

1993

CHAPTER C-26.1

An Act respecting Condominiums

(Assented to May 21, 1993)

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

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;
- (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"**:
 - (i) means a plan that:
 - (A) is described in the heading of the plan as a condominium plan;

- (B) shows the whole or any part of the buildings and land included in the plan as being divided into two or more units; and
 (C) meets the requirements of section 9; and
 (ii) includes a plan of redivision of any unit in a condominium plan registered pursuant to this Act;
- (k) **"corporation"** means a corporation constituted or continued pursuant to section 34;
- (l) **"court"** means Her Majesty's Court of Queen's Bench for Saskatchewan;
- (m) **"declaration"** means a declaration mentioned in clause 9(3)(b) or 16(3)(a) as the case may be, and includes any amendments to a declaration made pursuant to section 18;
- (n) **"developer"**:
- (i) means a person who, on the day on which a condominium plan is presented for registration, is the registered owner of the buildings and land included in the plan; and
 (ii) includes a person who, as a result of an agreement with a person described 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;
- (o) **"local authority"**:
- (i) means:
- (A) a city, town, village or resort village within the meaning of *The Urban Municipality Act, 1984*;
- (B) a rural municipality within the meaning of *The Rural Municipality Act, 1989*;
- (C) a town, northern village or northern hamlet within the meaning of *The Northern Municipalities Act*;
- (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 the fee simple estate in a unit and includes persons prescribed in the regulations for prescribed purposes;
- (s) **"parcel"** means the land included in a condominium plan;
- (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 registered in accordance with this Act;
- (w) **"registrar"** means a registrar as defined in *The Land Titles Act*;
- (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);
- (z) **"special resolution"** means a resolution that is:
- (i) passed at a properly convened meeting of a corporation by a majority of not less than two-thirds of the votes cast by persons who:
- (A) are present personally or who cast their votes by proxy;
 (B) vote with respect to that resolution; and
 (C) are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation; or

(ii) approved by the signature on the resolution of not less than two-thirds of all the persons who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation;

(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:
- (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* 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* respecting subdivision surveys;
- (cc) **“unit factor”** means the unit factor for a unit as specified in accordance with subclause 9(1)(e)(i) or apportioned in accordance with subsection 25(5), 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*.
- (3) For the purposes of *The Land Titles Act* and *The Planning and Development Act, 1983*, a condominium plan is deemed to be a plan of subdivision.

Application of other laws

- 3(1) The provisions relating to the subdivision of land contained in *The Planning and Development Act, 1983* 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, 1983* 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, 1983* 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.

PART II
FORMATION OF CONDOMINIUMS

Subdivision by registration of plan

- 4(1) A building or land may be divided into units by the registration in the appropriate land titles office of a condominium plan in the manner provided by this Act and the regulations.
- (2) For the purposes of *The Land Titles Act*, a condominium plan is deemed on registration to be embodied in the instrument register.
- (3) 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.

Certificates of title

- 5(1) On registering a condominium plan, the registrar shall:
 - (a) cancel the certificate of title to the parcel described in the plan, except as to any mines and minerals included in the parcel; and
 - (b) issue a separate certificate of title for each unit described in the plan.
- (2) Subject to subsection (3), any interests affecting a parcel that are noted on a certificate of title cancelled pursuant to clause (1)(a) are to be endorsed on the condominium plan and not on the certificates of title issued pursuant to clause (1)(b).
- (3) A mortgage affecting a parcel that is noted on the certificate of title cancelled pursuant to clause (1)(a) is to be endorsed on the condominium plan and on the certificates of title issued pursuant to clause (1)(b).
- (4) Not more than one unit is to be included in one certificate of title, and no other land, except the owner's share in the common property, is to be included in the same certificate of title with a unit.
- (5) After a certificate of title to a unit is issued pursuant to subsection (1), the unit may devolve or be transferred, leased, mortgaged or otherwise dealt with in the same manner and form as any land held pursuant to *The Land Titles Act*, and the registrar shall enter memoranda showing those dealings on the certificate of title of the unit.

Common property

- 6(1) The registrar, in issuing a certificate of title for a unit, shall certify on it the owner's share in the common property.
- (2) The common property included in a registered condominium plan is held by the owners of all the units as tenants in common in shares proportional to the unit factors for their respective units.

(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.

Owner's interest

- 7(1) An owner holds his or her unit and share in the common property subject to any interests affecting the unit or the condominium plan.
- (2) An owner is only liable with respect to an interest noted on a condominium plan 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 a mortgage is registered against a condominium plan, 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 mortgage for the unit.

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.

Requirements of plans

- 9(1) A plan presented for registration 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) include a drawing that illustrates the units and distinguishes the units by numbers;
 - (d) include a drawing of existing or proposed common facilities and common property;
 - (e) have endorsed on it:
 - (i) a schedule that specifies in whole numbers the unit factor for each unit in the parcel; and
 - (ii) the address at which documents may be served on the corporation in accordance with section 104;
 - (f) be signed by the developer; and
 - (g) contain any prescribed features.
- (2) Where a building is to be divided into units, a plan presented for registration 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*; and
 - (b) show the approximate floor area of each unit.
- (3) Where land is to be divided into bare land units, a plan presented for registration 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* respecting subdivision surveys;
- (b) show the approximate area of each unit; and
- (c) be accompanied by a declaration in the prescribed form.

Plans to be certified

10(1) Every plan presented for registration as a condominium plan must be endorsed with or accompanied 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;
 - (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 illustrated in the plan, has been approved by the local authority;
 - (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 for the purposes of notation on the plan; and
 - (d) a certificate of acceptance granted by the minister where required by the regulations.
- (2) A person may apply to the minister for any certificate of acceptance required pursuant to clause (1)(d) by providing the minister with evidence satisfactory to the minister that the developer has obtained a bond, letter of credit, other security or has provided for another financial arrangement as prescribed by the regulations that is for the purpose of providing a remedy to owners where the developer fails to complete the common property or common facilities as described in the plan.
- (3) The minister may grant a certificate of acceptance for the purpose of clause (1)(d) where there is evidence satisfactory to the minister that the developer has obtained a bond, letter of credit, other security or has provided for another financial arrangement as prescribed by the regulations.
- (4) The regulations may prescribe circumstances where a bond, letter of credit, other security or another financial arrangement as prescribed by the regulations is not required.
- (5) 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 pursuant to section 11 has been or will be complied with; and
 - (e) where the application relates to the conversion of existing premises used for apartments, flats or tenements into units:
 - (i) the conversion will not significantly reduce 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; and
 - (iii) the building and the parcel have the physical characteristics considered necessary by the local authority to make the premises suitable for conversion.
- (6) The registrar shall make a notation on a condominium plan that is accepted for registration of any permanent encroachment agreement that is submitted pursuant to clause (1)(c) with respect to that plan.

Parking

- 11(1) A condominium plan that is presented for registration must indicate that the developer has designated at least one parking space as an exclusive use area for each unit.
- (2) Subsection (1) does not apply where:
- (a) the zoning requirements of the local authority do not require sufficient parking spaces for compliance with subsection (1);
 - (b) units shown in the plan are not intended for residential purposes; or
 - (c) a parking space or garage is included as part of a unit.
- (3) A parking space designated for a unit pursuant to subsection (1) remains with the unit unless:
- (a) the owner of the unit gives written approval in the prescribed form for a redesignation of the parking space to another unit or redesignation as a non-exclusive use area; and
 - (b) the registrar is provided with written approval in the prescribed form for the purposes of notation on the condominium plan.
- (4) The developer may retain any amount received by the developer for providing a parking space 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, 1983* relating to leases do not apply to leases granted pursuant to subsection (5).

Documents turned over to corporation

- 12(1) Not later than one year after the day on which a condominium plan is registered, the developer shall provide to the corporation, without charge, the original or a copy of the following documents:
- (a) all 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 written agreements to which the corporation is a party; and
 - (f) all certificates, approvals and permits issued by a local authority, the Government of Saskatchewan or an agent of the Government of Saskatchewan.
- (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 registration of 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 a condominium plan that includes the apartments is registered.
- (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 a condominium plan is not registered 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.

Amendment of plans

- 14(1) Subject to subsection (3), 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 mortgage with respect to a unit and the common property that is affected by the amendment; and
- (b) by registering with the registrar an amending instrument, in the prescribed form, that has endorsed on it, or is accompanied by, a certificate under the seal of the corporation stating that the consents required pursuant to clause (a) were obtained.
- (2) Subject to subsection (3), a condominium plan may be amended:
- (a) where written consent has been obtained from 80% of the owners of units and holders of registered mortgages with respect to the units and the common property that are affected by the amendment;
 - (b) by registering with the registrar an amending instrument, in the prescribed form, that is accompanied by:
 - (i) proof of service of a notice of the amending instrument, effected not less than 30 days before registering the amending instrument, on:
 - (A) all owners of units and all holders of registered mortgages with respect to the units and the common property that are affected by the amending instrument, except those unit owners and holders of registered mortgages that have consented pursuant to clause (a); and
 - (B) the local authority;
 - (ii) a certificate under seal of the corporation stating that the consents required pursuant to clause (a) were 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 endorsements and the encumbrances that exist with respect to all of the property that is affected by the amendment.
- (4) An owner, a holder of a registered mortgage mentioned in paragraph (2)(b)(i)(A) or the local authority may apply to the court within 30 days after being served with the notice mentioned in subclause (2)(b)(i) 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 mortgages mentioned in paragraph (2)(b)(i)(A); and
- (d) the local authority.
- (6) An applicant mentioned in subsection (4) shall submit a notice in the prescribed form of the application to the registrar, who shall enter a notation of the application on the condominium plan.
- (7) After receiving a notice of an application in accordance with subsection (6), the registrar shall not register the amendment that is the subject of the application 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 by the regulations, the registrar:
 - (a) shall take any necessary steps to give effect to the amendment or court order pursuant to subsection (8); and
 - (b) may, where the registrar considers it necessary, require the registration of an amended condominium plan or a new condominium plan before registering an amending instrument or court order.
- (11) For the purposes of this section, a change of an address for service or a redesignation pursuant to clause 11(3)(a) does not constitute an amendment to a condominium plan.
- (12) Where there is an omission, clerical error or other defect in a condominium plan that has been registered, the Master of Titles may order a correction pursuant to section 112 of *The Land Titles Act*, and that correction does not constitute an amendment to a condominium plan for the purposes of this section.

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 mortgages for the purpose of approving the amalgamation.
- (3) The board of each amalgamating corporation shall provide all owners and holders of registered 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 endorsements and encumbrances that exist 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 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 mortgages for each of the amalgamating corporations must be obtained.
- (5) The amending instrument of an amalgamated corporation is not to be registered unless it is accompanied by a certificate required pursuant to clause 14(1)(b) or subclause 14(2)(b)(ii) from each of the amalgamating corporations.
- (6) On registration of an amending instrument:
 - (a) any condominium plan previously registered with respect to land and buildings 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 registration of an amending instrument, 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.

Filing of caveats

- 16(1) A developer may file a caveat against:
- (a) a condominium plan at any time before the developer transfers title to any unit; or
 - (b) a replacement plan at any time before the developer transfers title to any additional unit.
- (2) Subject to subsection 17(3), the effect of filing a caveat pursuant to subsection (1) is to reserve to the developer the right to construct additional units and additional common facilities on the parcel.
- (3) A caveat mentioned in subsection (1) is to be accompanied by:
- (a) a declaration in the prescribed form; and
 - (b) a certificate of acceptance granted by the minister.
- (4) A developer may apply to the minister for a certificate of acceptance for the purposes of clause (3)(b) by providing the minister with:
- (a) evidence that the developer has obtained a bond, letter of credit, other security or has provided for another financial arrangement 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 grant a certificate of acceptance for the purposes of clause (3)(b) where:
- (a) there is evidence satisfactory to the minister that the developer has obtained a bond, letter of credit, other security or has provided for another financial arrangement 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) No developer shall file a caveat against a replacement plan unless the intention to file that caveat was disclosed in the declaration that accompanied the caveat filed against the original condominium plan.
- (7) Sections 159 and 161 of *The Land Titles Act* do not apply to a caveat filed pursuant to this section.
- (8) The regulations may prescribe circumstances where a bond, letter of credit, other security or another financial arrangement as prescribed by the regulations is not required.

Presentation of replacement plans for registration

- 17(1) A developer shall present a replacement plan for registration within:
- (a) two years after the day on which a caveat is filed; or
 - (b) any period of extension allowed pursuant to section 20.
- (2) A replacement plan presented for registration must:
- (a) meet the requirements of sections 9 and 10; and
 - (b) be endorsed with or 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 registration of the plan.

(3) Subject to any order of the court pursuant to section 20, where a replacement plan is not registered within the time required by subsection (1), all rights reserved to the developer under the caveat cease.

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) filing with the registrar, before the expiry of the period mentioned in clause 17(1)(a), a notice of amendment to the declaration, together with the certificate of acceptance.
- (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 grant a certificate of acceptance for the purposes of clause (1)(b) 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 until notice of the amendment is endorsed on the condominium plan by the registrar.

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) a notice of extension is filed with the registrar, before the expiry of the time allowed for completion, together with the certificate 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 grant a certificate of acceptance for the purposes of clause (1)(b) where the minister has received a copy of the special resolution.
- (4) No period or periods of extension shall exceed three years from the day on which the caveat is filed pursuant to section 16.
- (5) No extension of time is effective until notice of the extension has been endorsed on the condominium plan by the registrar.

Extension of time for registration of replacement plan

- 20(1) A developer may, not later than 30 days after the expiration of the time allowed for registering a replacement plan, apply to the court for an order amending the declaration or extending the time for registration of 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 caveat on any terms and conditions that the court considers appropriate;
 - (b) directing the minister to grant a certificate of acceptance;
 - (c) directing the registrar to register the replacement plan; or
 - (d) directing the caveat to lapse.

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 a bond, letter of credit, other security or another financial arrangement as prescribed by the regulations until the transferee has obtained a certificate of acceptance from the minister.

(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;
- (b) prior to completion of the common property or common facilities as described in the plan or declaration, evidence that the transferee has obtained a bond, letter of credit, other security or has provided for another financial arrangement as prescribed by the regulations that is for the purpose of providing a remedy to owners where the developer 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 grant a certificate of acceptance for the purposes of subsection (1) where there is evidence satisfactory to the minister that the developer has obtained a bond, letter of credit, other security or has provided for another financial arrangement as prescribed by the regulations.

(4) The regulations may prescribe circumstances where a bond, letter of credit, other security or another financial arrangement as prescribed by the regulations is not required.

Minister's powers re certificates of acceptance

22 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.

Registration of replacement plan

23(1) Where a replacement plan is presented for registration before the caveat lapses or is directed to be registered by an order pursuant to subsection 20(3), the registrar shall:

- (a) discharge the caveat and any notice endorsed on the condominium plan pursuant to section 18 or 19;
- (b) cancel the condominium plan;
- (c) register the replacement plan, subject to any interests endorsed on the condominium plan;
- (d) at the registrar's discretion, either:
 - (i) amend the certificates of title to the units described in the condominium plan to correspond with the replacement plan; or
 - (ii) cancel the certificates of title to the units described in the condominium plan and issue to the owners certificates of title for the same units as described in the replacement plan, subject to all interests affecting those units that are endorsed on the cancelled certificates of title;
- (e) issue to the developer certificates of title to the additional units free and clear of all interests that were endorsed on the certificates of title issued pursuant to the condominium plan; and
- (f) do any other thing that the registrar considers necessary or advisable to carry out the purposes of this section.

(2) On registration of a replacement plan, the replacement plan is deemed to be the condominium plan, and the registrar shall change the name of the corporation by striking out the number of the original condominium plan on the condominium plan and substituting the number of the replacement plan.

(3) 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 of registration of the replacement plan pursuant to subsection (1),

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 caveat filed pursuant to section 16; and

(c) is responsible for the fees of the registrar for services provided pursuant to subsection (1).

Claims against developer

24 A corporation or an owner 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 and common facilities.

Redivision of units

25(1) An owner of a unit may, with the approval of the local authority, redivide the unit by registering a condominium plan relating to the redivided unit in the manner provided for by this Act for the registration of condominium plans.

(2) Except as provided in this section, the provisions of this Act relating to condominium plans apply, with any necessary modification, to a redivision.

(3) Notwithstanding section 34, the owners of units in a condominium plan of redivision are not a corporation, but are, on and from the day of registration of the plan of redivision, members of the corporation formed on registration of the original plan.

(4) On the registration of a condominium plan of redivision, units included in the plan of redivision are subject to any easements or encroachment agreements that affect any of the units in the original plan that are included in the plan of redivision.

(5) The schedule required by subclause 9(1)(e)(i) that is endorsed on a plan of redivision must apportion among the units in the plan of redivision the unit factors for any units in the original plan that are included in the redivision.

(6) Before registering a condominium plan of redivision, the registrar shall amend the original registered plan in the prescribed manner.

(7) On the registration of a condominium plan of redivision, the land included in it is to be dealt with by reference to units in the redivision plan.

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;

(c) any management agreement or proposed management agreement;

(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;

(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; and

(ii) whether there is to be any additional monthly charge for the use of the parking space or other exclusive use area;

(h) the condominium plan if one exists;

CONDOMINIUM PROPERTY

- (i) prior to registration of 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;
- (k) a statement that indicates whether a caretaker's suite is included;

- (l) a statement that 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;
 - (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
 - (o) a statement that indicates the dates when contributions to the common expenses fund and the reserve fund will commence.
- (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).

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.

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.

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.

Easements in favour of owner

30 After registration of 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; and

(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.

Easements against the owner

31(1) After the registration of 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; and

(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.

(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.

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 any memorial or notification on the part of the register that constitutes titles to the dominant or servient tenements; and

(b) without any express indication of the dominant and servient tenements.

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.

PART III

CONDOMINIUM CORPORATIONS

Composition and powers

34(1) On the registration of a condominium plan, a corporation is constituted under the name "The Owners: Condominium Plan No.....".

(number given to plan on registration)

(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).

(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 the use of the owners of units but not for the purpose of investment; or

(b) dispose of an interest in real property that is not part of the condominium plan.

(6) *The Business Corporations Act* and *The Non-profit Corporations Act* do not apply to a corporation.

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 and common facilities 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; and
 - (c) to comply with any reasonable request for the names and addresses of the persons who are members of the board.

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.

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.

Meeting to elect board

- 38 A developer who registers a condominium plan shall convene the first annual meeting of the corporation at which a board is to be elected within the earlier of:
- (a) 90 days after the day on which 50% of the units are sold; and
 - (b) 180 days after the day on which the first unit is sold.

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;
- (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.

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.

Voting rights of owners

- 41(1) Subject to subsection (2), 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.

Voting by holder of mortgage

- 42(1) Where the interest of an owner is subject to a registered 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 mortgage who is first entitled in priority; and
 - (b) in other cases, is exercisable by the holder of a registered 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 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.

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 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 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).

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.

Initial bylaws

45 On and from the registration of 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.

Making, amending and repealing bylaws

46(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 an initial bylaw prescribed in the regulations has no effect until:

- (a) the corporation files a copy of the amendment or repeal with the registrar; and
- (b) the registrar has made reference to the amendment or repeal on the registered plan.

Subject matter of bylaws

47(1) 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;
- (g) governing the use and management of the assets of the corporation;
- (h) specifying duties of the corporation;
- (i) governing the assessment and collection of contributions towards the common expenses;
- (j) respecting the establishment of exclusive use areas;
- (k) authorizing the borrowing of money to carry out the objects and duties of the corporation;
- (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;
- (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.

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.

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.

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.

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.

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.

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.

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 of registration of the condominium plan and ending on the day preceding the day on which condominium fees are first levied on the owners of the units.

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 and common facilities, enforcement of the bylaws of the corporation and addition of additional common property and common facilities;
 - (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; and
 - (b) any major repair or replacement of common facilities, common property 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.
- (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.

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).

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:
 - (i) the resolution was passed; or
 - (ii) the action was instituted.
- (3) No fee shall be levied on an owner of a bare land unit until the improvements to the unit are ready for use or are being used for their intended purpose.

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) Owners' contributions to the reserve fund are payable in the amounts and at the times as determined by a special resolution.
- (4) A fee levied pursuant to clause 56(1)(b) may be recovered by the corporation by an action for debt from the person who was the proper owner when:
 - (a) the resolution was passed; or
 - (b) the action was instituted.

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.
- (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.

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*.
- (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.

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.

Accounts

- 62(1) An owner's contributions to a reserve fund with respect to a unit are to be credited to that unit in the reserve fund account.
- (2) Interest earned as a result of the investment of moneys in a reserve fund is to be credited in the reserve fund account to the units in the proportions specified in the bylaws of the corporation.
- (3) Interest received from owners with respect to the late payment of contributions is to be allocated in the reserve fund account to the units for which the contributions were required.
- (4) Where an expenditure is paid out of the reserve fund, the amount of the expenditure is to be debited in the reserve fund account from the units in the proportions specified in the bylaws of the corporation.
- (5) The corporation shall provide each owner with a certified copy of the entries in the reserve fund account, and in any common expenses fund account, that are kept with respect to the owner's unit:
 - (a) within 90 days after the end of each fiscal year of the corporation; and
 - (b) at other times, as provided in the bylaws of the corporation, on the request of the owner.

Caveat for arrears

- 63(1) A corporation may, in accordance with the regulations, file a caveat against the certificate of title to an owner's 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 filing of a caveat pursuant to subsection (1):
 - (a) the corporation has a charge against the unit for an amount that is equal to the amount of the unpaid contribution; and
 - (b) the charge may be enforced in the same manner as a mortgage.
- (3) A corporation that files a caveat pursuant to subsection (1) shall, in accordance with the regulations, withdraw the caveat on payment of the amount of the charge.
- (4) The corporation may require the owner of the unit to pay the costs incurred in preparing and filing the caveat and in preparing and filing the withdrawal of caveat.

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.

PART V
INSURANCE

Duty to insure

- 65(1) The corporation shall obtain and maintain insurance on its own behalf and on behalf of the owners with respect to the units, the common property and the common facilities, excluding improvements made or acquired by owners:
 - (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.
- (2) For the purposes of subsection (1), the corporation is deemed to have an insurable interest in the replacement value of units, the common property and the common facilities.
- (3) The corporation shall obtain and maintain:
 - (a) insurance against its liability:
 - (i) resulting from breach of duty as occupier of the common property; or
 - (ii) arising from the ownership, use or operation, by the corporation or on its behalf, of boilers, machinery, pressure vessels and motor vehicles; and
 - (b) any other insurance that is specified in the bylaws of the corporation or directed by the board.
- (4) For the purposes of subsection (3), the corporation is deemed to have an insurable interest in the subject matter of the insurance.
- (5) 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.
- (6) 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.

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.

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.

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.

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.

PART VI
DISPOSITIONS OF COMMON PROPERTY

Transfer or lease of common property

- 70(1) A corporation may, on a unanimous resolution, transfer or lease the common property or any part of it to any person.
- (2) The corporation shall execute a transfer or lease of common property where the board is satisfied that:
- (a) a unanimous resolution was properly passed; and
 - (b) all persons who have registered interests in the condominium plan or the units:
 - (i) in the case of a transfer, have consented in writing to the release of those interests with respect to the land comprised 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.
- (4) The receipt of the corporation for the purchase money, rent, premiums or other moneys received by the corporation 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.

Registration of transfer or lease

- 71(1) The registrar shall not register a transfer or lease authorized pursuant to section 70 unless the transfer or lease has endorsed on it, or is accompanied by, a certificate under the seal of the corporation stating that:
- (a) the unanimous resolution mentioned in subsection 70(1) was properly passed;
 - (b) the transfer or lease conforms with the terms of the unanimous resolution; and
 - (c) all necessary consents were obtained.
- (2) The certificate mentioned in subsection (1) is conclusive proof of the facts stated in it in favour of:
- (a) a purchaser or lessee of common property; and
 - (b) the registrar.
- (3) Subject to subsection (5), on the filing of a transfer of common property for registration, the registrar shall:
- (a) before issuing a certificate of title, amend the registered condominium plan by deleting from it the common property comprised in the transfer; and
 - (b) register the transfer by issuing to the transferee a certificate of title for the common property transferred, but no notification of the transfer shall be made on any other certificate of title in the register.
- (4) Subject to subsection (5), on the filing of a lease of common property for registration, the registrar shall register the lease by noting it on the registered condominium plan in the prescribed manner.
- (5) Where the registrar considers it necessary, the registrar may require the submission of an amended condominium plan or a new condominium plan before a transfer or lease is registered.

Exclusive use areas

- 72(1) A corporation may, on a unanimous resolution, permit an owner to exercise exclusive use with respect to one or more areas of the common property.

- (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.

Easements and restrictions accepted

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

Easements and restrictions granted

74(1) A corporation may, on a unanimous 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 unanimous 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) The registrar shall not register an instrument granting an easement or covenant pursuant to this section unless the instrument has endorsed on it, or is accompanied by, a certificate under the seal of the corporation stating that the resolution mentioned in subsection (1) was properly passed and that 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) a person dealing with the corporation pursuant to this section; and
- (b) the registrar.

(7) The registrar shall register the instrument granting the easement or covenant by noting it on the registered condominium plan in the prescribed manner.

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.

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.

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*.

(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 or common facilities 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.

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.

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.

Application for order to give up possession

- 80(1) A corporation may apply to the Rentalsman pursuant to *The Residential Tenancies Act* for an order for possession of a rented residential unit where 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* with respect to applications for an order for possession of rented premises apply, with any necessary modification, to applications pursuant to this section.

Payment of arrears of common expenses by tenant

- 81(1) Where the owner's contribution to the common expenses fund is in arrears with respect to a residential unit that is occupied by a tenant, the corporation may require the tenant to pay the amount of the arrears to the corporation.
- (2) A tenant who has made a payment pursuant to subsection (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) 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; and
- (b) the owner is not liable to the corporation for the amount of the payment.

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 Rentalsman pursuant to section 80;
 - (c) collect common expenses from tenants pursuant to section 81.
- (2) A bylaw mentioned in subsection (1) may be general or specific in its application.

PART VIII
TERMINATION OF CONDOMINIUM STATUS

Unanimous resolution

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

Application to terminate

84(1) A corporation, an owner or a holder of a registered mortgage with respect to a unit may make an application 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 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.

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.

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 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.

Notice to registrar

87(1) On the termination of the condominium status of the building or land pursuant to section 83 or 84, the corporation shall immediately file with the registrar a notice of the termination in the prescribed form.

- (2) On receipt of a notice mentioned in subsection (1), the registrar shall make a memorandum of the notice on the registered condominium plan in the prescribed manner.
- (3) The owners of the units in a registered condominium plan are entitled to the parcel as tenants in

common in shares proportional to the unit factors of their respective units when a memorandum is made on the plan pursuant to subsection (2).

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.

Registration of transfer

- 89(1) The registrar shall not register a transfer executed pursuant to section 88 unless:
- (a) the transfer has endorsed on it, or 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 memorandum required by section 87 has been made on the registered condominium plan.
- (2) The certificate mentioned in subsection (1) is conclusive proof of the facts stated in it in favour of:
- (a) a purchaser of the parcel; and
 - (b) the registrar.
- (3) Where land is transferred pursuant to section 88, the registrar shall:
- (a) cancel the certificates of title relating to the units; and
 - (b) register the transfer by issuing to the transferee a certificate of title for the land transferred.
- (4) The registrar may require a new condominium plan to be presented for registration where the registrar considers a new condominium plan necessary.

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.

PART IX
ASSESSMENT AND TAXATION

Interpretation of Part

91 In this Part:

- (a) **“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) **“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.

Copies of plan to assessing authority

92(1) Within 30 days after the registration of a condominium plan or an amendment to a condominium plan, the corporation shall furnish to the assessing authority two copies of the registered condominium plan or amendment, as the case may be, including all endorsements on the plan or amendment.

(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 or an amendment furnished pursuant to subsection (1) is conclusive proof of the particulars shown on the plan or amendment; and

(b) the production by an assessing authority of a plan that purports to be a certified copy of a condominium plan or an amendment to a condominium plan furnished pursuant to subsection

(1) is, in the absence of evidence to the contrary, proof that it is the certified copy so furnished.

Assessment of parcel

93(1) Notwithstanding the assessing Act or any other Act, where an assessing authority causes a parcel to be assessed pursuant to an assessing Act:

(a) the assessing authority:

(i) shall assess the parcel as a single parcel and as if it were owned by a single owner;

(ii) shall, on the assessment, show the corporation as the single owner of the parcel; and

(iii) is not required to make separate assessments of any part of a parcel otherwise than as if the parcel were owned by a single owner; and

(b) for the purposes of the assessment and all other purposes that are incidental to the assessment, including objection to an assessment, but not otherwise, the parcel and all improvements to the parcel are deemed to be owned by the corporation and by no other person.

(2) During the period commencing on the day of registration of a condominium plan and ending on the day on which an assessment pursuant to subsection (1) becomes effective, the assessment then in force is deemed, for the purposes of this Part, to be an assessment of the parcel made by the assessing authority showing the corporation as owner.

(3) The corporation shall:

(a) make any assessment notice received by the corporation available for inspection by the owners; and

(b) on the request of an owner, convene a meeting of the corporation for the purpose of deciding whether the assessment should be appealed.

Liability for taxes

94(1) Notwithstanding that an assessment shows the corporation as the single owner of a parcel, the owner of each unit in the parcel:

(a) is deemed to be the owner in fee simple in possession of the unit as if it were a separate parcel of land and improvements, with an assessed value equal to the owner's share of the assessed value of the parcel apportioned in accordance with section 95 or 96; and

(b) subject to any exemptions or concessions that may be applicable, is liable, with respect to the assessed value of the unit mentioned in clause (a), for any rate, charge or tax levied by the assessing authority on the owners of the land and improvements.

(2) Notwithstanding that an assessment shows the corporation as the single owner of a parcel, the corporation is not liable for any rate, charge or tax levied by the assessing authority with respect to the parcel.

Apportionment of assessment

95 Subject to section 96, an assessing authority shall apportion the assessed value of a parcel among the units in the parcel in proportion to the unit factors of the respective units as shown on the registered condominium plan or a registered amendment to the plan.

Application for different apportionment

96(1) In this section, "**board**" means the Saskatchewan Municipal Board established pursuant to *The Municipal Board Act*.

(2) With the written approval of 80% of the owners of units, a corporation may apply to the board for approval of a scheme of apportionment for assessment purposes that is not based on unit factors.

(3) An application pursuant to subsection (2) must include:

(a) a proposed scheme of apportionment; and

(b) proof that at least 80% of the owners have approved of the proposed scheme of apportionment.

(4) The corporation shall serve a copy of the application on the assessing authority and on each owner of a unit at the time when the application is submitted to the board.

(5) The assessing authority or any owner of a unit may appear before the board to dispute the proposed scheme of apportionment.

(6) The board may conduct any hearings that are necessary for the purposes of this section as if the hearings were conducted pursuant to *The Municipal Board Act* and, for that purpose, the board has the powers conferred on the board by that Act with respect to hearings, with any necessary modification.

- (7) The board may make any order that it considers fair and equitable based on the relative value of the units, including an order:
- (a) to approve the proposed scheme of apportionment;
 - (b) to reject the proposed scheme of apportionment; or
 - (c) to amend the proposed scheme of apportionment.
- (8) The board shall direct the assessing authority to comply with a scheme of apportionment that is approved or amended pursuant to subsection (7) for the purposes of assessing and apportioning rates, charges and taxes with respect to the parcel.
- (9) The assessing authority shall comply with an order of the board made pursuant to subsection (7).

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

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.

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* to recover from the owner, tenant or other person or any combination of them a penalty of not more than \$200 with respect to that contravention.
- (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*.
- (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 registrar as being a true copy of the bylaw filed at the land titles office 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.

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 a caveat may be filed against the certificate of title to an owner's 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.

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.

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 registered mortgagee 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 registrar may require a new condominium plan to be presented for registration where the registrar considers that a new condominium plan is required.

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.

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 shown on the condominium plan concerned or on an amendment to the condominium plan; or
 - (b) by personal service on a member of the board.
- (2) A notice mentioned in section 80 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
 - (c) where the owner has not provided an address pursuant to section 75, the address shown for the title to the unit at the land titles office.
- (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.

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 at the appropriate land titles office.

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.

Homestead

107 Where a unit is a homestead for the purposes of paragraph 10 of section 2 of *The Exemptions 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.

Approval of plan

108(1) Every condominium plan, replacement plan or amended plan registered pursuant to this Act

is to be approved by the chief surveyor of land titles offices and presented for registration within 30 days after the date of approval.

(2) Following the registering of any condominium plan, the registrar shall forward one copy of the plan to the chief surveyor of land titles offices.

Writ of execution

109 Where a judgment is obtained against a corporation, a writ of execution with respect to that judgment may be registered against the condominium plan.

Accessions

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

(2) For the purposes of section 54 of *The Personal Property Security Act*:

- (a) 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) 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 condominium plan.

Offence and penalty

111(1) Every corporation that contravenes:

- (a) subsection 39(2), clause 61(2)(b) or subsection 62(5), 87(1) or 92(1); or
- (b) any duty to a local authority imposed on a corporation by this Act;

is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000.

(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.

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;
- (c) for the purposes of section 3:
 - (i) prescribing provisions of *The Planning and Development Act, 1983* 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, 1983* that are prescribed pursuant to subclause (i);
- (d) governing the manner of registering a condominium plan, replacement plan, amended plan or any other plan required pursuant to this Act;

- (e) for the purposes of clause 9(1)(g), prescribing features that must be contained in a condominium plan;
- (f) for the purposes of section 10, 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;
- (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);
- (i) for the purposes of subsection 25(6), prescribing the manner in which a registered condominium plan is to be amended by the registrar;
- (j) for the purposes of section 45, prescribing bylaws to regulate corporations;
- (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;
- (m) prescribing the manner in which documents are registered or filed with the registrar;
- (n) prescribing the circumstances and the manner in which endorsements are to be made on a condominium plan or certificate of 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;
- (p) prescribing forms to be used for the purposes of this Act, including the form of certificates of title to units;
- (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.

PART XII

REPEAL, TRANSITIONAL, CONSEQUENTIAL AMENDMENTS AND COMING INTO FORCE

R.S.S. 1978, c.C-26 repealed

113 *The Condominium Property Act* is repealed.

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.

Consequential amendments

115 The Acts and regulations listed in column 1 of the Schedule are amended in the provisions listed in column 2 by striking out "*The Condominium Property Act*" wherever it occurs and in each case substituting "*The Condominium Property Act, 1993*".

Coming into force

116 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.

CONDOMINIUM PROPERTY

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Schedule

[Section 115]

<u>Column 1 (Act or regulation)</u>	<u>Column 2 (Provision amended)</u>
<i>The Builders' Lien Act</i> , S.S. 1984-85-86, c.B-7.1	32(1)
<i>The Corporation Capital Tax Regulations, 1984</i> , R.R.S. c.C-38.1 Reg 1	2(1)(b)(vii)
<i>The Home Owners' Protection Act</i> , S.S. 1981-82, c.H-4.2	2(f)(iv)
<i>The Homesteads Act, 1989</i> , S.S. 1989-90, c.H-5.1	2(c)(iv)
<i>The Matrimonial Property Act</i> , S.S. 1979, c.M-6.1	2(g)(vi)
<i>The Mortgage Interest Reduction Act</i> , S.S. 1982-83, c.M-21.1	2(i)(ii)
<i>The Mortgage Protection Act</i> , S.S. 1986-87-88, c.M-21.11	2(k)(ii)