



Province of Alberta

CONDOMINIUM PROPERTY AMENDMENT ACT, 2014

Statutes of Alberta, 2014
Chapter 10

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Office Consolidation

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CONDOMINIUM PROPERTY AMENDMENT ACT, 2014

Chapter 10

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

Amends RSA 2000 cC-22

1 The *Condominium Property Act* is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)

(ix) by repealing clause (r) and substituting the following:

- (r) “ordinary resolution” means a resolution
 - (i) passed at a properly convened general meeting of a corporation in accordance with section 26.2 or 26.3, or
 - (ii) passed by a vote in writing in accordance with section 26.5;

(xiii) by repealing clause (x) and substituting the following:

- (x) “special resolution” means a resolution
 - (i) passed at a properly convened general meeting of a corporation in accordance with section 26.4, or
 - (ii) passed by a vote in writing in accordance with section 26.5;

(xiv) by adding the following after clause (x):

- (x.1) “Tribunal” means the Tribunal established in accordance with the regulations under section 69.9;

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

(2.1) Where the Tribunal has jurisdiction to hear a dispute in respect of a matter under this Act that would otherwise be heard by the Court, a reference to the Court in a provision of this Act as the provision relates to the dispute shall be read as a reference to the Tribunal.

17 Section 26 is repealed and the following is substituted:**Voting rights**

26(1) Subject to this section and section 27, an owner has the right to vote with respect to each unit owned and, where required, the right to vote the unit factors for each unit owned.

(2) When an owner's interest in a unit is subject to a registered mortgage, the right to vote with respect to the unit may be exercised as follows:

- (a) first, by the mortgagee, if any, who is first entitled in priority if that mortgagee is present at the meeting at which the vote is being conducted;
- (b) 2nd, by the owner;
- (c) 3rd and subsequently, in order of their priority among themselves, by any other mortgagees who are subsequent in priority to the mortgagee referred to in clause (a) if the subsequent mortgagees wishing to exercise the right to vote have notified the corporation of the mortgage in writing and are present at the meeting at which the vote is conducted.

(3) Subsection (2) does not apply unless the mortgagee has given written notice of the mortgagee's mortgage to the corporation at the corporation's address for service.

(4) Subject to the regulations, an owner or mortgagee, as the case may be, may exercise a right to vote personally or by proxy.

(5) A right to vote exercised by proxy is subject to the restrictions set out in the proxy, if any.

(6) Notwithstanding anything in this section, a person's right to vote with respect to a unit and its unit factors is suspended where for more than 60 days before the vote

- (a) any contribution payable in respect of the unit under section 39, or any interest payable under section 40, is in arrears, or
- (b) a judgment by a court for any money owing to the corporation by the owner remains unsatisfied.

Ordinary resolution

26.1 A vote on an ordinary resolution may be conducted

- (a) at a properly convened general meeting in accordance with section 26.2 or 26.3, or
- (b) in writing in accordance with section 26.5.

Show of hands vote on an ordinary resolution

26.2(1) Subject to subsection (3), a vote by a show of hands on an ordinary resolution at a general meeting is passed where a majority of votes cast by those persons with a right to vote and present, either personally or by proxy, signify a vote in favour of the resolution.

(2) Where a unit is owned by 2 or more owners, only one owner may vote by show of hands but if those owners disagree on how their right to vote in respect of the unit should be exercised, no vote may be counted with respect to that unit.

(3) If a person entitled to vote on a resolution requests a poll vote, either before or promptly after a show of hands vote is or has been conducted, the vote must be conducted by a poll vote under section 26.3.

Poll vote on an ordinary resolution

26.3(1) A poll vote on an ordinary resolution is passed at a general meeting where the number of unit factors representing the votes cast by persons voting in favour of the resolution is at least 50% of the total unit factors for all the units of persons present at the meeting, either personally or by proxy.

(2) The procedures for voting in a poll vote where a unit is owned by 2 or more persons must be in accordance with the regulations.

Vote on a special resolution

26.4(1) A special resolution is passed at a general meeting where both of the following occur:

- (a) persons representing at least 75% of all units vote, either personally or by proxy, in favour of the resolution;

(b) the number of unit factors represented by the votes cast in favour of the resolution is at least 75% of the total unit factors for all the units.

(2) The procedures for voting on a special resolution where a unit is owned by 2 or more persons must be in accordance with the regulations.

(3) A vote under this section must be signed by the person voting.

(4) The results of a vote on a special resolution must be recorded in the minutes of the general meeting at which the vote was conducted and must include

- (a) the number of votes in respect of units and unit factors in favour of the resolution, and
- (b) the number of votes in respect of units and unit factors not in favour of the resolution.

Voting in writing on an ordinary or special resolution

26.5(1) Notwithstanding that this Act, the regulations or the bylaws may require a general meeting to be convened for the purpose of voting on a resolution, a vote may be conducted in writing pursuant to this section and section 26.6 without a general meeting being convened.

(2) With respect to a vote in writing, an ordinary resolution is passed where both of the following occur:

- (a) persons representing at least 50% of all units vote in favour of the resolution;
- (b) the number of unit factors represented by the votes cast in favour of the resolution is at least 50% of the total unit factors for all the units.

(3) With respect to a vote in writing, a special resolution is passed where both of the following occur:

- (a) persons representing at least 75% of all units vote in favour of the resolution;
- (b) the number of unit factors represented by the votes cast in favour of the resolution is at least 75% of the total unit factors for all the units.

Procedures for written voting

26.6(1) Where a vote on a resolution is to be conducted in writing, the board shall send to each owner and to each mortgagee who has given written notice under section 26(3) a notice setting out the wording of the resolution and

- (a) the date by which the votes on the resolution must be received by the board, and
- (b) any other prescribed information.

(2) The date by which the votes must be received must be no later than one year from the date the notice of the proposed resolution was sent.

(3) The date by which the votes must be counted must be no later than 14 days from the date referred to in subsection (1)(a).

(4) A vote under this section must be signed by the person voting.

(5) In addition to any other requirements in this Act and the regulations, the results of a vote in writing

- (a) must include
 - (i) the number of votes in respect of units and unit factors in favour of the resolution, and
 - (ii) the number of votes in respect of units and unit factors not in favour of the resolution,

and

- (b) must be provided to the owners and to each mortgagee who has given written notice under section 26(3) in accordance with the regulations.

(6) Where a vote is conducted in writing, all votes are deemed to be made on the date the votes on the proposed resolution must be received by the board under subsection (1).

(7) The procedures used for a vote in writing where a unit is owned by 2 or more persons must be in accordance with the regulations.

Retention of voting records

26.7 The board must retain the original votes cast by persons under sections 26.3, 26.4 and 26.5 in accordance with the regulations.

Electronic voting

26.8 Notwithstanding sections 26.2, 26.3, 26.4 and 26.5, a vote may be conducted by electronic means in accordance with the regulations.

27 Section 36 is amended**(a) by repealing subsection (1)(a) and substituting the following:**

- (a) take proceedings in the forum provided for in the regulations to recover from the person
 - (i) a monetary sanction, or
 - (ii) damages, in the case of any other sanction, in an amount not exceeding the amount that may be granted in damages under the *Provincial Court Act* and the regulations under that Act,

or

30 Section 39 is repealed and the following is substituted:

- (2) A contribution shall not include any amount for the purpose of collecting from an individual owner
 - (b) costs incurred by the corporation as a result of damages caused by an act or omission of an owner, tenant or occupant, or
 - (c) any other amount set out in the regulations.

46 Section 69 is amended by adding the following after subsection (2):

- (3) If a party to an arbitration agreement under subsection (1) makes an application to the Tribunal in respect of a matter in dispute that is to be submitted to arbitration under the arbitration agreement, the Tribunal shall, on the application of another party to the arbitration agreement, stay the proceeding to which the first application relates.

47 The following is added after section 69:

Tribunal

Definitions

69.1 In this section and sections 69.2 to 69.9,

- (a) “dispute” means a dispute respecting any matter arising under this Act or the regulations, or in respect of the bylaws or rules of a corporation, involving 2 or more interested parties;
- (b) “interested party” means an owner, a corporation, a member of the board, a developer, a purchaser, a condominium manager, a tenant or an occupant of a unit, an administrator appointed under section 58, a registered mortgagee or any other person who has a registered interest in a unit.

Geographic region

69.2 Sections 69.3 to 69.9 apply only in respect of the geographic region or regions of the Province specified in the regulations.

Jurisdiction of the Tribunal

69.3 The Tribunal may hear a dispute respecting any matter specified in the regulations.

Application to Tribunal

69.4(1) Subject to the regulations, where an application in respect of a dispute is filed with a court and the Tribunal has jurisdiction to hear the dispute, the court shall refer the dispute to the Tribunal.

(2) Where an application in respect of a dispute is filed with the Tribunal, the Tribunal shall, if the Tribunal does not have jurisdiction to hear the dispute or the authority to order the relief sought in the application, refer the matter to a court.

Authority of Tribunal

69.5(1) The Tribunal may, by order, do one or more of the following in respect of a dispute it hears:

- (a) award damages;
- (b) award costs;
- (c) award interest;
- (d) grant restitution;
- (e) nullify a sanction imposed by a corporation;

- (f) grant a temporary or permanent stay of a sanction imposed by a corporation;
 - (g) require the production of a specific document, record or thing;
 - (h) if the Tribunal is satisfied that one of the interested parties to the dispute is carrying on improper conduct, appoint an investigator to review the improper conduct and report to the Tribunal;
 - (i) direct an interested party to the dispute carrying on improper conduct to cease the improper conduct;
 - (j) give directions as to how matters are to be carried out so that improper conduct will not recur or continue, including directing an interested party to the dispute to take steps to comply with this Act;
 - (k) make a declaration on any matter specified in the regulations;
 - (l) appoint an administrator under section 58 as if the Tribunal were the Court;
 - (m) dismiss a dispute;
 - (n) grant any other relief provided for by the regulations.
- (2) Subject to the regulations, the Tribunal may vary or reconsider any order or decision made by it.
- (3) The Tribunal is not bound by the rules of evidence applicable in judicial proceedings.
- (4) The Tribunal may
- (a) establish a date by which something must be done, and vary such a date;
 - (b) determine the validity, sufficiency and timeliness of the service of a notice, document or order.

Powers of tribunal officers

69.51(1) A tribunal officer, for the purposes of hearing disputes,

- (a) has the same power as is vested in the Court for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,

- (ii) to compel witnesses to give evidence on oath or otherwise,
 - (iii) to compel witnesses to give evidence in person or otherwise, and
 - (iv) to compel witnesses to produce any record, object or thing that relates to the matter being heard,
- (b) may decide questions of the sufficiency, validity or timeliness of service of documents,
 - (c) may take evidence under oath, and
 - (d) may administer oaths for the purpose of taking evidence.

(2) If any person fails to attend, to answer questions or to produce a record, object or thing as required under subsection (1)(a), or conducts himself or herself in a manner that might be in contempt of the Tribunal or its proceedings, the Tribunal may apply to the Court for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court, or restraining any conduct found by the Court to be in contempt of the Tribunal or its proceedings.

(3) On an application under subsection (2), the Court may grant any order that, in the opinion of the Court, is necessary to enable the Tribunal to carry out its duties.

Application and proceedings

69.6(1) An application to the Tribunal must be made in accordance with the regulations.

(2) The Tribunal shall conduct all proceedings and decide all applications to it

- (a) subject to any limitations and restrictions set out in the regulations, and
- (b) in accordance with the rules of practice and procedure established pursuant to the regulations.

(3) The Tribunal may publish its decisions in any manner that it considers necessary.

Binding nature of order

69.7(1) An order of the Tribunal is final and binding on the parties to the dispute.

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

Judicial review

69.8(1) An application for judicial review of a Tribunal's decision, act or order must be filed and served not later than 45 days from the date of the decision, act or order.

(2) If an application for judicial review is made under subsection (1), the Court may stay the Tribunal's decision, act or order until the Court makes a decision on the application.

Protection from liability

69.81 No action lies against tribunal officers and employees required for the administration of the Tribunal who are appointed under the regulations for anything done or omitted to be done by any of them in good faith while exercising their powers and performing their duties under this Act or the regulations.

Regulations regarding Tribunal

69.9 The Lieutenant Governor in Council may make regulations respecting the establishment of a Tribunal for the purpose of resolving disputes arising in respect of matters under this Act, including, without limitation, regulations

- (a) respecting the establishment of the Tribunal and the appointment of tribunal officers, including a chair, and any other employees required for the administration of the Tribunal;
- (b) providing for the payment of remuneration and expenses to tribunal officers and employees;
- (c) respecting the geographic region or regions of the Province to which sections 69.3 to 69.81 and this section apply;
- (d) specifying the matters in respect of which the Tribunal may hear a dispute;
- (e) respecting applications to the Tribunal, including applications that include a claim for damages, compensation or other relief;
- (f) respecting rules of practice and procedure governing proceedings before the Tribunal;

- (g) respecting a code of conduct applicable to tribunal officers;
- (h) respecting alternative dispute resolution processes that the Tribunal may require the parties to a dispute to undertake;
- (i) respecting the circumstances and the manner in which an application is to be referred from a court to the Tribunal under section 69.4(1);
- (j) respecting the manner of referring a matter to a court under section 69.4(2);
- (k) respecting the determination and treatment of related disputes;
- (l) respecting other relief that a Tribunal may grant under section 69.5;
- (m) respecting the powers and duties of the chair, tribunal officers and any other employees;
- (n) respecting the matters that tribunal officers may or shall consider when dealing with a dispute;
- (o) respecting the making of Tribunal orders;
- (p) respecting the fees that may be charged by the Tribunal and providing for the waiver of any fee;
- (q) respecting the manner of establishing forms for the purposes of sections 69.2 to 69.8 and providing for their use;
- (r) respecting the service of notices, documents or orders;
- (s) respecting bringing copies of documents registered at a land titles office, including the bylaws and condominium plan of a corporation, before the Tribunal;
- (t) respecting the publication of orders and other documents of the Tribunal;
- (u) respecting any matter or thing that the Lieutenant Governor in Council considers necessary or appropriate to carry out the intent and purposes of sections 69.2 to 69.8.

55 Section 81 is amended**(d) by adding the following after clause (f):**

- (f.6) respecting procedures for voting under sections 26.3, 26.4 and 26.6 where a unit is owned by 2 or more persons;
- (f.61) respecting the notice of the results of a vote in writing under section 26.6;
- (f.62) respecting the retention of original votes for the purpose of section 26.7;
- (f.63) respecting the conducting of a vote by electronic means for the purpose of section 26.8;

(i) by adding the following after clause (s):

- (s.1) respecting the skills, education, competencies and experience of condominium managers;

Transitional regulations

57 The Lieutenant Governor in Council may make regulations providing for the transitional application of the amendments to the *Condominium Property Act* made by this Act.

58 Sections 26(6)(b) and 28.1(1)(c) are amended by adding “or the Tribunal” after “a court”.

60 Repealed 2020 c10 s86.

Coming into force

62 This Act comes into force on Proclamation.



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