's management agreement**” means a management agreement that was entered into by a corporation at a time when its board consisted of members who were elected while the developer owned a majority of the units.
- (2) Notwithstanding anything contained in a developer's management agreement or a collateral agreement, a corporation may, subject to subsection (3), terminate a developer's management agreement at any time after its board consists of members elected after the developer ceased to own a majority of the units.
- (3) A developer's management agreement:
- (a) may not be terminated pursuant to subsection (2) without cause until one year has elapsed from the day on which the parties signed the agreement unless the agreement permits termination at an earlier day; and
 - (b) may be terminated pursuant to subsection (2) only after the expiry of 60 days' written notice of intention to terminate given by the corporation to the other parties.
- (4) A corporation that terminates a developer's management agreement pursuant to this section is not liable to the other parties by reason only of the termination of the agreement.

1993, c.C-26.1, s.29.

Easements in favour of owner

30 After titles are issued pursuant to a condominium plan, the following easements are implied with respect to each unit shown on the plan, in favour of the owner of the unit and as belonging to the unit:

- (a) an easement for the subjacent and lateral support of the unit by the common property and by every other unit capable of affording support;
- (b) an easement for the shelter of the unit by the common property and by every other unit capable of affording shelter;
- (c) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services, including telephone, radio and television services, through or by means of any pipes, wires, cables or ducts for the time being existing in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of the unit;
- (d) an easement for access to any parking space or parking unit designated for the unit;
- (e) an easement for access to any services unit, subject to any restrictions contained in the bylaws of the corporation.

1993, c.C-26.1, s.30; 2000, c.68, s.24; 2009, c.10, s.14.

Easements against owner

31(1) After titles are issued pursuant to a condominium plan, the following easements are implied with respect to each unit shown on the plan, as against the owner of the unit:

- (a) an easement for the subjacent and lateral support of the common property and of every other unit capable of enjoying support;
 - (b) an easement to provide shelter to the common property and to every other unit capable of enjoying shelter;
 - (c) easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services, including telephone, radio and television services, through or by means of any pipes, wires, cables or ducts for the time being existing within the unit, as belonging to the common property and also to every other unit capable of enjoying those easements;
 - (d) an easement for access to and maintenance of any parking space or parking unit designated for the unit;
- (2) Where an easement is implied by this section, the owner of a utility service who provides service to the parcel, or to any unit in the parcel, is entitled to the benefit of any of those easements that are appropriate to the proper provision of that service, but not to the exclusion of the owner of any other utility service.

1993, c.C-26.1, s.31; 2000, c.68, s.25; 2009, c.10, s.15.

No notice of restriction to user

32 Easements or restrictions that are implied or created by this Act or the bylaws of a corporation take effect and are enforceable:

- (a) without registration pursuant to *The Land Titles Act, 2000*; and
- (b) without any express indication of the dominant and servient tenements.

1993, c.C-26.1, s.32; 2000, c.68, s.26.

Ancillary rights and obligations

33 All ancillary rights and obligations that are reasonably necessary to make easements effective apply with respect to easements implied by this Act, including the right of an owner of a dominant tenement to enter a servient tenement and replace, renew or restore any thing that the dominant tenement is entitled to benefit from.

1993, c.C-26.1, s.33.

PART III Condominium Corporations

Composition and powers

34(1) On the receipt of an application to issue titles pursuant to section 5.1 or 15, the registrar shall provide the Director with the prescribed information, and the Director shall provide the registrar with a condominium corporation number.

(1.1) On the issuance of titles pursuant to section 5.1 or 15, a corporation is constituted under the name 'The Owners: Condominium Corporation No. (*number given by the Director*)', or any other name approved by the Director.

(2) A corporation that was constituted pursuant to section 16 of *The Condominium Property Act* and that is in existence immediately before the coming into force of this Act:

- (a) is continued; and
- (b) is deemed to have been constituted pursuant to subsection (1).

(2.1) A corporation may apply to the Director at any time in the prescribed form and manner to change the name of the corporation.

(2.2) The Director may approve an application made pursuant to subsection (2.1) if, in the Director's opinion, the name proposed by the corporation complies with the prescribed requirements.

(3) A corporation consists of all persons who are:

- (a) owners of units in the parcel to which the condominium plan applies; or
- (b) entitled to the parcel where the condominium arrangement is terminated pursuant to section 83 or 84.

- (4) A corporation may:
- (a) sue with respect to any damage or injury to the common property or losses to the corporation or any damage, injury or losses that affect unit owners jointly caused by any person, whether an owner or not; and
 - (b) be sued with respect to any matter connected with the parcel for which the owners are jointly liable.
- (5) A corporation may, by special resolution:
- (a) acquire an interest in real property for use by the corporation but not for the purpose of investment; or
 - (b) dispose of an interest in real property that is owned by the corporation.
- (5.1) Subject to the bylaws, a corporation may do either or both of the following:
- (a) borrow money for the purpose of carrying out the objects and performing the duties of the corporation;
 - (b) grant a security interest in real or personal property that is owned by the corporation or in any amount that is due or has been collected from an owner pursuant to section 57 or 58.
- (6) *The Business Corporations Act, 2021* and *The Non-profit Corporations Act, 2022* do not apply to a corporation.

1993, c.C-26.1, s.34; 1997, c.7, s.13; 2000, c.68, s.27; 2003, c.19, s.11; 2013, c.7, s.16; 2021, c.6, s.23-26; 2022, c.26, s.6.

Duties

- 35(1)** A corporation is responsible for the enforcement of its bylaws and the control, management and administration of the units, and of the common property and common facilities.
- (2) Without restricting subsection (1), the duties of a corporation include the following:
- (a) to keep the common property, common facilities and services units in a state of good and serviceable repair and to maintain them properly;
 - (b) to comply with notices or orders by the local authority or any other public authority requiring repairs to the buildings or work to be done with respect to the parcel;
 - (c) to comply with any reasonable request for the names and addresses of the persons who are members of the board; and
 - (d) to file any prescribed returns with the Director.

1993, c.C-26.1, s.35; 2013, c.7, s.17.

Right to enter unit

36(1) The corporation or any person authorized by the corporation may, on 24 hours' notice, enter any unit or any common property for which an owner exercises exclusive use at any reasonable time to carry out the objects and perform the duties of the corporation.

(2) The notice mentioned in subsection (1) is not required if, in the opinion of the board or any person authorized by the corporation, an emergency exists.

1993, c.C-26.1, s.36.

Right of unit owner to display election advertising

36.1(1) No corporation or any of its agents, officers or employees shall prohibit the owner of a unit from displaying election advertising posters in or on the owner's unit during a campaign to elect a member to the House of Commons or the Legislative Assembly or to an elected office in a municipality, school board or conseil scolaire.

(2) A corporation or any of its agents, officers or employees may:

(a) set reasonable conditions respecting the type and size of election advertising posters that may be displayed on a unit; and

(b) prohibit the display of election advertising posters on the common property.

(3) All election advertising posters that are displayed pursuant to subsection (1) must be removed within seven days after the date of the election to which the posters relate.

2005, c.12, s.53.

Candidate's right to enter

36.11(1) In this section, "**candidate**" means a candidate for election as a member to the House of Commons or the Legislative Assembly or to an elected office in a municipality, school board or conseil scolaire.

(2) For the purpose of canvassing or distributing election materials during a campaign to elect a member to the House of Commons or the Legislative Assembly or to an elected office in a municipality, a school board or the conseil scolaire, every corporation and its agents, officers or employees must give unrestricted access at reasonable times to a candidate, or an authorized agent or representative of a candidate, to:

(a) each unit; and

(b) the common property, including a hallway, roadway or other point of access.

(3) Before entering a unit or any common property for which an owner exercises exclusive use, a candidate shall give his or her name and address to the corporation or to a person authorized for the purpose by the corporation.

(4) Before entering a unit or any common property for which an owner exercises exclusive use, an authorized agent or representative of a candidate shall:

(a) give his or her name and address to the corporation or to a person authorized for the purpose by the corporation; and

(b) if requested to do so by the corporation or person mentioned in clause (a), produce the candidate's written authorization that appoints him or her as an authorized agent or representative.

2005, c.12, s.53; 2018, c.47, s.12.

Board of directors

37(1) A corporation is to have a board of directors that is constituted in accordance with the bylaws of the corporation.

(2) Notwithstanding that a defect in the election or appointment or continuance in office of a member of a board is discovered later, all acts done in good faith by the board are as valid as if the member had been properly elected or appointed or had properly continued in office.

1993, c.C-26.1, s.37.

First annual meeting

38(1) A developer who has titles issued pursuant to section 5.1 shall convene the first annual meeting at which a board is to be elected at the earlier of the following:

- (a) not later than one year after titles are issued pursuant to the condominium plan;
- (b) within 45 days after a request by owners who represent not less than 25% of the unit factors.

(2) Where the developer does not convene the first annual meeting as required in subsection (1), the owners may convene the first annual meeting.

(3) Where the owners convene the first annual meeting, the owners shall notify the developer of the meeting at least seven days before the meeting.

1997, c.7, s.14; 2000, c.68, s.28.

Duties of board

39(1) Subject to any restriction imposed or direction given at a general meeting, a board shall exercise the powers and perform the duties of the corporation.

(2) A board shall:

- (a) keep proper books of account with respect to all moneys received and all moneys expended by the board and the matters with respect to which the receipts and expenditures relate;
- (b) for each annual general meeting, prepare financial statements with respect to all moneys of the corporation, including the moneys received and moneys expended by the corporation;
- (c) maintain financial records of all the assets and liabilities of the corporation;
- (d) submit to the annual general meeting an annual report that consists of the financial statements mentioned in clause (b) and any other information determined by the board or required by a resolution passed at a general meeting;
- (e) keep minutes of its proceedings;

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- (f) keep minutes of proceedings at general meetings;
 - (g) make the books of account mentioned in clause (a) available for inspection at all reasonable times on the application of an owner or a person authorized in writing by an owner.
- (3) Subject to the regulations, the financial statements prepared for the annual general meeting pursuant to clause (2)(b) must be audited by a prescribed person.

1993, c.C-26.1, s.39; 2013, c.7, s.18.

Annual meetings

- 40(1) Once in every year, a board shall convene an annual general meeting of the owners.
- (2) An annual general meeting is to be convened not later than 15 months after the end of the preceding annual general meeting.
- (3) If the board fails to convene an annual general meeting within 15 months after the end of the preceding annual general meeting, an owner may convene an annual general meeting by providing notice to:
- (a) the board; and
 - (b) all owners.
- (4) For the purposes of this section, “**convene an annual general meeting**”, unless prohibited by the corporation’s bylaws, includes convening an annual general meeting by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.
- (5) Every annual general meeting that was held in accordance with section 62.01 of *The Condominium Property Regulations, 2001* before subsection (4) came into force is deemed to have been held in accordance with subsection (4).

1993, c.C-26.1, s.40; 2013, c.7, s.19; 2022, c.26, s.6.

Voting rights of owners

- 41(1) Subject to subsections (2) and (5) to (12), each owner has a number of votes that bears the same proportion to the total number of votes as the owner’s unit factor bears to the total of the unit factors.
- (2) Subject to the right of any owner to ask for a vote by unit factors in person or by proxy, the bylaws of a corporation may provide for voting by show of hands for specified purposes.
- (3) Unless otherwise provided for in this Act, all questions proposed for the consideration of the owners at a meeting of owners shall be determined by a majority of the votes cast.
- (4) The bylaws of a corporation may provide for a proportion in excess of a majority vote with respect to subject matters that are indicated in the bylaws.

(5) A corporation may pass bylaws respecting an owner's right to vote where any contributions payable with respect to the owner's unit are in arrears, including:

- (a) restricting the owner's right to vote or prohibiting the owner from voting; or
- (b) allowing the owner to vote.

(6) If a corporation has not passed a bylaw respecting the matters set out in subsection (5), subsections (8) to (11) apply to the corporation and its owners.

(7) If a corporation has passed a bylaw respecting the matters set out in subsection (5), subsections (8) to (11) do not apply to the corporation and its owners.

(8) An owner is not entitled to vote at a meeting if any contributions payable with respect to the owner's unit have been in arrears for 30 days or more at the time of the meeting, unless the subject-matter of the vote is one that requires a unanimous resolution pursuant to this Act.

(9) An owner who is not entitled to vote pursuant to subsection (8) may vote if the corporation receives payment of the arrears with respect to the owner's unit in a manner satisfactory to the board before the meeting is held or at the meeting immediately before the vote.

(10) At least 10 days before a meeting of the owners, the corporation shall give written notice to any owner whose contributions are in arrears, or may be in arrears, for 30 days or more at the time of the meeting.

(11) The notice required pursuant to subsection (10) must include a statement that the owner will not be entitled to vote at the meeting if the arrears are not paid in full in a manner satisfactory to the board before the meeting is held or at the meeting immediately before the vote.

(12) If a corporation has passed a bylaw before the coming into force of this subsection respecting an owner's right to vote where any contributions payable with respect to the owner's unit are in arrears, the bylaw:

- (a) is not invalidated by reason only of the fact that it was passed before the coming into force of this subsection; and
- (b) if otherwise validly passed, may be enforced and dealt with as if subsection (5) had been in existence when the bylaw was passed and as if the bylaw had been passed pursuant to that subsection.

1993, c.C-26.1, s.41; 2003, c.19, s.12.

Voting by proxy

41.1(1) In this section:

- (a) **“form of proxy”** means a written or printed form that, on completion and execution by or on behalf of an owner, becomes a proxy;
- (b) **“proxy”** means a completed and executed form of proxy by means of which an owner has appointed a person as the owner's nominee to attend and act for the owner and on the owner's behalf at a meeting of owners.

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- (2) The form of proxy:
- (a) may be:
 - (i) a standing appointment that is valid for a maximum of six months from the date it is executed; or
 - (ii) for a specific meeting or specific resolution; and
 - (b) may be revoked at any time by the owner.
- (3) Subject to the regulations, any person may be appointed as a proxy except the property manager or any other employee of the corporation.
- (4) The proxy, and any written revocation of the proxy, must be provided to a member of the board as soon as is reasonably possible after it has been executed.
- (5) Any proxy used in voting during a general or annual general meeting forms part of the records of the corporation and must be kept by the corporation for the longer of:
- (a) 90 days after the expiry of the proxy; and
 - (b) 90 days after the meeting at which the proxy was used.
- (6) On the request of any owner, the board shall make available to the owner for inspection any proxy provided to a board member within 90 days after the meeting at which the proxy was used.

2003, c.19, s.13; 2013, c.7, s.20.

Voting by holder of mortgage

- 42(1)** Where the interest of an owner is subject to a registered interest based on a mortgage, a power of voting conferred on the owner by this Act or the bylaws of a corporation:
- (a) may not be exercised by the owner if a unanimous resolution is required, but is exercisable by the holder of a registered interest based on a mortgage who is first entitled in priority; and
 - (b) in other cases, is exercisable by the holder of a registered interest based on a mortgage who is first entitled in priority, and may only be exercised by the owner if the holder of the mortgage is not present personally or by proxy.
- (2) Subsection (1) does not apply unless the holder of the registered interest based on a mortgage has given written notice of the mortgage:
- (a) to the corporation; and
 - (b) to the mortgagor by sending the notice by ordinary mail to the address of the unit.

2000, c.68, s.29.

Voting where owner lacks capacity

43(1) Voting rights conferred by this Act or the bylaws of a corporation may be exercised:

- (a) in the case of an owner who is a child within the meaning of *The Children's Law Act*, by the guardian of the child's property or, if no guardian has been appointed, by the public guardian and trustee; or
 - (b) in the case of an owner who is for any reason unable to control his or her property, by the person who for the time being is authorized by law to control that property.
- (2) Where the court, on the application of a corporation or an owner, is satisfied that there is no person capable, willing or reasonably available to vote with respect to a unit, the court shall, in a case where a unanimous resolution is required by this Act, and may, in any other case, appoint the public guardian and trustee or some other fit and proper person for the purpose of exercising any of the voting rights pursuant to this Act or the bylaws of a corporation that the court determines.
- (3) The court may make any order that it considers necessary to give effect to an appointment pursuant to subsection (2).

1993, c.C-26.1, s.43; 2001, c.33, s.23.

Bylaws generally

44(1) The bylaws of a corporation shall regulate the corporation and shall provide for the control, management, administration, use and enjoyment of the units and of the common property and common facilities.

- (2) No bylaw of a corporation and no amendment or repeal of a bylaw shall:
- (a) prohibit or restrict the devolution of units or any transfer, lease, mortgage or other dealing with any unit; or
 - (b) destroy or modify any easement implied or created by this Act.
- (3) The bylaws of a corporation bind the corporation and the owners to the same extent as if the bylaws:
- (a) had been signed and sealed by the corporation and by each owner; and
 - (b) contained covenants on the part of each owner with every other owner and with the corporation to observe, perform and be bound by all the provisions of the bylaws.
- (4) A corporation shall, on request, make its bylaws available to an owner or any person authorized in writing by an owner for inspection.

1993, c.C-26.1, s.44.

Initial bylaws

45 On and from the issuance of titles pursuant to a condominium plan, the bylaws prescribed in the regulations are in force for all purposes in relation to the parcel, the units and common property included in the condominium plan until bylaws are made by the corporation.

1993, c.C-26.1, s.45; 2000, c.68, s.30.

Making, amending and repealing bylaws

46(0.1) This section does not apply to bylaws of a corporation made pursuant to clause 47(1)(m.1).

- (1) Where a corporation wishes to exercise a power to make bylaws conferred by this Act, the corporation shall do so by special resolution.
- (2) A corporation may amend or repeal a bylaw, whether an initial bylaw prescribed in the regulations or a bylaw enacted by the board, only by special resolution.
- (3) An amendment to or a repeal of any bylaw has no effect until the corporation files a copy of the amendment or repeal with the Director in the prescribed manner.

1993, c.C-26.1, s.46; 1997, c.7, s.15; 2000, c.68, s.31; 2009, c.10, s.16.

Subject matter of bylaws

47(1) Subject to the regulations, a corporation may pass bylaws:

- (a) governing the number, qualifications, nomination, election, remuneration, term of office and filling of vacancies of members of the board;
- (b) regulating the meeting, quorum and functions of the board;
- (c) governing the manner of conducting a vote;
- (d) governing the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to the corporation;
- (e) governing the management, control, administration, use and enjoyment of the units, common property and common facilities;
- (f) governing the maintenance of the common facilities and common property;
- (f.1) requiring the corporation to maintain all or any portion of any unit;
- (g) governing the use and management of the assets of the corporation;
- (g.1) establishing any fees, not exceeding the prescribed amounts, that may be levied by the corporation for use of certain common property, common facilities or services units;
- (g.2) establishing and governing the application of administration and service fees, not exceeding prescribed amounts, that may be levied by the corporation;
- (h) specifying duties of the corporation;

- (i) governing the assessment and collection of contributions towards the common expenses;
 - (i.1) governing the assessment and collection of contributions towards the common expense fund and reserve fund for the maintenance of units or portions of units that the corporation is required to maintain;
 - (j) respecting the establishment of exclusive use areas;
 - (k) respecting the borrowing of money to carry out the objects and duties of the corporation;
 - (k.1) establishing or amending the standard unit description;
 - (l) permitting a corporation to designate an insurance trustee and the responsibilities of the insurance trustee;
 - (m) respecting the conduct, generally, of the affairs of the corporation;
 - (m.1) subject to section 47.1 and any limitations prescribed in the regulations, for the establishment of sectors within a corporation, the allocation of units, common facilities and common property to a sector, and the control, management, administration, use and enjoyment of the units, common property and common facilities within a sector;
 - (n) for carrying out anything required or permitted to be done by the corporation pursuant to this Act.
- (2) No bylaw shall be passed pursuant to subsection (1) that is contrary to this Act or the condominium plan.

1993, c.C-26.1, s.47; 1997, c.7, s.16; 2009, c.10, s.17; 2013, c.7, s.21.

Bylaws respecting sectors

47.1(1) A bylaw made pursuant to clause 47(1)(m.1) may, with respect to the sector to which it applies:

- (a) provide for the management, control, administration, use and enjoyment of the units, common property and common facilities in the sector;
- (b) provide for the maintenance of the common property, common facilities and services units in the sector;
- (c) specify the duties of the corporation;
- (d) provide for the assessment and collection of contributions towards the common expenses;
- (e) provide for the establishment of exclusive use areas within the sector;
- (f) provide for:
 - (i) meetings of the owners of units constituting the sector;
 - (ii) the manner of conducting a vote at meetings of owners of units constituting a sector;

- (iii) the making of sector bylaws by the owners of units constituting a sector with respect to matters for which the corporation may make a bylaw pursuant to clause 47(1)(m.1); and
 - (iv) the delegation to persons selected by owners of units constituting a sector of powers of the board with respect to the enforcement of bylaws in relation to units, common property and common facilities within the sector; and
 - (g) provide for carrying out anything required or permitted to be done by the corporation pursuant to this Act.
- (2) Subject to subsection (3), a bylaw made pursuant to subclause (1)(f)(iii) by the owners of units constituting a sector is deemed to form part of the corporation's bylaws and is enforceable by and against the corporation in accordance with its terms.
- (3) A resolution made by the owners of units constituting a sector to make a sector bylaw pursuant to subclause (1)(f)(iii):
- (a) is valid if:
 - (i) it is passed by a majority of not less than two-thirds of the persons in the relevant sector entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation:
 - (A) at a properly convened meeting of the sector by persons who:
 - (I) are present personally or who cast their votes by proxy; and
 - (II) vote with respect to that resolution; and
 - (B) by the signature on the resolution of persons who are not present personally or who do not cast their votes by proxy at the meeting; or
 - (ii) it is approved by the signature on the resolution of a majority of not less than two-thirds of the persons in the relevant sector entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation in relation to the sector; and
 - (b) is not valid if it conflicts with a bylaw made by the developer or the corporation pursuant to this Act.
- (4) A bylaw made pursuant to clause 47(1)(m.1) may only be made, amended or repealed:
- (a) by a resolution that receives unanimous approval:
 - (i) at a properly convened meeting of a corporation, from 100% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation and who vote, in person or by proxy, in favour of the resolution;
 - (ii) by the signature on the resolution of 100% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation; or

- (iii) from 100% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation by some combination of the processes set out in subclauses (a)(i) and (ii); or
- (b) subject to subsection (5), by a resolution that receives 80% approval:
 - (i) at a properly convened meeting of a corporation, from 80% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation and who vote, in person or by proxy, in favour of the resolution;
 - (ii) by the signature on the resolution of 80% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation; or
 - (iii) from 80% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation by some combination of the processes set out in subclauses (b)(i) and (ii).
- (5) If a corporation passes or approves a resolution in accordance with clause (4)(b), the corporation shall serve the following on every owner who did not vote or who voted against the resolution, and who did not approve the resolution in writing:
 - (a) notice of the resolution mentioned in clause (4)(b); and
 - (b) a description of the owners' right to object to the resolution pursuant to this section.
- (6) An owner may apply to the court within 30 days after being served with the notice mentioned in subsection (5) to object to the resolution.
- (7) An applicant mentioned in subsection (6) shall serve notice of the application on:
 - (a) the board of directors of the corporation; and
 - (b) the owners of units.
- (8) On an application pursuant to subsection (6), the court may:
 - (a) accept any evidence that the court considers appropriate; and
 - (b) make one or more of the following orders:
 - (i) an order confirming the bylaw;
 - (ii) an order directing the corporation to file the bylaws that are the subject of the resolution, including ordering the corporation to make any changes to those bylaws before filing as the court may direct;
 - (iii) any other order that the court considers fair and equitable.
- (9) No bylaw made, amended or repealed in accordance with this section is effective until the corporation files a copy of the bylaw, amendment or repeal with the Director in the prescribed manner.

(10) Notwithstanding subsection (9), no bylaw made, amended or repealed using a resolution mentioned in clause (4)(b) shall be filed with the Director:

- (a) if no application is made pursuant to subsection (6), until 30 days have passed since the notice of resolution was served in accordance with subsection (5); or
- (b) if an application is made pursuant to subsection (6), until the court directs the bylaws to be filed in an order made pursuant to clause (8)(b).

2009, c.10, s.18; 2013, c.7, s.22.

Duty to disclose

48(1) A member of a board who has, directly or indirectly, an interest in a contract or transaction to which the corporation is or is to be a party:

- (a) shall declare that interest at a meeting of the board in accordance with sections 49 and 50;
 - (b) shall not vote with respect to that contract or transaction; and
 - (c) shall not be counted in the quorum with respect to that contract or transaction.
- (2) Subsection (1) does not apply to contracts or transactions in which the member's interest is limited solely to the member's remuneration as a member of the board, as an officer or as an employee.
- (3) Subsection (1) does not require the disclosure of an interest in a contract or transaction unless the interest is material to the contract or transaction.

1993, c.C-26.1, s.48.

Nature of disclosure

49(1) A declaration of interest must disclose the nature and extent of the interest of the member of the board to the extent to which the interest or the information is within the knowledge or control of the member.

(2) With respect to a contract or transaction that involves the purchase of property by or the sale of property to the corporation, if the property was acquired by the seller within the five years preceding the date of the contract or transaction, the declaration of interest must, in addition to the requirements of subsection (1), disclose:

- (a) the cost of the property to the purchaser; and
- (b) the cost of the property to the seller to the extent to which that interest or information is within the member's knowledge or control.

1993, c.C-26.1, s.49.

Time of disclosure

50 (1) Subject to subsections (2) and (4), a declaration of interest by a member of the board is to be made at the meeting of the board at which a proposed contract or transaction is first considered.

(2) If the member is not interested in the proposed contract or transaction when it is first considered, the declaration of interest is to be made at the next meeting of the board after the member acquires the interest.

(3) Subject to subsection (4), if the member becomes interested in a contract or transaction after it is entered into, the declaration of interest is to be made at the next meeting of the board after the member acquires the interest.

(4) If a contract or transaction or a proposed contract or transaction is one that, in the ordinary course of the corporation's business, would not require approval by the board or the owners, the declaration of interest is to be made at the first meeting of the board after the member becomes aware of the contract or transaction or the proposed contract or transaction.

(5) If a member of the board fails to disclose his or her interest in a contract in accordance with this section, a court may, on application of the corporation or an owner, set aside the contract on any terms and conditions that the court considers appropriate.

1993, c.C-26.1, s.50; 2003, c.19, s.14.

Effect of declaration

51(1) A member of a board is not accountable, by reason only of holding the office of member, to the corporation or to the owners for any profit or gain realized from a contract or transaction where the member:

- (a) has made a declaration of interest in accordance with sections 48 to 50;
- (b) has not voted with respect to the contract or transaction at a meeting of the board; and
- (c) was acting honestly and in good faith when the contract or transaction was entered into.

(2) A contract or transaction mentioned in subsection (1) is not voidable by reason only of the member's interest in it.

1993, c.C-26.1, s.51.

Confirmation by owners

52(1) Notwithstanding that a member of a board has not declared an interest in a contract or transaction as required by this Act and has voted, the member is not accountable, by reason only of holding the office of member, to the corporation or to the owners for any profit or gain realized from the contract or transaction, and the contract or transaction is not voidable by reason only of the member's interest in it if:

- (a) the member was acting honestly and in good faith; and
 - (b) the contract or transaction is confirmed by the owners in accordance with subsection (2).
- (2) A contract or transaction is confirmed for the purposes of subsection (1) if:
- (a) a meeting of the owners is called for the purpose;
 - (b) the nature and extent of the member's interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting; and
 - (c) the contract or transaction is approved by at least two-thirds of the votes cast at the meeting.

1993, c.C-26.1, s.52.

General notice of interest

53 For the purposes of section 48, a general notice to the board by a member of the board declaring that the member is a director or officer of, or has a material interest in, a corporation that is a party to a contract or a proposed contract with the corporation is a sufficient declaration of interest with respect to that contract.

1993, c.C-26.1, s.53.

PART IV Condominium Fees

Responsibility for expenses

54(1) Subject to subsection (2), the corporation is responsible for all expenses and liabilities incurred with respect to the common property and common facilities included in the condominium plan.

(2) The developer is responsible for all expenses and liabilities with respect to the common property and common facilities included in the condominium plan that are incurred in the period commencing on the day that titles are issued pursuant to the condominium plan and ending on the day preceding the day on which condominium fees are first levied on the owners of the units.

- (3) An owner is not exempt from the obligation to contribute to the common expenses or reserve fund expenses even if:
- (a) the owner has waived or abandoned the right to use all or part of the common property, common facilities or services units;
 - (b) the owner is making a claim against the corporation; or
 - (c) the bylaws restrict the owner from using all or part of the common property, common facilities or services units.

1993, c.C-26.1, s.54; 2000, c.68, s.32; 2013, c.7, s.23.

Establishment of funds

55(1) The corporation shall establish the following funds for the purposes set out in subsections (2) and (3):

- (a) a common expenses fund; and
 - (b) subject to subsection (6), one or more reserve funds.
- (2) A common expenses fund is established for the purpose of providing for the payment of the following expenses, other than expenses that are to be paid out of the reserve fund:
- (a) expenses incurred in the control, management and administration of the common property, common facilities and services units, enforcement of the bylaws of the corporation and addition of additional common property, common facilities and services units;
 - (a.1) expenses incurred in the control, management and administration of any units or portions of units designated in any bylaw passed pursuant to clauses 47(1)(f.1) and (i.1);
 - (b) premiums of insurance; and
 - (c) expenses incurred in the discharge of any other obligation of the corporation.
- (3) A reserve fund is established for the purpose of providing for the payment of:
- (a) any unforeseen common expenses;
 - (b) any major repair or replacement of common facilities, common property, services units or assets of the corporation, including roofs, exteriors of buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators and laundry, recreational and parking facilities; and
 - (c) any major repair or replacement of any units or portions of units designated in any bylaw passed pursuant to clauses 47(1)(f.1) and (i.1).
- (4) A corporation shall not use moneys in its reserve fund for any purpose other than a purpose described in subsection (3).

(5) A fund established for the purposes set out in subsection (2) is not a reserve fund within the meaning of this section.

(6) The regulations may prescribe circumstances where a corporation is not required to establish a reserve fund.

1993, c.C-26.1, s.55; 2013, c.7, s.24.

Levying condominium fees

56(1) The corporation shall levy on the owners of the units condominium fees consisting of:

- (a) contributions to the common expenses fund in amounts determined in accordance with section 57; and
- (b) contributions to the reserve fund in amounts determined in accordance with section 58.

(2) A developer who owns one or more units is deemed to be the owner of those units for the purposes of subsection (1).

1993, c.C-26.1, s.56.

Contributions to common expenses fund

57(1) The corporation shall, from time to time:

- (a) determine the amounts required for the common expenses fund for the purposes set out in subsection 55(2); and
- (b) determine the amounts of the owners' contributions by apportioning the amounts mentioned in clause (a) among the owners in accordance with the prescribed procedure.

(2) A fee levied pursuant to clause 56(1)(a):

- (a) is due and payable on the passing by the corporation of a resolution levying that fee and in accordance with the terms of that resolution; and
- (b) may be recovered by the corporation by an action for debt from the person who was the proper owner when the default occurred and when:
 - (i) the resolution was passed; or
 - (ii) the action was instituted.

(3) **Repealed.** 1997, c.7, s.17.

1993, c.C-26.1, s.57; 1997, c.7, s.17.

Contributions to reserve funds

58(1) The corporation shall, from time to time:

- (a) determine the amounts required for the reserve fund for the purposes of subsection 55(3) in accordance with the prescribed procedure; and
 - (b) subject to subsection (2), determine the amount that is payable by an owner as the owner's contribution to the reserve fund by apportioning the amounts determined pursuant to clause (a) among the owners in accordance with the prescribed procedure.
- (2) The regulations may prescribe an owner's minimum contribution to the reserve fund.
- (3) **Repealed.** 1997, c.7, s.18.
- (4) A fee levied pursuant to clause 56(1)(b):
- (a) subject to subsection (2), is due and payable on the passing by the corporation of a resolution levying the fee and in accordance with the terms of the resolution; and
 - (b) may be recovered by the corporation by an action for debt from the person who was the proper owner when the default occurred and when:
 - (i) the resolution was passed; or
 - (ii) the action was instituted.

1993, c.C-26.1, s.58; 1997, c.7, s.18; 2013, c.7, s.25.

Reserve fund study required

58.1(1) In this section, "**study**" means a reserve fund study.

- (2) Subject to subsections (4) and (4.1), a corporation that exists on the coming into force of this provision shall ensure that a study is conducted and a written report is prepared in accordance with this section:
- (a) within three years after the coming into force of this provision; and
 - (b) within the prescribed period after the date of the previous study.
- (3) A corporation that is constituted pursuant to subsection 34(1.1) after the coming into force of this provision shall ensure that a study is conducted and a written report is prepared in accordance with this section:
- (a) within three years after the date on which the corporation's first annual meeting was convened in accordance with section 38; and
 - (b) within the prescribed period after the date of the previous study.
- (4) If a study that substantially complies with subsections (5) and (6) has been conducted for a corporation within three years before the coming into force of this provision, that corporation shall ensure that a study is conducted in accordance with subsection (5) and a written report prepared within the prescribed period after the date of the previous study.

(4.1) A developer who intends to make an application for approval of a plan that creates conversion units shall ensure a study is conducted before the sale of any unit shown on the plan.

(5) Every study must be conducted in the prescribed manner.

(6) A written report of every study conducted pursuant to this section must be prepared in the prescribed manner and prescribed form.

(7) The cost of conducting a study is a common expense that the board may charge to the reserve fund.

(8) The board shall ensure that every written report of a study prepared pursuant to this section is made available to the corporation at the next annual meeting of the corporation in the prescribed manner.

(9) If a condominium meets the prescribed criteria, the corporation that is responsible for the control, management and administration of that condominium is exempted from the requirements of this section subject to the corporation's compliance with any prescribed terms or conditions.

(10) No corporation that is exempt from the requirements of this section in accordance with subsection (9) shall fail to comply with the prescribed terms and conditions.

2003, c.19, s.15; 2013, c.7, s.26.

Annual report on reserve fund

58.2(1) A board shall ensure that an annual report is prepared with respect to the reserve fund that sets out the following:

(a) the amount of the reserve fund as of the last day of the preceding fiscal year;

(b) all payments made into and out of the reserve fund for that year and the sources and uses of those payments.

(2) The annual report prepared pursuant to subsection (1):

(a) may be included in the annual report required pursuant to clause 39(2)(d); and

(b) must be made available to the corporation at the annual meeting.

2003, c.19, s.15.

Late payment of contributions to funds

59(1) A contribution that is required to be made by an owner to a reserve fund or a common expenses fund and that remains unpaid on its due date is to bear interest, calculated for the period commencing on the due date and ending on the day of payment, at a rate fixed from time to time by a special resolution.

(1.1) The interest rate fixed pursuant to subsection (1) shall not exceed the prescribed rate.

(2) Interest mentioned in subsection (1) is a debt due and owing from the owner to the corporation.

(3) Interest mentioned in subsection (1) that is received by the corporation is to be added to the reserve fund or the common expenses fund, as the case may be, and forms part of the fund.

1993, c.C-26.1, s.59; 2003, c.19, s.16.

Investment of funds

60(1) A corporation may invest any funds that are not immediately required by the corporation, but only in those investments in which a trustee may invest pursuant to *The Trustee Act, 2009*.

(2) Interest earned on the investment of a reserve fund or a common expenses fund is to be added to the fund and forms part of the fund.

1993, c.C-26.1, s.60; 2009, c.T-23.01, s.64.

Holding and use of reserve funds

61(1) The moneys in a reserve fund of a corporation are an asset of the corporation.

(2) A corporation shall:

(a) keep the reserve fund in such a manner that the moneys in the fund, including interest, are readily identifiable at all times; and

(b) hold the reserve fund in trust for the purposes set out in subsection 55(3).

(3) No part of a reserve fund is to be refunded or distributed to an owner of a unit unless the owner and the property cease to be governed by this Act.

1993, c.C-26.1, s.61.

62 Repealed. 1997, c.7, s.19.

Lien for arrears

63(1) A corporation may register an interest based on a lien against the title of a unit for the amount of a contribution to the common expenses fund or the reserve fund levied on the owner that has not been paid.

(2) On the registration of an interest pursuant to subsection (1):

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- (a) the corporation has a lien against the title for an amount that is equal to:
 - (i) the amount of the unpaid contribution; and
 - (ii) any costs incurred in preparing and registering the interest and in preparing and registering a discharge of the interest; and
- (b) the lien may be enforced in the same manner as a mortgage.
- (3) A corporation that registers an interest pursuant to subsection (1) shall discharge the interest on payment of the amount of the lien.
- (4) The corporation may require the owner to pay the costs incurred in preparing and registering the interest and in preparing and registering a discharge of the interest.

2000, c.68, s.33; 2013, c.7, s.27.

Priority of lien

- 63.1(1)** Subject to subsections (2) and (6), an interest based on a lien that is registered pursuant to section 63 has priority over every other registered or unregistered interest, even if that other interest existed before the lien arose.
- (2) An interest registered pursuant to section 63 does not have priority over:
 - (a) a claim for taxes, charges, rates or assessments levied pursuant to *The Local Improvements Act, 1993* or any assessing Act; or
 - (b) a prescribed interest or claim.
- (3) On or before the day an interest is registered pursuant to section 63, the corporation shall give written notice of the lien to every holder of an interest whose interest is registered against the title of the unit affected by the interest.
- (4) The corporation shall give the written notice mentioned in subsection (3):
 - (a) by personal service;
 - (b) by registered mail addressed to the holder of the interest at that person's last known address; or
 - (c) in any other prescribed manner.
- (5) Subject to subsection (6), the interest registered pursuant to section 63 loses its priority over another interest if the corporation fails to give the notice required pursuant to this section to the holder of that other interest.
- (6) If a corporation gives notice of an interest registered pursuant to section 63 to a holder of another interest after the day on which that interest is registered, the interest registered pursuant to section 63 has priority over that other interest to the extent of the arrears of the common expenses and reserve fund expenses that accrued during the three months before the day notice is given and that continue to accrue on and after that day.

2003, c.19, s.17.

Additional terms and conditions of mortgage

63.2(1) Every mortgage of a unit is deemed to contain the following terms and conditions:

- (a) the mortgagee has the right to collect the owner's contribution to the common expenses fund and reserve fund and shall promptly pay any amount collected to the corporation on behalf of the owner;
 - (b) the owner's default in the obligation to contribute to the common expenses fund and reserve fund constitutes default under the mortgage;
 - (c) the mortgagee has the right to pay:
 - (i) the amounts of the owner's contribution to the common expense fund and reserve fund that become due and are unpaid with respect to the mortgaged premises; and
 - (ii) all interest owing and all reasonable legal costs and reasonable expenses that the corporation incurs in connection with the collection or attempted collection of the amounts described in subclause (i), including, if applicable:
 - (A) the costs of preparing and registering an interest pursuant to section 63; and
 - (B) the costs of preparing and registering a discharge of the interest registered pursuant to section 63;
 - (d) the mortgagee may add the following amounts to the debt secured by the mortgage, and the amounts are subject to interest at the rate payable on the mortgage:
 - (i) any amount paid by the mortgagee pursuant to clause (c);
 - (ii) any interest, reasonable costs, charges and expenses incurred with respect to any amount paid by the mortgagee pursuant to clause (c); and
 - (e) if the owner fails to fully reimburse the mortgagee after a demand for payment has been made, the mortgage becomes immediately due and payable at the option of the mortgagee.
- (2) On receipt of a request from a mortgagee of a unit, the corporation shall provide a written statement to the mortgagee, at no charge, that sets out:
- (a) the common expenses fund and reserve fund expenses with respect to the unit; and
 - (b) if there is a default in the payment of the common expenses fund or reserve fund expenses, the amounts described in clause (1)(c) with respect to the unit.

2003, c.19, s.17.

Estoppel certificate

64(1) On the application of an owner or a person authorized in writing by an owner, the corporation shall provide an estoppel certificate in the prescribed form certifying:

- (a) the amount of any contribution levied on the owner;
- (b) the manner in which the contribution is payable;
- (c) the extent to which the contribution has been paid; and
- (d) any other matters required by the form.

(2) A corporation that provides an estoppel certificate pursuant to subsection (1) is estopped from denying the matters certified in it.

1993, c.C-26.1, s.64.

PART V Insurance

Duty to insure

65(1) In this section, “**developed bare land unit**” means a bare land unit on which any of the following is constructed:

- (a) a building used for residential purposes and containing more than one unit;
- (b) a series of buildings used for residential purposes that share common load-bearing walls and continuous roofing.

(2) The corporation shall obtain and maintain insurance on its own behalf and on behalf of the owners with respect to the units, other than improvements that are made or acquired by owners with respect to units, the common property, the common facilities and services units:

- (a) against major perils in an amount equal to the replacement cost of the insured property; and
- (b) against any other perils that are specified in the bylaws of the corporation or directed by the board.

(3) What constitutes an improvement made or acquired by an owner with respect to a unit is to be determined in accordance with the standard unit description, if any, for that unit or the class of units of which the unit is a member.

(4) Notwithstanding subsection (2), except as may be required by a contrary provision contained in the bylaws, a corporation may, but is not obliged to, obtain and maintain insurance on:

- (a) bare land units other than developed bare land units; or
- (b) buildings or improvements placed on bare land units other than developed bare land units.

- (5) Subject to subsection (6), if an insurance policy obtained by the corporation in accordance with this section contains a deductible clause that limits the amount payable by the insurer, the portion of a loss that is excluded from coverage is a common expense.
- (6) If the owner of a unit, or a person residing in the owner's unit with the permission or knowledge of the owner, through an act or omission causes damage to a unit, the amount determined pursuant to subsection (7) may be added to the common expenses payable by the owner of that unit.
- (7) For the purposes of subsection (6), the amount is the lesser of:
- (a) the cost of repairing the damage to the unit; and
 - (b) the deductible limit of the insurance policy obtained by the corporation.
- (8) For the purposes of this section, the corporation is deemed to have an insurable interest in the replacement value of units, including developed bare land units, the common property, the common facilities and the services units.
- (9) The corporation shall obtain and maintain:
- (a) insurance against its liability:
 - (i) arising from its breach of duty as occupier of the common property, common facilities or services units;
 - (ii) arising from its ownership, or arising from the use or operation, by it or on its behalf, of boilers, machinery, pressure vessels and motor vehicles;
 - (iii) incurred by a member of the board or an officer of the corporation arising out of any act or omission of the member or officer with respect to carrying out the functions and duties of the member or officer unless it is shown that the member or officer acted in bad faith; and
 - (iv) incurred by it arising out of any act or omission of a member of the board or an officer of the corporation with respect to carrying out the functions and duties of the member or officer; and
 - (b) any other insurance that is specified in the bylaws of the corporation or directed by the board.
- (10) For the purposes of this section, the corporation is deemed to have an insurable interest in the subject-matter of the insurance.
- (11) The corporation must:
- (a) annually review the adequacy of the corporation's insurance obtained in accordance with this section; and
 - (b) provide a written report on the insurance coverage at each annual general meeting.
- (12) A policy of insurance authorized by this section and taken out by a corporation with respect to the buildings, fixtures on land, or landscaping is not liable to be brought into contribution with any other policy of insurance except a policy authorized by this section with respect to the same buildings or land.

(13) Nothing in this section is to be construed as restricting the capacity of a corporation, an owner or any other person from obtaining and maintaining insurance with respect to any insurable interest.

2013, c.7, s.28.

Application of insurance moneys

66 Subject to sections 83, 84 and 102, the corporation shall apply any insurance moneys received by it with respect to damage to buildings, fixtures on land, or landscaping to rebuilding and reinstating the buildings, fixtures on land, or landscaping so far as is possible.

1993, c.C-26.1, s.66.

Insurance by owner

67(1) Where buildings, fixtures on land, or landscaping are insured to replacement value, an owner may effect a policy of insurance with respect to any damage to the owner's unit in an amount equal to the amount secured by mortgage on the unit at the date of any loss mentioned in the policy.

(2) Where a policy of insurance authorized by this section is in force, subject to the terms and conditions of the policy, the insurer:

(a) shall make payment pursuant to the policy to the mortgagees whose interests are noted on the policy in order of their priorities; and

(b) is liable to pay pursuant to the policy the least of the following amounts:

(i) the value stated in the policy;

(ii) the amount of the loss;

(iii) an amount sufficient, at the date of the loss, to discharge mortgages charged on the unit.

(3) If the amount paid by an insurer pursuant to subsection (2) equals the amount necessary to discharge a mortgage charged on the unit, the insurer is entitled to an assignment of the mortgage.

(4) If the amount paid by an insurer pursuant to subsection (2) is less than the amount necessary to discharge a mortgage charged on the unit, the insurer is entitled to an assignment of a partial interest in the mortgage to secure the amount paid.

1993, c.C-26.1, s.67.

Where property not insured

68(1) Where buildings, fixtures on land, or landscaping are uninsured or have been insured to less than replacement value, an owner may:

(a) effect a policy of insurance with respect to any damage to the owner's unit in an amount A calculated in accordance with the following formula:

$$A = R - I$$

where:

R is the replacement value of the owner's unit; and

I is the amount to which the owner's unit is insured under any policy of insurance effected on the buildings, fixtures on land, or landscaping, calculated in accordance with subsection (2); or

(b) notwithstanding any existing policies, effect a policy of insurance with respect to damage to the owner's unit in an amount equal to the amount secured by mortgages on the unit at the date of any loss mentioned in that policy, and subsection 67(2) applies, with any necessary modification, with respect to a payment pursuant to that policy.

(2) For the purposes of clause (1)(a), the amount I is calculated in accordance with the following formula:

$$I = \frac{V \times U}{T}$$

where:

V is the value stated in the policy;

U is the unit factor for the unit; and

T is the total of the unit factors for all units.

1993, c.C-26.1, s.68.

No contribution in certain cases

69(1) A policy of insurance authorized by section 67 or 68 and taken out by an owner with respect to damage to the owner's unit is not liable to be brought into contribution with any other policy of insurance except another policy authorized by those sections and taken out with respect to damage to the same unit.

(2) Nothing in section 67 or 68 limits the right of an owner to insure against risks other than damage to the owner's unit.

(3) Sections 67 and 68 apply notwithstanding *The Saskatchewan Insurance Act* or any other law relating to insurance.

1993, c.C-26.1, s.69.

PART VI
Dispositions of Common Property

Transfer or lease of common property or services unit

70(1) On unanimous resolution, a corporation may transfer or lease the common property or a services unit or any part of either to any person.

(2) The corporation shall execute a transfer or lease of common property or a services unit if the board is satisfied that:

(a) a unanimous resolution was properly passed; and

- (b) all persons who have registered interests on the titles:
 - (i) in the case of a transfer, have consented in writing to the release of those interests with respect to the land in the proposed transfer; or
 - (ii) in the case of a lease, have consented in writing to the execution of the proposed lease.
- (3) A transfer or lease executed in accordance with subsection (2) is valid and effective without execution by any person who has an interest in the common property or services unit.
- (4) The receipt of the corporation for the purchase money, rent, premiums or other moneys pursuant to the terms of a transfer or lease executed in accordance with subsection (2) discharges the person to whom the receipt is given from any responsibility for the application of those moneys.
- (5) This section does not apply to parking spaces that become parking units pursuant to subsection 11(7).

2013, c.7, s.29.

New plan required

70.1 Before a transfer authorized pursuant to section 70 is registered pursuant to section 71, a new plan of survey, a new condominium plan or an amended plan must be submitted to the Controller of Surveys and approved.

2000, c.68, s.35; 2013, c.7, s.30.

Registration of transfer

71(1) An application for registration of a transfer authorized pursuant to section 70 shall not be submitted unless the application is accompanied by:

- (a) an application to issue titles pursuant to the approved plan mentioned in section 70.1; and
- (b) a certificate under the seal of the corporation stating that:
 - (i) the unanimous resolution mentioned in subsection 70(1) was properly passed;
 - (ii) the transfer conforms with the terms of the unanimous resolution; and
 - (iii) all necessary consents were obtained.
- (2) The certificate mentioned in clause (1)(b) is conclusive proof of the facts stated in it in favour of a purchaser of common property or services units.
- (3) On the receipt of an application pursuant to subsection (1) and if a new plan was approved by the Controller of Surveys pursuant to section 70.1, the registrar shall:

- (a) cancel the ownership register for each unit in the existing plan;
 - (b) cancel the titles to each unit in the existing plan;
 - (c) establish an ownership register for each unit in the approved plan;
 - (d) issue new titles for each unit pursuant to the approved plan;
 - (e) issue to the transferee a title for the common property transferred; and
 - (f) register interests affecting the titles cancelled pursuant to clause (b) against the titles issued pursuant to clause (d) in the prescribed manner.
- (4) On receipt of an application pursuant to subsection (1) and if an amendment to an existing plan was approved by the Controller of Surveys pursuant to section 70.1, the registrar shall:
- (a) issue to the transferee a title for the common property or services unit being transferred; and
 - (b) register in the prescribed manner any interests affecting all units against any new titles to units that were formerly services units issued pursuant to clause (a).

2000, c.68, s.36; 2013, c.7, s.31.

Lease is registrable interest

- 71.1(1)** A lease authorized pursuant to section 70, when accompanied by a certificate described in subsection (2), is a registrable interest.
- (2) The certificate mentioned in subsection (1) shall be under the seal of the corporation and state that:
- (a) the unanimous resolution mentioned in subsection 70(1) was properly passed;
 - (b) the lease conforms with the terms of the unanimous resolution; and
 - (c) all necessary consents were obtained.
- (3) The certificate described in subsection (2) is conclusive proof of the facts stated in it in favour of the lessee.
- (4) Registration of an interest pursuant to subsection (1) is invalid unless accompanied by the certificate described in subsection (2).
- (5) An interest based on a lease of common property authorized pursuant to section 70 must be registered against the titles issued pursuant to the condominium plan.
- (6) An interest based on a lease of a services unit authorized pursuant to section 70 must be registered against title to the services unit affected by the lease.

2000, c.68, s.36; 2013, c.7, s.32.

Exclusive use areas

- 72(1)** Subject to subsection (3), a corporation may, on a special resolution, permit an owner to exercise exclusive use with respect to one or more areas of the common property or one or more services units.

(2) Subject to the bylaws of the corporation, the corporation is responsible for the maintenance and repair of an exclusive use area created pursuant to subsection (1) and the unit owner must provide the corporation with access to the exclusive use area for the purpose of that maintenance and repair.

(3) Where, as a result of a special resolution pursuant to subsection (1), an owner may lose exclusive use privileges, the special resolution is not effective against that owner with respect to the exclusive use area to which the owner has access if the owner does not consent to the resolution.

1993, c.C-26.1, s.72; 1997, c.7, s.21; 2009, c.10, s.20.

Exclusive use area interest

72.1 An interest based on the exclusive use of common property or a services unit permitted pursuant to section 72 is a registrable interest when accompanied by a certificate that:

- (a) states that the resolution mentioned in subsection 72(1) was properly passed; and
- (b) is under the seal of the corporation.

2003, c.19, s.19; 2009, c.10, s.21.

Easements and restrictions accepted

73(1) A corporation may be directed by a special resolution to accept on behalf of the owners a grant of easement or a restrictive covenant that benefits the parcel.

(2) A grant of easement or a restrictive covenant accepted pursuant to this section is a registrable interest when accompanied by a certificate under the seal of the corporation stating that:

- (a) the resolution mentioned in subsection (1) was properly passed; and
- (b) all necessary consents were given.

(3) The certificate described in subsection (2) is conclusive proof of the facts stated in favour of a person dealing with the corporation pursuant to this section.

(4) Registration of an interest mentioned in subsection (2) is invalid unless accompanied by the certificate mentioned in subsection (2).

(5) An interest based on an easement or a restrictive covenant accepted pursuant to this section must be registered against the titles issued pursuant to the condominium plan.

2000, c.68, s.37.

Easements and restrictions granted

74(1) A corporation may, on a special resolution, execute on behalf of the owners a grant of easement or a restrictive covenant burdening the parcel.

- (2) The corporation shall execute the appropriate instrument to grant the easement or covenant where the board is satisfied that:
- (a) a special resolution was properly passed; and
 - (b) written consents to the release of interests with respect to the parcel included in the proposed disposition have been obtained from all persons who have registered interests in the parcel.
- (3) An instrument granting an easement or covenant that is executed in accordance with subsection (2) is valid and effective without execution by any person who has an interest in the parcel.
- (4) The receipt of the corporation for the moneys or benefits received by the corporation pursuant to a grant of an easement or covenant discharges the person to whom the receipt is given from any responsibility for the application of those moneys or benefits.
- (5) An easement or restrictive covenant granted pursuant to this section is a registrable interest when accompanied by a certificate under the seal of the corporation stating that:
- (a) the resolution mentioned in subsection (1) was properly passed; and
 - (b) all necessary consents were given.
- (6) The certificate mentioned in subsection (5) is conclusive proof of the facts stated in it in favour of a person dealing with the corporation pursuant to this section.
- (7) Registration of an interest mentioned in subsection (5) is invalid unless accompanied by the certificate described in subsection (5).
- (8) An interest based on a grant of easement or a restrictive covenant executed pursuant to this section must be registered against the titles issued pursuant to the condominium plan.

1993, c.C-26.1, s.74; 1997, c.7, s.23; 2000, c.68, s.38.

PART VII

Rental of Residential Units

Notice of intention to rent

75 No owner of a residential unit shall rent the unit until the owner has given written notice to the corporation of the owner's intention to rent the unit, setting out the address at which the owner may be served with a notice pursuant to this Part.

1993, c.C-26.1, s.75.

Condition of tenancy

76 Where an owner of a residential unit rents the unit, it is a condition of the tenancy, notwithstanding anything in the tenancy agreement, that the persons who reside in or on the unit shall not:

- (a) cause damage to the real or personal property of the corporation or the common property or the common facilities; or
- (b) contravene the bylaws of the corporation.

1993, c.C-26.1, s.76.

Deposit

77(1) The corporation may require the owner of a residential unit who rents the unit to pay to, and maintain with, the corporation a deposit in an amount that does not exceed the maximum amount of a security deposit pursuant to *The Residential Tenancies Act, 2006*.

(2) The corporation may use the deposit for the maintenance, repair or replacement of:

- (a) any real or personal property of the corporation or any of the common property, common facilities or services units that is damaged, destroyed, lost or removed by a person residing in or on the rented unit; or
- (b) any of the common property for which an owner is permitted to exercise exclusive use pursuant to section 72 that is damaged, destroyed, lost or removed by a person residing in or on the rented unit.

1993, c.C-26.1, s.77; 2006, c.R-22.0001 s.96;
2013, c.7, s.33.

Notices to corporation

78(1) The owner of a rented residential unit shall give the corporation written notice of the name of the tenant within 20 days after the commencement of the tenancy.

(2) The owner of a rented residential unit shall give the corporation written notice that the unit is no longer rented within 20 days after the end of the tenancy.

1993, c.C-26.1, s.78.

Return of deposit

79 Within 20 days after receiving a notice pursuant to subsection 78(2), a corporation shall:

- (a) return the deposit to the owner;
- (b) if the corporation has used the deposit for a purpose set out in section 77, deliver to the owner:
 - (i) a statement of account showing the amount used and the purpose for which it was used; and
 - (ii) the balance of the deposit that is not used; or
- (c) if the corporation is entitled to use the deposit but is unable to determine the amount that it will use:

- (i) deliver to the owner an estimated statement of account showing the amount that it intends to use; and
- (ii) within 60 days after delivering the estimated statement of account, deliver to the owner:
 - (A) a final statement of account showing the amount used and the purpose for which it was used; and
 - (B) the balance of the deposit that is not used.

1993, c.C-26.1, s.79.

Damage amount more than deposit

79.1(1) If the amount of the damage caused by a person residing in or on a rented unit is more than the deposit collected pursuant to section 77, the corporation may recover from the owner of the rented unit any amount in excess of the value of the deposit required to maintain, repair or replace:

- (a) any real or personal property of the corporation or any of the common property, common facilities or services units that are damaged, destroyed, lost or removed by a person residing in or on the rented unit; or
 - (b) any of the common property for which an owner is permitted to exercise exclusive use pursuant to section 72 that is damaged, destroyed, lost or removed by a person residing in or on the rented unit.
- (2) The owner may recover from the tenant any amount paid by the owner pursuant to subsection (1).
- (3) The amount recoverable pursuant to subsections (1) and (2) is the lesser of:
- (a) the cost of repairing the damage or replacing the property described in clauses (1)(a) and (b); and
 - (b) the deductible limit of the insurance policy obtained by the corporation.

2013, c.7, s.34.

Application for order to give up possession

80(1) A corporation may apply to the Director of Residential Tenancies pursuant to *The Residential Tenancies Act, 2006* for an order for possession of a rented residential unit if a person who resides in or on the unit:

- (a) causes excessive damage to the real or personal property of the corporation or to the common property or common facilities;
 - (b) causes excessive noise; or
 - (c) is a danger to, or intimidates, persons who reside in or on other units.
- (2) The corporation shall serve a notice of application for an order for possession on both the tenant and the owner.
- (3) The provisions of *The Residential Tenancies Act, 2006* with respect to applications for an order for possession of rented premises apply, with any necessary modification, to applications pursuant to this section.

1993, c.C-26.1, s.80; 2006, c.R-22.0001 s.96.

Payment of arrears of common expenses by tenant

81(1) Where the owner's contribution to a fund established pursuant to section 55 is in arrears respecting a residential unit that is occupied by a tenant renting from the owner, the corporation may:

- (a) by written notice to the tenant and the owner, require the tenant to pay the rent otherwise payable to the owner to the corporation in an amount not exceeding the rent; and
- (b) apply the amount collected to the unpaid fees until the arrears are satisfied.

(1.1) Where a corporation has obtained a judgment pursuant to section 99 requiring the owner to pay an amount to the corporation and the owner has not paid the full amount, the corporation may:

- (a) by written notice to the tenant and the owner, require a tenant renting from that owner to pay the rent otherwise payable to the owner to the corporation in an amount not exceeding the rent; and
- (b) apply the amount collected to the judgment until the judgment is satisfied.

(2) A tenant who has made a payment pursuant to subsection (1) or (1.1) may deduct the amount of the payment from the rent that the tenant pays to the owner.

(3) Where a tenant has made a payment to a corporation pursuant to subsection (1) or (1.1) and has deducted the amount of the payment from the rent paid by the tenant:

- (a) the corporation shall deduct the amount of the payment from the arrears owed by the owner to the corporation;
- (b) the owner is not liable to the corporation for the amount of the payment; and
- (c) the amount paid by the tenant to the corporation pursuant to subsection (1) or (1.1) is deemed to be rent paid by the tenant to the owner.

1993, c.C-26.1, s.81; 1997, c.7, s.24.

Bylaw required

82(1) No corporation shall do any of the following unless it is authorized by a bylaw of the corporation to do so:

- (a) impose or collect deposits pursuant to section 77;

- (b) make applications to the Director of Residential Tenancies pursuant to section 80;
 - (c) collect common expenses from tenants pursuant to section 81;
 - (d) recover any amount pursuant to section 79.1.
- (2) A bylaw mentioned in subsection (1) may be general or specific in its application.

1993, c.C-26.1, s.82; 2006, c.R-22.0001, s.96;
2013, c.7, s.35.

PART VIII

Termination of Condominium Status

Unanimous resolution

83 The condominium status of a building or land may be terminated by a unanimous resolution.

1993, c.C-26.1, s.83.

Application to terminate

84(1) A corporation, an owner or a holder of a registered interest based on a mortgage respecting a unit may apply to the court to terminate the condominium status of a building or land.

(2) On an application pursuant to this section, the court may:

- (a) make an order terminating the condominium status of a building or land if it is satisfied that it is just and equitable to do so, having regard to the rights and interests of the owners as a whole; and
- (b) for the purpose of adjusting the effect of the order as between the corporation, the owners and the holders of registered interests based on mortgages and as amongst the owners themselves, impose any conditions and give any directions, including directions for the payment of moneys, that it considers appropriate.

(3) An insurer who has effected insurance on the building or land or any part of it that is insurance against destruction of units or damage to the building or land may appear in person or by agent or counsel on an application pursuant to this section.

1993, c.C-26.1, s.84; 2000, c.68, s.39.

Effect of termination

85 On the termination of the condominium status of a building or land pursuant to section 83 or 84, the corporation is dissolved.

1993, c.C-26.1, s.85.

Application for disposition of assets

86(1) On the termination of the condominium status of a building or land and the winding-up of the corporation, an owner or a holder of a registered interest based on a mortgage may make an application to the court for an order directing the disposition of the assets of the corporation.

(2) On an application pursuant to subsection (1), the court may make any order respecting the disposition of the assets that it considers to be fair and equitable.

1993, c.C-26.1, s.86; 2000, c.68, s.40.

Notice of termination of condominium status

87(1) On the termination of the condominium status of the building or parcel pursuant to section 83 or 84, the corporation shall immediately:

(a) file a notice of the termination of condominium status in the prescribed manner with the Controller of Surveys and the Director; and

(b) apply to register an interest based on the notice against the titles issued pursuant to the condominium plan.

(2) The owners of the units in a condominium plan pursuant to which titles have issued are entitled to the parcel as tenants in common in shares proportional to the unit factors of their respective units when an interest is registered pursuant to clause (1)(b).

(3) An application to issue titles for the parcel may be submitted to the registrar in the prescribed manner.

(4) On receipt of an application mentioned in subsection (3), the registrar shall:

(a) cancel the ownership register for each unit in the plan;

(b) cancel the titles to each unit in the plan;

(c) establish an ownership register for the parcel; and

(d) issue in the names of the owners titles in accordance with subsection (2).

(5) Any interests registered against the titles that were cancelled pursuant to clause (4)(b) are to be registered in the prescribed manner against the titles issued pursuant to clause (4)(d).

2000, c.68, s.41.

Transfers of parts of parcels

88(1) Where the condominium status of a building or land is being terminated, the corporation may, on a unanimous resolution, transfer the parcel or any part of the parcel.

(2) The corporation shall execute a transfer where the board is satisfied that:

(a) a unanimous resolution was properly passed; and

- (b) written consents to the release of interests in the property that is included in the proposed transfer have been obtained from all persons who have registered interests in the parcel.
- (3) A transfer executed pursuant to subsection (2) is valid and effective without execution by any person who has an interest in the parcel.
- (4) The receipt of the corporation for the moneys payable pursuant to a transfer executed pursuant to subsection (2) discharges the person to whom the receipt is given from any responsibility for the application of those moneys.

1993, c.C-26.1, s.88.

New plan required

88.1 Before a transfer mentioned in section 88 may be registered, the Controller of Surveys may, where the Controller of Surveys considers it necessary, require that a new condominium plan or an amended plan be submitted and approved.

2000, c.68, s.42.

Registration of transfer

89(1) A transfer executed pursuant to section 88 shall not be submitted for registration unless:

- (a) the transfer is accompanied by a certificate under the seal of the corporation stating that the resolution was properly passed and that all necessary consents were obtained; and
- (b) the interest based on the notice required by section 87 has been registered against the titles.
- (2) The certificate mentioned in subsection (1) is conclusive proof of the facts stated in it in favour of a purchaser of the parcel.
- (3) Where the parcel is transferred pursuant to section 88, the registrar shall take any necessary steps to give effect to the transfer.

2000, c.68, s.43.

Winding-up order

90(1) On the application of a corporation, any member of a corporation or an administrator appointed pursuant to section 101, the court may make an order providing for the winding-up of the affairs of the corporation.

(2) By the same or a subsequent order, the court may declare the corporation dissolved on and from a day specified in the order.

1993, c.C-26.1, s.90.

PART IX

Assessment and Taxation

91 Repealed. 2003, c.19, s.20.

Copies of plan to assessing authority

92(1) Within 30 days after titles are issued pursuant to a condominium plan, an amended plan or an amendment to unit factors, the corporation shall furnish to the assessing authority two copies of the condominium plan or amended plan, the unit factor schedule and a notice of interests that affect all the owners in the prescribed form.

(2) The copies mentioned in subsection (1) are to be certified in the prescribed manner.

(3) For all purposes in relation to the making, levying, imposition, assessment or recovery of rates, charges or taxes in relation to a parcel or any part of a parcel:

(a) the certified copy of a plan, unit factor schedule or notice furnished pursuant to subsection (1) is conclusive proof of the particulars shown on the plan, unit factor schedule or notice;

(b) the production by an assessing authority of a plan, unit factor schedule or notice that purports to be a certified copy of a condominium plan, an amended plan, a unit factor schedule or a notice furnished pursuant to subsection (1) is, in the absence of evidence to the contrary, proof that it is the certified copy so furnished.

1993, c.C-26.1, s.92; 2000, c.68, s.44.

Assessment of parcel

93(1) In this section and in section 97:

(a) “**parcel**” includes improvements;

(b) “**unit**” includes:

(i) the owner’s share of the common property;

(ii) in the case of a unit used for residential purposes, any parking unit or parking space designated pursuant to section 11; and

(iii) in the case of a bare land unit, the improvements to the unit.

(2) Notwithstanding the assessing Act or any other Act, if the Saskatchewan Assessment Management Agency or any other assessing authority causes a parcel to be assessed pursuant to an assessing Act, a separate assessment must be made of each unit except parking units designated pursuant to section 11.

2013, c.7, s.36.

94 Repealed. 2003, c.19, s.22.

95 Repealed. 2003, c.19, s.22.

96 Repealed. 1997, c.7, s.27.

Collection and enforcement

97(1) In this section, “**tax collection provisions**” means provisions of any other Act that authorize or affect the collection and recovery of rates, charges or taxes by an assessing authority by proceedings against an assessed owner and the owner’s property.

(2) Except to the extent that they are inconsistent with this Part, tax collection provisions apply, with any necessary modification, to the owner of a unit as if the unit and the owner’s share in the common property were land and improvements or a parcel within the meaning of those provisions.

(3) Except to the extent that they are inconsistent with this Part, all proceedings pursuant to *The Tax Enforcement Act*, including the registration and enforcement of liens and the obtaining of title to parcels within the meaning of that Act for nonpayment of arrears of taxes, apply, with any necessary modification, to the owner of a unit as if the unit and the owner’s share in the common property were land and improvements or a parcel within the meaning of those provisions.

(3.1) In proceedings to obtain title pursuant to *The Tax Enforcement Act*, title to a parking unit designated to a unit used for residential purposes may only be obtained together with the unit to which it is designated pursuant to section 11.

(4) For the purposes of this section, a reference in an Act mentioned in subsection (1), (3) or (3.1) to “land”, “lot” or “parcel” is deemed to be a reference to a unit.

1993, c.C-26.1, s.97; 2013, c.7, s.37.

**PART X
Dispute Resolution**

Action to recover certain sums

98 A corporation may recover from an owner by an action for debt any sum of money expended by the corporation for:

- (a) repairs to the owner’s unit;
- (b) work done in complying with a notice or order by a local authority or other public authority with respect to the owner’s unit.

1993, c.C-26.1, s.98.

Enforcement of bylaws

99(1) If an owner, tenant or other person who resides in or on a unit contravenes a bylaw of the corporation, the corporation may take proceedings pursuant to *The Small Claims Act, 2016* to recover from the owner, tenant or other person or any combination of them:

- (a) a penalty of not more than \$500 with respect to that contravention; and
 - (b) subject to the limits in *The Small Claims Act, 2016*:
 - (i) compensation for any damage to the common property, common facilities or services units resulting from the contravention of the bylaw up to the deductible limit of the insurance policy obtained by the corporation; and
 - (ii) any actual costs incurred by the corporation to enforce the bylaw against the defendant.
- (2) In an action pursuant to subsection (1), the corporation must establish to the satisfaction of the judge of the Provincial Court of Saskatchewan who hears the matter that the bylaw:
- (a) was properly enacted; and
 - (b) was contravened by the owner, tenant or other person residing in or on the unit.
- (3) On hearing the matter, the judge may:
- (a) dismiss the action or give judgment against the defendant in the amount being sued for or any lesser amount that appears proper in the circumstances; and
 - (b) may make any award as to costs that is permitted by *The Small Claims Act, 2016*.
- (4) A corporation may not commence an action pursuant to this section unless it is authorized by bylaw to do so.
- (5) For the purposes of subsection (2), a copy of a bylaw that is certified by the Director as a true copy of the bylaw filed in accordance with this Act is, in the absence of evidence to the contrary, proof:
- (a) of the contents of the bylaw; and
 - (b) that the bylaw was properly enacted.
- (6) The commencement of an action against a person pursuant to this section does not limit or derogate from a remedy that an owner or the corporation may have against that person.

Order to fulfil duties

99.1(1) One or more owner, tenant, mortgagee or other interested person may apply to the court for an order directing a condominium corporation or a board to fulfil its duties set out in sections 35 and 39.

(2) On an application pursuant to subsection (1), the judge may make any order the judge considers appropriate, including:

- (a) an order prohibiting the conduct mentioned in the application;
- (b) an order directing the corporation or board to fulfil its duty; and
- (c) an order requiring the payment of compensation.

2013, c.7, s.39.

Oppression remedy

99.2(1) An owner, a corporation, a developer, a tenant, a mortgagee of a unit or other interested person may apply to the court for an order if the applicant alleges that the conduct of an owner, a tenant, a corporation, a developer or a mortgagee of a unit is or threatens to be oppressive or unfairly prejudicial to the applicant or unfairly disregards the interests of the applicant.

(2) On an application pursuant to subsection (1), if the judge determines that the conduct of an owner, a tenant, a corporation, a developer or a mortgagee of a unit is or threatens to be oppressive or unfairly prejudicial to the applicant or unfairly disregards the interests of the applicant, the judge may make any order the judge considers appropriate, including:

- (a) an order prohibiting the conduct alleged in the application; and
- (b) an order requiring the payment of compensation.

2013, c.7, s.39.

Other remedies

99.3 Unless this Act specifically provides the contrary, nothing in this Act restricts the remedies otherwise available to a person for the failure of another to perform a duty imposed by this Act.

2013, c.7, s.39.

Arbitration

100(1) Where there is a dispute between owners or between the corporation and one or more owners respecting any matter relating to the corporation, the parties to the dispute may agree in writing to submit the dispute to arbitration in accordance with this section.

(2) The parties to the dispute shall appoint a single arbitrator.

(3) The decision of an arbitrator pursuant to this section is final and binding.

(4) The costs of an arbitration pursuant to this section are to be shared equally between the parties, and an interest may be registered against the title to a unit for the amount of the owner's share of the costs that is unpaid.

(5) *The Arbitration Act, 1992* applies to arbitrations pursuant to this section.

1993, c.C-26.1, s.100; 2000, c.68, s.48.

Appointment of administrator

101(1) A corporation or any person having an interest in a unit may apply to the court for the appointment of an administrator.

(2) The court may, in its discretion, appoint an administrator for an indefinite period or for a fixed period on any terms and conditions as to remuneration or otherwise that it considers appropriate.

(3) The remuneration and expenses of an administrator appointed pursuant to this section are expenses mentioned in clause 55(2)(a) that may be paid out of the common expenses fund.

(4) An administrator appointed pursuant to this section has the powers and duties of the corporation or any of those powers and duties that the court orders and, while those powers are vested in the administrator, the board and the corporation may not exercise those powers or perform those duties.

(5) An administrator may delegate any of the powers vested in the administrator by the court.

(6) On the application of the administrator or a person mentioned in subsection (1), the court may remove or replace the administrator.

1993, c.C-26.1, s.101.

Scheme for settlement

102(1) Where a building, a fixture on land, or landscaping is damaged but the condominium status is not terminated pursuant to section 83 or 84, an application to settle a scheme may be made to the court by the corporation, by an owner or by a holder of a registered interest based on a mortgage of a unit.

(2) On an application pursuant to this section, the court may, by order, settle a scheme including provisions:

(a) for the reinstatement in whole or in part of the building, fixture on land, or landscaping; or

(b) for transfer of the interests of owners of units that have been wholly or partially destroyed to the other owners in proportion to their unit factors.

(3) In the exercise of its powers pursuant to subsection (2), the court may make any orders that it considers necessary or expedient for giving effect to the scheme, including orders:

(a) directing the application of insurance moneys received by the corporation with respect to damage to the building, fixture on land, or landscaping;

(b) directing payment of moneys by the corporation or by owners or by one or more of them;

- (c) directing any amendment of the condominium plan that the court considers appropriate, so as to include in the common property any accretion to it; and
 - (d) imposing any terms and conditions that it considers appropriate.
- (4) On an application to the court pursuant to this section, an insurer who has effected insurance on the building, fixture on land, or landscaping or any part of it that is insurance against destruction of units or damage to the building, fixture on land, or landscaping has the right to appear in person or by agent or counsel.
- (5) Notwithstanding clause (3)(c), the Controller of Surveys may require that a new condominium plan or an amended plan be submitted and approved where the Controller of Surveys considers that a new plan is required.

1993, c.C-26.1, s.102; 2000, c.68, s.49.

PART XI General

Right to enter to carry out statutory powers

103 Where a local authority or a public authority or a person authorized by either of them has a statutory right to enter any part of a parcel, the authority or person is entitled to enter any other part of the parcel to the extent necessary or expedient to enable the authority or person to exercise the statutory powers for which the right to enter was conferred.

1993, c.C-26.1, s.103.

Immunity

103.1 No action or proceeding lies or shall be commenced against the Crown, the minister, the Director, the registrar, the Controller of Surveys, an administrator appointed pursuant to section 101 or any employee of any of those persons where that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

2003, c.19, s.24.

Service of documents

- 104(1)** A document may be served on a corporation or the board of a corporation:
- (a) by registered mail addressed to the corporation or the board, as the case may be, at the address of the corporation filed with the Director; or
 - (b) by personal service on a member of the board.
- (2) A notice mentioned in section 80, subsection 47.1(5) or clause 47.1(7)(b) may be served on an owner:
- (a) personally;
 - (b) by registered mail sent to the address given to the corporation pursuant to section 75; or

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- (c) if the owner has not provided an address pursuant to section 75, at the address shown in the land titles registry for the title to the unit.
- (3) A notice mentioned in section 80 may be served on a tenant:
- (a) personally; or
 - (b) if the tenant cannot be served personally by reason of the tenant's absence from the premises or evasion of service:
 - (i) by giving it to an adult who apparently resides with the tenant;
 - (ii) by posting it on some part of the premises in a conspicuous place; or
 - (iii) by sending it by registered mail addressed to the tenant at the address where the tenant resides.
- (4) A document served by registered mail is deemed to have been received on the seventh day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, the person did not receive the document or received it at a later day.

1993, c.C-26.1, s.104; 2000, c.68, s.50; 2009, c.10, s.22; 2013, c.7, s.40.

Change of address for service

- 105(1)** A corporation may change its address for service by a resolution of the board.
- (2) A change of an address for service does not take effect until a notice in the prescribed form is filed with the Director.

1993, c.C-26.1, s.105; 2000, c.68, s.51.

Fees for documents

- 106(1)** A corporation may charge a reasonable fee to recover the expenses associated with producing and providing any document that this Act requires to be provided, but the fee must not exceed a maximum prescribed amount.
- (2) A local authority may charge a reasonable fee for producing and providing any certificate or approval that this Act requires to be provided, but the fee must not exceed a maximum prescribed amount.

1993, c.C-26.1, s.106.

Homestead

- 107** Where a unit is a homestead for the purposes of clause 93(1)(k) of *The Enforcement of Money Judgments Act* and clause 66(k) of *The Saskatchewan Farm Security Act*, the homestead consists of the unit together with the owner's share in the common property.

1993, c.C-26.1, s.107; 2010, c.E-9.22, s.149.

Approval of plan

108 The issuance of titles pursuant to a condominium plan, replacement plan or amended plan approved pursuant to *The Land Surveys Act, 2000* must be obtained within one year after the date that the plan was approved.

2000, c.68, s.52.

Judgment enforcement

109 Where a judgment is obtained against a corporation, an interest based on that judgment may be registered against the titles issued pursuant to the condominium plan.

2000, c.68, s.53; 2010, c.E-9.22, s.150.

Accessions

110(1) In this section, “**registered**” means registered pursuant to *The Personal Property Security Act, 1993*.

(2) For the purposes of section 49 of *The Personal Property Security Act, 1993*:

(a) an interest based on a notice of a security interest in goods that are affixed to a building or parcel that arises pursuant to an agreement between a secured party and the owner of a unit, or between a secured party and the corporation on behalf of the owner of a unit, shall be registered against the title to the unit; and

(b) an interest based on a notice of a security interest in goods that are affixed to a building or parcel that arises pursuant to an agreement between a secured party and the corporation shall be registered against the titles issued pursuant to the condominium plan.

1993, c.C-26.1, s.110; 2000, c.68, s.54.

Offence and penalty

111(1) Every corporation that contravenes one or more of the following is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000:

(a) subsection 39(2), section 40, clause 61(2)(b) or subsection 87(1);

(b) any duty to a local authority imposed on a corporation by this Act.

(2) Every developer who contravenes section 12, subsection 26(1), 26(4) or section 28 is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000.

(3) Where a corporation has committed an offence against this Act, every officer or member of the board who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to the offence and is liable on summary conviction to a fine of not more than \$500.

(4) Subject to subsections (1) and (2), every person who fails to comply with any duty imposed by any provision of this Act is guilty of an offence and is liable on summary conviction to a fine of not more than \$500.

1993, c.C-26.1, s.111; 2003, c.19, s.25.

Limitation on prosecution

111.1 No prosecution for a contravention of this Act is to be commenced more than two years from the date on which the offence is alleged to have been committed.

2003, c.19, s.26.

Regulations

112 For the purpose of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or phrase used in this Act but not defined in this Act;
- (b) for the purposes of clause 2(1)(r), prescribing persons or classes of persons to be owners;
- (b.1) for the purposes of clause 2(1)(z.01), prescribing the content, form and other requirements for a standard unit description;
- (c) for the purposes of section 3:
 - (i) prescribing provisions of *The Planning and Development Act, 2007* that do not apply to buildings or lands that are subject to condominium plans or proposed condominium plans or with respect to which condominium plans are terminated;
 - (ii) prescribing provisions that are to operate in place of any provisions of *The Planning and Development Act, 2007* that are prescribed pursuant to subclause (i);
- (c.1) exempting specified units, sectors or any person or any class of persons from all or any prescribed portion of any provision of this Act and, as a condition of the exemption, requiring any exempted person or class of persons to comply with any prescribed term or condition, and prescribing any circumstance in which all or any portion of any provision of this Act does not apply;
- (d) governing the manner of approval of plans and issuance of titles pursuant to a condominium plan, replacement plan, amended plan or any other plan or amendment required pursuant to this Act;
- (d.1) for the purposes of clause 9(1)(d), prescribing common facilities and the manner of indicating those common facilities on a condominium plan;
- (e) for the purposes of clause 9(1)(g), prescribing elements that must be contained in a condominium plan;
- (e.001) for the purposes of subsection 10(5), prescribing the level of available rental accommodation and additional conditions that the local authority must consider before issuing a certificate of approval;
- (e.01) for the purposes of subsection 11(7), prescribing the manner in which a parking space may become a parking unit;
- (e.1) prescribing the information to be provided to the minister with a declaration;
- (f) for the purposes of section 5.2, 16 or 21:

- (i) prescribing the type, amount, term and form of the security or other financial arrangement required;
- (ii) prescribing the persons or classes of persons:
 - (A) in whose favour the security is to be drawn or other financial arrangement made;
 - (B) to which the security is to be delivered;
 - (C) that may claim against the security or other financial arrangement;
 - (D) that shall determine when completion or substantial completion has occurred;
- (iii) prescribing the circumstances in which a claim may be made against the security or other financial arrangement;
- (iv) prescribing the payment procedure where there is a claim;
- (v) prescribing the times when a security may be released in whole or in part and the terms and conditions for release of a security or for the termination of another financial arrangement;
- (vi) prescribing any other terms and conditions with respect to the security or other financial arrangement that the Lieutenant Governor in Council considers necessary;
- (vii) prescribing circumstances in which security is not required;
- (f.1) prescribing the circumstances in which an application to issue titles pursuant to a condominium plan is required to be accompanied by a declaration endorsed with a certificate of acceptance granted by the minister;
- (f.2) prescribing the circumstances in which the minister is authorized to grant a waiver of the requirement to obtain security;
- (g) for the purposes of clause 13(1)(d), exempting residential premises or any class of residential premises from the application of section 13;
- (h) prescribing a rate of interest for the purposes of subsection 13(7);
 - (h.1) for the purposes of section 25, prescribing:
 - (i) the circumstances in which owners are required to approve redivisions;
 - (ii) the percentage of owners whose approval is required; and
 - (iii) the procedures respecting approvals;
 - (h.11) prescribing any additional information concerning units allocated for non-residential use that must be delivered to a purchaser pursuant to clause 26(1)(l);
 - (h.2) for the purposes of section 34, prescribing requirements respecting corporation names;
 - (h.3) for the purposes of clause 35(2)(d), prescribing any returns to be submitted to the Director and the required content and form of those returns;

- (h.4) for the purposes of subsection 39(3), prescribing persons authorized to audit financial statements of condominium corporations;
- (h.5) prescribing circumstances when a corporation is not required to prepare and provide audited financial statements pursuant to clause 39(2)(b) and subsection 39(3);
- (i) **Repealed.** 2000, c.68, s.55.
- (j) for the purposes of section 45, prescribing bylaws to regulate corporations;
 - (j.1) respecting the bylaw-making powers of a corporation;
 - (j.11) respecting the approval processes required to create, amend or repeal bylaws governing certain matters;
 - (j.12) for the purposes of clauses 47(1)(g.1) and (g.2), prescribing the maximum amount that may be charged by the corporation and any other limitation respecting the charging of fees;
 - (j.2) respecting the establishment of sectors within a corporation, the allocation of units, common facilities and common property to a sector, and the control, management, administration, use and enjoyment of the units, common property and common facilities within a sector;
 - (j.3) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary in relation to the creation or governance of sectors of a corporation;
- (k) for the purposes of clause 57(1)(b), prescribing a procedure for apportioning the amounts required for a common expenses fund among owners of units;
- (l) for the purposes of subsection 58(1):
 - (i) prescribing a procedure for determining the amounts required for a reserve fund;
 - (ii) prescribing a procedure for apportioning the amounts required for a reserve fund among owners of units;
- (l.1) for the purposes of section 58.1, prescribing:
 - (i) the period within which a reserve fund study must be conducted by a corporation after the date of the previous reserve fund study;
 - (ii) the persons or classes of persons who may conduct a reserve fund study and prepare a written report;
 - (iii) the manner in which a reserve fund study must be conducted, including the nature and scope of the reserve fund study; and
 - (iv) the information to be contained in a written report and the manner in which the written report is to be prepared and is to be made available to the corporation;
- (l.2) for the purposes of subsection 58.1(9):
 - (i) prescribing the criteria that a condominium must meet in order for a corporation that is responsible for its control, management and administration to be exempted from the requirements of section 58.1; and

- (ii) prescribing any terms and conditions on an exemption;
- (l.3) prescribing the maximum rate of interest for the purposes of subsection 59(1.1);
- (l.4) prescribing an interest or claim for the purposes of clause 63.1(2)(b);
- (l.5) for the purposes of clause 63.1(4)(c), prescribing any other manner in which the corporation may give notice.
- (l.6) respecting the control, management, administration, use and enjoyment of common property, common facilities and services units, including prescribing circumstances in which a services unit may be sold.
- (m) prescribing the manner in which documents are filed or registered with the registrar, Director or Controller of Surveys;
- (n) prescribing the circumstances and the manner in which interests are to be registered against a title;
- (o) for the purposes of subsection 92(2), prescribing the manner in which copies of documents mentioned in subsection 92(1) are to be certified;
- (o.1) **Repealed.** 2003, c.19, s.27.
- (p) prescribing the format, content and manner of use of forms mentioned in or required by this Act;
- (q) prescribing fees to be paid pursuant to this Act or the regulations;
- (r) for the purposes of section 106, prescribing a maximum amount that a local authority or the corporation may charge for providing a certificate or approval required by this Act;
- (s) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (t) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1993, c.C-26.1, s.112; 1997, c.7, s.28; 2000, c.68, s.55; 2003, c.19, s.27; 2007, c.P-13.2, s.258; 2009, c.10, s.23; 2013, c.7, s.41.

Registry system

- 112.1(1)** The Lieutenant Governor in Council may make regulations establishing a registry system for corporations.
- (2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations:
- (a) requiring any person or class of persons to register with the registry system;
 - (b) governing the time or times within which registration is required;
 - (c) governing the information to be registered in the registry system;
 - (d) **Repealed.** 2013, c.O-4.2, s.72.
 - (e) prescribing the forms required for filing or registration;

- (f) governing any other matters that the Lieutenant Governor in Council considers necessary with respect to the registry system.
- (3) The minister may, by order, establish:
- (a) the fees, charges and taxes payable with respect to all services provided pursuant to this Act; and
 - (b) the method of payment of those fees, charges and taxes.
- (4) The minister shall cause notice of the fees, charges and taxes established pursuant to subsection (3) to be published in the Gazette.
- (5) Notwithstanding subsection (3), the Director may enter into an agreement with a person to provide a special service to that person if, in the opinion of the Director, a fee, charge or tax mentioned in subsection (3) is not adequate to allow the Director to provide that service to the person.
- (6) If the Director considers it appropriate or necessary, the Director may:
- (a) waive any fees, charges or taxes, in whole or in part; or
 - (b) refund any fees, charges or taxes, in whole or in part.
- (7) The Director is not required to perform any function pursuant to this Act or the regulations until the appropriate fee, charge or tax is paid or arrangements for its payment are made.
- (8) All revenues derived from fees, charges or taxes imposed or collected pursuant to this Act are to be paid to and are the property of the Crown, unless the Lieutenant Governor in Council directs otherwise

1997, c.7, s.29; 2000, c.68, s.56; 2013, c.O-4.2,
s.72.

Regulations respecting agricultural units

112.2(1) Notwithstanding any other provision of this Act, with respect to units sold, intended or used for agricultural purposes the Lieutenant Governor in Council may make regulations:

- (a) exempting specified units, corporations, developers or any other person from all or any of the provisions of this Act or the regulations; and
 - (b) prescribing any terms or limitations on an exemption and requiring compliance with those terms or limitations.
- (2) Notwithstanding any other Act or law, any regulations made pursuant to subsection (1) may be made retroactive to a day not earlier than January 1, 1995.

1997, c.7, s.29.

PART XII
**Repeal, Transitional, Consequential Amendments
 and Coming into Force**

113 Dispensed. This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.

Transitional

114 Notwithstanding the repeal of *The Condominium Property Act*:

- (a) a corporation that, on the day before section 45 of this Act comes into force, was regulated by the bylaws set out in Schedules A and B of *The Condominium Property Act*, continues to be regulated by those bylaws, and those bylaws remain in force with respect to that corporation until they are repealed, replaced or amended pursuant to this Act;
- (b) a bond delivered pursuant to section 10.6 of *The Condominium Property Act* that is being held on the day before section 16 of this Act comes into force remains in force and may be dealt with in accordance with *The Condominium Property Act*, the regulations made pursuant to that Act and the terms of the bond;
- (c) a declaration provided pursuant to section 10.6 of *The Condominium Property Act* remains in force until the requirements of that Act with respect to completion are fulfilled;
- (d) a developer's management agreement that is in existence prior to the coming into force of section 29 of this Act is not subject to that section.

1993, c.C-26.1, s.114.

115 Dispensed. This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.

