

STRATA PROPERTY ACT
[SBC 1998] CHAPTER 43

Assented to July 30, 1998

Contents

Section

Part 1 — Definitions and Interpretation

1 Definitions and interpretation

Part 2 — The Strata Corporation

2 Establishment of strata corporation

3 Responsibilities of strata corporation

4 Strata corporation functions through council

Part 3 — The Owner Developer

Division 1 — General

5 Owner developer's control of strata corporation

6 Owner developer's standard of care

Division 2 — The Owner Developer and the Strata Corporation Before Strata Lots are Conveyed

7 Owner developer to pay expenses

8 Passing resolutions before first conveyance

Division 3 — The Owner Developer and the Strata Corporation After the First Conveyance

9 Owner developer may be restricted

10 Restriction on contracting powers

11 Passing resolutions after first conveyance

12 Owner developer to establish contingency reserve fund

13 Interim budget following first conveyance

14 Payments during period of interim budget

15 Minimum period of insurance coverage

16 First annual general meeting to be held by owner developer

17 Owners may hold first annual general meeting

18 Money owed by owner developer

19 Chair of first annual general meeting

20 Business at first annual general meeting

21 First annual budget requirements

22 Transfer to council

23 Access to owner developer's financial records

24 Strata management contracts

Part 4 — Strata Corporation Governance

Division 1 — The Council

25 Election of council

26 Council exercises powers and performs duties of strata corporation

27 Control of council

28 Eligibility for council

29 Membership on council

30 Contracts not invalidated

31 Council member's standard of care

32 Disclosure of conflict of interest

33 Accountability

34 Approval of council member remuneration

Division 2 — Records

35 Strata corporation records

36 Access to records

37 Strata manager to return records

Division 3 — Contracts

38 Capacity to enter contracts and join organizations

39 Cancellation of strata management contracts

Division 4 — Annual General Meetings and Special General Meetings

- [40 Annual general meeting](#)
- [41 Waiver of annual general meeting](#)
- [42 Special general meeting called by strata corporation](#)
- [43 Special general meeting called by voters](#)
- [44 Waiver of special general meeting](#)
- [45 Notice requirements for annual or special general meeting](#)
- [46 Agenda and resolutions at an annual or special general meeting](#)
- [47 Failure to give proper notice of meeting](#)
- [48 Quorum for annual or special general meeting](#)
- [49 Electronic attendance at meetings](#)
- [50 Voting at annual or special general meetings](#)
- [51 Reconsideration of resolution passed by 3/4 vote](#)
- [52 Unanimous votes](#)

Division 5 — Voting

- [53 Number of votes per strata lot](#)
- [54 Voters](#)
- [55 Special voters](#)
- [56 Proxies](#)
- [57 Shared vote](#)
- [58 Court appointed voter](#)

Division 6 — Information Certificate

- [59 Information Certificate](#)

Division 7 — Giving Notice and Providing Information

- [60 Notice to mortgagee](#)
- [61 Notice given by strata corporation](#)
- [62 Address of strata corporation](#)
- [63 Notice given to strata corporation](#)
- [64 Legal service on strata corporation](#)
- [65 Informing resident owners and tenants](#)

Part 5 — Property

Division 1 — General Property Matters

- [66 Ownership of property](#)
- [67 Assessment and taxation](#)
- [68 Strata lot boundaries](#)
- [69 Implied easements](#)
- [70 Changes to strata lot](#)
- [71 Change in use of common property](#)
- [72 Repair of property](#)

Division 2 — Limited Common Property and Exclusive Use of Common Property

- [73 Designation of limited common property](#)
- [74 Designation of limited common property by 3/4 vote](#)
- [75 Removal of designation of limited common property](#)
- [76 Short term exclusive use](#)
- [77 Access to common property by strata corporation](#)

Division 3 — Property Acquisition and Disposal

- [78 Acquisition of land by strata corporation](#)
- [79 Disposal of land held in strata corporation's name](#)
- [80 Disposal of common property](#)
- [81 Strata corporation must not mortgage common property](#)
- [82 Acquisition and disposal of personal property by strata corporation](#)

Division 4 — Work Orders

- [83 Work order against strata corporation property](#)
- [84 Work order against strata lot](#)
- [85 Owner's failure to comply with work order](#)

Division 5 — Builders Liens and Other Charges

- [86 Builders Lien Act applies](#)
- [87 Builders liens against strata lots in phased strata plans](#)
- [88 Builders lien after purchase from owner developer](#)
- [89 Removal of claim of lien after purchase from owner developer](#)
- [90 Removal of liens and other charges](#)

Part 6 — Finances

Division 1 — Operating Fund and Contingency Reserve Fund

- [91 Strata corporation responsible for common expenses](#)
- [92 Operating fund and contingency reserve fund](#)
- [93 Minimum and maximum contributions to contingency reserve fund](#)
- [94 Depreciation report](#)
- [95 Management of contingency reserve fund](#)
- [96 Expenditures from contingency reserve fund](#)
- [97 Expenditures from operating fund](#)
- [98 Unapproved expenditures](#)

Division 2 — Contribution to Expenses

- [99 Calculating strata fees](#)
- [100 Change to basis for calculation of contribution](#)
- [101 No return of contributions on sale of strata lot](#)

Division 3 — Budgets

- [102 Change of fiscal year end](#)
- [103 Budget requirements](#)
- [104 Failure to approve budget](#)
- [105 Budget surpluses and deficits](#)
- [106 Informing owners of strata fees](#)
- [107 Payment of strata fees](#)

Division 4 — Special Levies and User Fees

- [108 Special levy](#)
- [109 Payment of special levy when strata lot sold](#)
- [110 User fees](#)

Division 5 — Borrowing Powers of Strata Corporation

- [111 Strata corporation may borrow](#)

Division 6 — Money Owing to Strata Corporation

- [112 Notice to owner or tenant of money owing to strata corporation](#)
- [113 Notice to mortgagee](#)
- [114 Disputed debt](#)
- [115 Certificate of Payment](#)
- [116 Certificate of Lien](#)
- [117 Forced sale of owner's strata lot to collect money owing](#)
- [118 Costs added to amount owing](#)

Part 7 — Bylaws and Rules

Division 1 — General

- [119 Nature of bylaws](#)
- [120 Standard Bylaws](#)
- [121 Unenforceable bylaws](#)
- [122 Bylaws relating to sale of strata lot](#)
- [123 Limits to pet and age bylaws](#)
- [124 Voluntary dispute resolution bylaw](#)
- [125 Rules](#)

Division 2 — Amending the Bylaws

- [126 Amendment of bylaws](#)
- [127 Amendment of bylaws before first annual general meeting](#)
- [128 Bylaw amendment procedures](#)

Division 3 — Enforcing the Bylaws and Rules

- [129 Enforcement options](#)
- [130 Fines](#)
- [131 Landlord's and owner's responsibility for fines and costs incurred by tenant](#)
- [132 Maximum fines](#)
- [133 Strata corporation may remedy a contravention](#)
- [134 Denial of access to recreational facility](#)
- [135 Complaint, right to answer and notice of decision](#)
- [136 Complaint against council member](#)
- [137 Eviction by landlord](#)
- [138 Eviction by strata corporation](#)

Part 8 — Rentals

- [139 Rental disclosure by owner developer](#)
- [140 Contravention of disclosure requirements](#)
- [141 Restriction of rentals by strata corporation](#)
- [142 Limits to rental restriction bylaws](#)

- [143 Rental restriction bylaw does not immediately apply to some strata lots](#)
- [144 Exemption from rental restriction bylaw](#)
- [145 Rental agreement in contravention of rental restriction bylaw](#)
- [146 Landlord to give bylaws, rules and Notice of Tenant's Responsibilities to tenant](#)
- [147 Assignment of powers and duties to tenant](#)
- [148 Long term lease](#)

Part 9 — Insurance

- [149 Property insurance required for strata corporation](#)
- [150 Liability insurance required for strata corporation](#)
- [151 Errors and omissions insurance](#)
- [152 Optional strata corporation insurance](#)
- [153 Insurable interest](#)
- [154 Review and report on insurance](#)
- [155 Named insureds](#)
- [156 Payment of insurance proceeds](#)
- [157 Application of insurance money](#)
- [158 Insurance deductible](#)
- [159 Decision not to repair or replace](#)
- [160 Court orders](#)
- [161 Owner's insurance](#)
- [162 Contribution](#)

Part 10 — Legal Proceedings and Arbitration

Division 1 — Suits Against the Strata Corporation

- [163 Strata corporation may be sued](#)
- [164 Preventing or remedying unfair acts](#)
- [165 Other court remedies](#)
- [166 Owner's liability for judgment against strata corporation](#)
- [167 Defending suits](#)
- [168 Strata corporation may join owner](#)
- [169 Limit on owner's responsibility for costs](#)

Division 2 — Suits by the Strata Corporation

- [170 Suits against owners](#)
- [171 Strata corporation may sue as representative of all owners](#)
- [172 Strata corporation may sue on behalf of some owners](#)
- [173 Other court remedies](#)

Division 2.1 — Validity of Suits and Arbitrations

- [173.1 Validity of suits and arbitrations undertaken by strata corporation](#)

Division 3 — Administrator of Strata Corporation

- [174 Appointment of administrator](#)

Division 4 — Arbitration

- [175 Application of this Division](#)
- [176 Suit requirements and procedures apply](#)
- [177 Disputes that can be arbitrated](#)
- [178 Effect of court proceedings on arbitration](#)
- [179 Beginning arbitration](#)
- [180 Consolidation of disputes](#)
- [181 Mediation](#)
- [182 Notice of arbitration](#)
- [183 Arbitration procedures](#)
- [184 Examination and evidence](#)
- [185 Arbitrator's decision](#)
- [186 Costs](#)
- [187 Decision final](#)
- [188 Appeal to court](#)
- [189 Enforcement of decision](#)

Part 11 — Sections

- [190 Act applies to strata corporation with sections](#)
- [191 Sections allowed](#)
- [192 Creation of sections by owner developer](#)
- [193 Creation or cancellation of sections by strata corporation](#)
- [194 Powers and duties of section](#)
- [195 Expenses of section](#)

- [196 Administration of section](#)
- [197 Bylaws and rules for section](#)
- [198 Judgments against strata corporation relating to section](#)

Part 12 — Leasehold Strata Plans

- [199 Definitions](#)
- [200 Act applies to leasehold strata plans](#)
- [201 Deposit of leasehold strata plan](#)
- [202 New indefeasible title](#)
- [203 Conversion of ground lease](#)
- [204 Signature of leasehold landlord not required](#)
- [205 Obligations under strata lot lease](#)
- [206 Restrictions on lease, assignment or occupancy of strata lot](#)
- [207 Change to restrictions](#)
- [208 Duties of strata corporation](#)
- [209 Leasehold landlord's remedies on leasehold tenant's default](#)
- [210 Renewal of strata lot lease](#)
- [211 Renewal terms](#)
- [212 Renewal of fewer than 2/3 of strata lot leases](#)
- [213 Destruction of buildings](#)
- [214 Purchase of leasehold tenant's interest on termination](#)
- [215 Cancellation of strata plan](#)
- [216 Conversion to freehold strata plan](#)

Part 13 — Phased Strata Plans

- [217 Definition](#)
- [218 Act applies to phased strata plan](#)
- [219 Owner developer in phased strata plan](#)
- [220 Transfer of owner developer's interest](#)
- [221 Deposit of phased strata plan in land title office](#)
- [222 Approval of Phased Strata Plan Declaration](#)
- [223 Security for common facilities](#)
- [224 Approval of phase](#)
- [225 Approving officer's approval for common facilities](#)
- [226 Release of security](#)
- [227 Owner developer's contribution to expenses](#)
- [228 Effect of deposit of phase](#)
- [229 Notification of deposit of subsequent phase](#)
- [230 Annual general meeting after deposit of subsequent phase](#)
- [231 Deemed election to proceed](#)
- [232 Amendment of declaration to extend time for election](#)
- [233 Other amendments to declaration](#)
- [234 Matters that apply to amendment of declaration](#)
- [235 Election not to proceed](#)
- [236 Delay in proceeding](#)
- [237 Development after election not to proceed requires approval](#)
- [238 Building permit](#)

Part 14 — Land Titles

- [239 Effect of deposit of strata plan](#)
- [240 Title requirements for deposit of strata plan](#)
- [241 Endorsement of nonoccupancy](#)
- [242 Approval for conversion of previously occupied buildings](#)
- [243 Approval of bare land strata plan](#)
- [244 Strata plan requirements](#)
- [245 Strata plans: accompanying documents](#)
- [246 Schedule of Unit Entitlement](#)
- [247 Schedule of Voting Rights not approved by superintendent](#)
- [248 Schedule of Voting Rights approved by superintendent](#)
- [249 Registrar must deposit](#)
- [250 General index](#)
- [251 Common property](#)
- [252 Common property record](#)
- [253 Subdivision of common property](#)
- [254 Certificate of Strata Corporation](#)

[255](#) [Acquisition of land](#)

[256](#) [Certificate of Payment required](#)

[Part 15 — Strata Plan Amendment and Amalgamation](#)

[Division 1 — Strata Plan Amendment](#)

[257](#) [Amending strata plan to designate limited common property](#)

[258](#) [Parking designated by owner developer as limited common property](#)

[259](#) [Amending strata plan to add to, consolidate or divide a strata lot](#)

[260](#) [Exceptions to requirement for unanimous vote](#)

[261](#) [Amending Schedule of Unit Entitlement](#)

[262](#) [Amending strata plan to make land held by strata corporation into new strata lot](#)

[263](#) [Amending strata plan to add a strata lot to common property](#)

[264](#) [Calculation of unit entitlement and voting rights following amendment](#)

[265](#) [Amending strata plan to make common property into land held by the strata corporation](#)

[266](#) [Amending strata plan to add land held by strata corporation to the common property](#)

[267](#) [Registrar's duties on amendment](#)

[268](#) [Easements following amendment](#)

[Division 2 — Amalgamation](#)

[269](#) [Amalgamation](#)

[270](#) [Registrar's duties on amalgamation](#)

[271](#) [Effect of amalgamation](#)

[Part 16 — Cancellation of Strata Plan and Winding Up of Strata Corporation](#)

[Division 1 — Voluntary Winding Up Without Liquidator](#)

[272](#) [Vote to cancel strata plan and become tenants in common](#)

[273](#) [Conversion schedule](#)

[274](#) [Application to registrar](#)

[275](#) [Registrar's order](#)

[Division 2 — Voluntary Winding Up With Liquidator](#)

[276](#) [Application of *Business Corporations Act* to voluntary winding up of strata corporation](#)

[276.1](#) [Disposal of books and papers of strata corporation](#)

[277](#) [Appointment of liquidator](#)

[278](#) [Interest schedule](#)

[279](#) [Vesting order](#)

[280](#) [Filing vesting order](#)

[281](#) [Effect of filing vesting order](#)

[282](#) [Approval of disposition](#)

[283](#) [Filing of application for dissolution](#)

[Division 3 — Court Ordered Winding Up](#)

[284](#) [Application for court order to wind up strata corporation](#)

[285](#) [Winding up](#)

[Division 4 — General](#)

[286](#) [Application](#)

[287](#) [Plan cancellation provisions of *Land Title Act* do not apply](#)

[288](#) [Delivery of duplicate title](#)

[289](#) [Priorities must be resolved](#)

[Part 17 — General](#)

[290](#) [Offences](#)

[291](#) [Application of other laws](#)

[292](#) [Power to make regulations](#)

[293](#) [Transitional](#)

[294–](#) [Spent](#)

[321](#)

[322](#) [Commencement](#)

STRATA PROPERTY ACT

[SBC 1998] CHAPTER 43

Part 1 — Definitions and Interpretation

Definitions and interpretation

1 (1) In this Act:

"approving officer" means an appropriate approving officer appointed under the *Land Title Act*;

"assessed value" means the value assessed under the *Assessment Act*;

"bare land strata plan" means

- (a) a strata plan on which the boundaries of the strata lots are defined on a horizontal plane by reference to survey markers and not by reference to the floors, walls or ceilings of a building, or
- (b) any other strata plan defined by regulation to be a bare land strata plan;

"bylaw" means a bylaw of a strata corporation;

"common asset" means

- (a) personal property held by or on behalf of a strata corporation, and
- (b) land held in the name of or on behalf of a strata corporation, that is
 - (i) not shown on the strata plan, or
 - (ii) shown as a strata lot on the strata plan;

"common expenses" means expenses

- (a) relating to the common property and common assets of the strata corporation, or
- (b) required to meet any other purpose or obligation of the strata corporation;

"common property" means

- (a) that part of the land and buildings shown on a strata plan that is not part of a strata lot, and
- (b) pipes, wires, cables, chutes, ducts and other facilities for the passage or provision of water, sewage, drainage, gas, oil, electricity, telephone, radio, television, garbage, heating and cooling systems, or other similar services, if they are located
 - (i) within a floor, wall or ceiling that forms a boundary
 - (A) between a strata lot and another strata lot,
 - (B) between a strata lot and the common property, or
 - (C) between a strata lot or common property and another parcel of land, or
 - (ii) wholly or partially within a strata lot, if they are capable of being and intended to be used in connection with the enjoyment of another strata lot or the common property;

"contingency reserve fund" means a fund for common expenses that usually occur less often than once a year or that do not usually occur, as set

out in section 92 (b);

"convey" and **"conveyance"**, when referring to the conveyance of a strata lot to a purchaser, means any of the following in respect of which an application to the land title office has been made to register:

- (a) a transfer of a freehold estate in the strata lot;
- (b) an agreement for sale of the strata lot;
- (c) an assignment of a purchaser's interest in an agreement for sale of the strata lot;
- (d) an assignment of a strata lot lease in a leasehold strata plan;

"eligible voters" means persons who may vote under sections 53 to 58;

"judgment" means a judgment of a court, and includes costs awarded in respect of the judgment;

"landlord" means an owner who rents a strata lot to a tenant and a tenant who rents a strata lot to a subtenant, but does not include a leasehold landlord in a leasehold strata plan as defined in section 199;

"limited common property" means common property designated for the exclusive use of the owners of one or more strata lots;

"majority vote" means a vote in favour of a resolution by more than 1/2 of the votes cast by eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained from voting;

"occupant" means a person, other than an owner or tenant, who occupies a strata lot;

"operating fund" means a fund for common expenses that usually occur either once a year or more often than once a year, as set out in section 92 (a);

"owner" means a person, including an owner developer, who is

- (a) a person shown in the register of a land title office as the owner of a freehold estate in a strata lot, whether entitled to it in the person's own right or in a representative capacity, or
- (b) if the strata lot is in a leasehold strata plan, as defined in section 199, a leasehold tenant as defined in that section,

unless there is

- (c) a registered agreement for sale, in which case it means the registered holder of the last registered agreement for sale, or
- (d) a registered life estate, in which case it means the tenant for life;

"owner developer" means

- (a) a person
 - (i) who, on the date that application is made to the registrar for deposit of the strata plan, is registered in the land title office as
 - (A) the owner of the freehold estate in the land shown on the strata plan, or
 - (B) in the case of a leasehold strata plan as defined in section 199, the lessee of the ground lease of the land, or
 - (ii) who acquires all the strata lots in a strata plan from the person referred to in subparagraph (i), and
- (b) a person who acquires all of the interest of a person who is an owner developer under paragraph (a) in more than 50% of the strata lots in a strata plan;

"phased strata plan" means a strata plan that is deposited in successive phases under Part 13;

"purchaser" means a person, other than an owner developer, who enters into an agreement to purchase a strata lot or to acquire a strata lot lease in a leasehold strata plan as defined in section 199, but to whom the strata lot or strata lot lease has not yet been conveyed or assigned;

"registrar" means a registrar of titles as defined in the *Land Title Act*, and includes a deputy registrar or acting registrar under that Act;

"regulations" means regulations made by the Lieutenant Governor in Council under section 292;

"residential strata lot" means a strata lot designed or intended to be used primarily as a residence;

"rule" means a rule of a strata corporation made under section 125 or 197;

"section", when used in reference to a strata corporation, means a section of the strata corporation created under section 192 or 193;

"Standard Bylaws" means the bylaws set out in the Schedule of Standard Bylaws;

"strata corporation" means a strata corporation established under section 2;

"strata lot" means a lot shown on a strata plan;

"sue" means the act of bringing any kind of court proceeding;

"suit" means any kind of court proceeding;

"superintendent" means the Superintendent of Real Estate;

"Supreme Court" means the Supreme Court of British Columbia;

"tenant" means a person who rents all or part of a strata lot, and includes a subtenant but does not include a leasehold tenant in a leasehold strata plan as defined in section 199 or a tenant for life under a registered life estate;

"3/4 vote" means a vote in favour of a resolution by at least 3/4 of the votes cast by eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained from voting;

"unanimous vote" means a vote in favour of a resolution by all the votes of all the eligible voters;

"unit entitlement" of a strata lot means the number indicated in the Schedule of Unit Entitlement established under section 246, that is used in calculations to determine the strata lot's share of

(a) the common property and common assets, and

(b) the common expenses and liabilities of the strata corporation.

(2) A word or expression in this Act has the meaning given to it in the *Land Title Act*, unless it is defined in this Act or the context requires otherwise.

Part 2 — The Strata Corporation

Establishment of strata corporation

- 2** (1) From the time the strata plan is deposited in a land title office,
- (a) a strata corporation is established, and
 - (b) the owners of the strata lots in the strata plan are members of the strata corporation under the name "The Owners, Strata Plan [*the registration number of the strata plan*]".
- (2) Subject to any limitation under this Act, a strata corporation has the power and capacity of a natural person of full capacity.

Responsibilities of strata corporation

- 3** Except as otherwise provided in this Act, the strata corporation is responsible for managing and maintaining the common property and common assets of the strata corporation for the benefit of the owners.

Strata corporation functions through council

- 4** The powers and duties of the strata corporation must be exercised and performed by a council, unless this Act, the regulations or the bylaws provide otherwise.

Part 3 — The Owner Developer

Division 1 — General

Owner developer's control of strata corporation

5 (1) The owner developer must exercise the powers and perform the duties of a council from the time the strata corporation is established until a council is elected at the strata corporation's first annual general meeting.

(2) In exercising the powers and performing the duties of a council, the owner developer need not comply with bylaw requirements respecting the constitution of the council or the holding or conduct of council meetings.

Owner developer's standard of care

6 (1) In exercising the powers and performing the duties of a council, the owner developer must

(a) act honestly and in good faith with a view to the best interests of the strata corporation, and

(b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

(2) Without limiting subsection (1), the owner developer must make reasonable efforts to pursue any remedies under warranties in existence with respect to the construction of the common property and common assets.

(3) Sections 32 and 33 do not apply to an owner developer exercising the powers and performing the duties of the council, as long as the owner developer complies with subsection (1) of this section.

Division 2 — The Owner Developer and the Strata Corporation Before Strata Lots are Conveyed

Owner developer to pay expenses

7 The owner developer must pay the actual expenses of the strata corporation that accrue in the period up to the last day of the month in which the first conveyance of a strata lot to a purchaser occurs.

Passing resolutions before first conveyance

8 Before the first conveyance of a strata lot to a purchaser, the owner developer may pass any resolution of the strata corporation permitted or required by this Act or the regulations, including a resolution to amend the strata corporation's bylaws under section 127, without holding a special general meeting.

Division 3 — The Owner Developer and the Strata Corporation After the First Conveyance

Owner developer may be restricted

9 In exercising the powers and performing the duties of a council after the first conveyance of a strata lot to a purchaser, the owner developer is subject to a direction or restriction under section 27 as if the owner developer were a council.

Restriction on contracting powers

10 In the period after the first conveyance of a strata lot to a purchaser but

before the first annual general meeting, no contract or transaction may be entered into by or on behalf of the strata corporation with either the owner developer or a person who is not at arm's length to the owner developer, unless the contract or transaction is approved by a resolution passed by a unanimous vote at a special general meeting.

Passing resolutions after first conveyance

11 (1) In the period after the first conveyance of a strata lot to a purchaser but before the first annual general meeting, the strata corporation may pass a resolution requiring a 3/4 vote only if the resolution is passed by a unanimous vote at a special general meeting.

(2) Despite subsection (1), a resolution under section 127 to amend the bylaws or under section 139 to change a Rental Disclosure Statement may be passed in accordance with those sections before the first annual general meeting.

Owner developer to establish contingency reserve fund

12 (1) At the time of the first conveyance of a strata lot to a purchaser, the owner developer must establish a contingency reserve fund by paying into the fund an amount calculated according to this section.

(2) If the first conveyance of a strata lot to a purchaser occurs no later than one year after the deposit of the strata plan, the minimum contribution to the fund must be 5% of the estimated operating expenses as set out in the interim budget referred to in section 13.

(3) If the first conveyance of a strata lot to a purchaser occurs later than one year after the deposit of the strata plan, the minimum contribution to the fund must be the lesser of

- (a) 5% of the estimated annual operating expenses as set out in the interim budget referred to in section 13 multiplied by the number of years or partial years since the deposit of the strata plan, and
- (b) 25% of the estimated annual operating expenses as set out in the interim budget referred to in section 13.

(4) The owner developer must not use money in the contingency reserve fund to pay strata corporation expenses.

(5) The contingency reserve fund belongs to the strata corporation.

Interim budget following first conveyance

13 (1) The owner developer must

- (a) prepare an interim budget for the strata corporation for the 12 month period beginning the first day of the month following the month in which the first conveyance of a strata lot to a purchaser occurs, and
- (b) deliver a copy of the interim budget to each prospective purchaser of a strata lot before the prospective purchaser signs an agreement of purchase and sale.

(2) The interim budget must include

- (a) the estimated operating expenses of the strata corporation for the 12 month period,
- (b) the contribution to the contingency reserve fund for the 12 month period, which must be at least 5% of the estimated operating expenses,

and

(c) each strata lot's monthly share of the estimated operating expenses and contribution to the contingency reserve fund, calculated in accordance with section 99.

Payments during period of interim budget

14 (1) The strata corporation must pay the expenses that accrue in the period beginning the first day of the month following the month in which the first conveyance of a strata lot to a purchaser occurs until the date the first annual budget takes effect.

(2) During the period referred to in subsection (1), the owners must pay to the strata corporation, each month, their monthly share of the estimated operating expenses of the strata corporation and contribution to the contingency reserve fund as set out in the interim budget.

(3) The strata corporation must not use money in the contingency reserve fund to pay expenses that accrue before the owners approve the first annual budget.

(4) Subject to subsection (5), if the expenses accrued by the strata corporation, for the period referred to in subsection (1), are greater than the operating expenses estimated in the interim budget for that period, the owner developer must pay the difference to the strata corporation within 8 weeks after the first annual general meeting.

(5) If the accrued expenses referred to in subsection (4) are 10% or more greater than the operating expenses estimated in the interim budget for that period, the owner developer must include in the payment referred to in subsection (4) an additional amount calculated according to the regulations.

(6) If the expenses accrued by the strata corporation, for the period referred to in subsection (1), are less than the operating expenses estimated in the interim budget for that period, the strata corporation must refund the difference to the owners in amounts proportional to their contributions.

(7) Despite subsection (6), if no owner is entitled to receive more than \$100 in total under subsection (6), the strata corporation may deposit the difference in the contingency reserve fund.

(8) If no budget is approved at the first annual general meeting, the period referred to in subsections (4), (5) and (6) ends at the first annual general meeting.

Minimum period of insurance coverage

15 The owner developer must ensure that the term of any insurance policy entered into by or on behalf of the strata corporation continues for at least 4 weeks after the first annual general meeting.

First annual general meeting to be held by owner developer

16 (1) The owner developer must hold the first annual general meeting during the 6 week period that begins on the earlier of

(a) the date on which 50% plus one of the strata lots have been conveyed to purchasers, and

(b) the date that is 9 months after the date of the first conveyance of a strata lot to a purchaser.

(2) The owner developer must give notice of the meeting in accordance with

section 45 and must include with the notice the budget and financial statement referred to in section 21.

Owners may hold first annual general meeting

17 If the owner developer does not hold the first annual general meeting as required by section 16,

(a) an owner may hold the first annual general meeting after giving notice in accordance with section 45 to the persons referred to in section 45 and to the owner developer, and

(b) the owner developer must pay to the strata corporation an amount calculated according to the regulations.

Money owed by owner developer

18 Amounts payable by the owner developer under sections 14 (4) and (5) and 17 (b) are money owing to the strata corporation, and sections 112 to 118 apply.

Chair of first annual general meeting

19 The chair of the first annual general meeting is

(a) the owner developer acting personally or through an agent, or

(b) if the owner developer or the agent is unwilling or unable to act as chair, an individual elected by eligible voters who are present in person or by proxy at the meeting.

Business at first annual general meeting

20 (1) At the first annual general meeting, the eligible voters must elect a council, for a term of one year, in accordance with section 25.

(2) At the first annual general meeting, the owner developer must

(a) place before the meeting and give the strata corporation copies of all of the following:

(i) all plans that were required to obtain a building permit and any amendments to the building permit plans that were filed with the issuer of the building permit;

(ii) any document in the owner developer's possession that indicates the actual location of a pipe, wire, cable, chute, duct or other facility for the passage or provision of systems or services, if the owner developer has reason to believe that the pipe, wire, cable, chute, duct or other facility is not located as shown on a plan or plan amendment filed with the issuer of the building permit;

(iii) all contracts entered into by or on behalf of the strata corporation;

(iv) any disclosure statement required by the *Real Estate Development Marketing Act* or section 139 of this Act;

(v) the registered strata plan as obtained from the land title office;

(vi) names and addresses of all contractors, subcontractors and persons who supplied labour or materials to the project, as required by the regulations;

(vii) all warranties, manuals, schematic drawings, operating instructions, service guides, manufacturers' documentation and other similar information respecting the construction, installation,

operation, maintenance, repair and servicing of any common property or common assets, including any warranty information provided to the owner developer by a person referred to in paragraph (vi);

(viii) all records required to be prepared or retained by the strata corporation under section 35;

(ix) any other records required by the regulations, and

(b) place an annual budget, prepared in accordance with section 21, before the meeting for approval.

(3) If the owner developer contravenes subsection (2) (a) and the strata corporation must pay money to obtain a document referred to in that provision, the amount of the payment is money owing to the strata corporation by the owner developer, and sections 112 to 118 apply.

First annual budget requirements

21 (1) The first annual budget must be for the 12 month period beginning on the first day of the month following the date of the first annual general meeting.

(2) The first annual budget must be distributed with the notice of the first annual general meeting under section 45 and must be accompanied by a financial statement.

(3) The budget and financial statement

(a) must contain the information required by the regulations, and

(b) may be in the form set out in the regulations.

(4) Approval of the first annual budget must be by a resolution passed by a majority vote.

(5) The proposed budget may be amended by a majority vote at the first annual general meeting before the budget itself is put to a vote.

(6) Within 8 weeks after the first annual general meeting, the owner developer must give the strata corporation a financial statement updated to

(a) the date the first annual budget takes effect, or

(b) if no budget is approved at the first annual general meeting, the date of the first annual general meeting.

Transfer to council

22 Within one week after the first annual general meeting, the owner developer must

(a) transfer control of the strata corporation's money to the newly elected council, and

(b) deliver to the newly elected council any keys, garage door openers or other means of access that the owner developer possesses for the purposes of exercising the powers and performing the duties of the council.

Access to owner developer's financial records

23 (1) For 2 years following the transfer of control referred to in section 22, the owner developer must keep all financial records that relate to the strata corporation's finances during the period before the transfer of control.

(2) During the 2 years that the owner developer keeps the financial records,

(a) the owner developer must, at the request of the strata corporation,

make them available for inspection free of charge by the strata corporation, and

(b) the strata corporation may, at its expense, copy or audit them.

Strata management contracts

24 (1) A contract entered into before the first annual general meeting by or on behalf of the strata corporation for the provision of strata management services to the strata corporation ends, regardless of any provision of the contract to the contrary, on the earlier of

(a) the date that is 4 weeks after the date of the second annual general meeting,

(b) the termination date contained in the contract or agreed to by the parties, and

(c) the cancellation date established in accordance with section 39.

(2) The strata corporation may, by a resolution passed by a majority vote at the second annual general meeting, continue a contract which would otherwise end under subsection (1) (a).

(3) A resolution under subsection (2) does not require notice under section 45 (3).

Part 4 — Strata Corporation Governance

Division 1 — The Council

Election of council

25 At each annual general meeting the eligible voters who are present in person or by proxy at the meeting must elect a council.

Council exercises powers and performs duties of strata corporation

26 Subject to this Act, the regulations and the bylaws, the council must exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules.

Control of council

27 (1) The strata corporation may direct or restrict the council in its exercise of powers and performance of duties by a resolution passed by a majority vote at an annual or special general meeting.

(2) The strata corporation may not direct or restrict the council under subsection (1) if the direction or restriction

(a) is contrary to this Act, the regulations or the bylaws, or

(b) interferes with the council's discretion to determine, based on the facts of a particular case,

(i) whether a person has contravened a bylaw or rule,

(ii) whether a person should be fined, and the amount of the fine,
or

(iii) whether a person should be denied access to a recreational facility.

Eligibility for council

28 (1) The only persons who may be council members are the following:

(a) owners;

(b) individuals representing corporate owners;

(c) tenants who, under section 147 or 148, have been assigned a landlord's right to stand for council.

(2) Despite subsection (1), the strata corporation may, by a bylaw passed at an annual or special general meeting held after the first annual general meeting, allow classes of persons, other than those referred to in subsection (1), to be council members.

(3) Despite this section, a strata corporation may, by bylaw, provide that no person may stand for council or continue to be on council with respect to a strata lot if the strata corporation is entitled to register a lien against that strata lot under section 116 (1).

Membership on council

29 (1) The number of persons on council is determined by the bylaws.

(2) If a strata lot is owned by more than one person, only one owner of the strata lot may be a council member at any one time with respect to that lot, unless all the owners are on the council.

(3) If a strata lot is owned by a corporation, only one representative of the corporation may be a council member at any one time with respect to that lot.

(4) If all the owners are on the council, each strata lot has one vote at council meetings.

Contracts not invalidated

30 (1) The validity of a contract made or a certificate issued by the strata corporation is not affected by

- (a) a defect in the appointment or election of the council member or officer who makes the contract or signs the certificate on behalf of the strata corporation, or
- (b) a limitation on the authority of the council member or officer to act on behalf of the strata corporation.

(2) A person who knew or ought reasonably to have known of the defect or limitation at the time the person made a contract with or received a certificate from the strata corporation may not rely on subsection (1) to bind the strata corporation with respect to the contract or certificate.

Council member's standard of care

31 In exercising the powers and performing the duties of the strata corporation, each council member must

- (a) act honestly and in good faith with a view to the best interests of the strata corporation, and
- (b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

Disclosure of conflict of interest

32 A council member who has a direct or indirect interest in a contract or transaction with the strata corporation must

- (a) disclose fully and promptly to the council the nature and extent of the interest,
- (b) abstain from voting on the contract or transaction, and
- (c) leave the council meeting
 - (i) while the contract or transaction is discussed, unless asked by council to be present to provide information, and
 - (ii) while the council votes on the contract or transaction.

Accountability

33 (1) If a council member who has an interest in a contract or transaction fails to comply with section 32, the strata corporation or an owner may apply for an order under subsection (3) of this section to a court having jurisdiction unless, after full disclosure of the nature and extent of the council member's interest in the contract or transaction, the contract or transaction is ratified by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) For the purposes of the 3/4 vote referred to in subsection (1), a person who has an interest in the contract or transaction is not an eligible voter.

(3) If, on application under subsection (1), the court finds that the contract or transaction was unreasonable or unfair to the strata corporation at the time it was entered into, the court may do one or more of the following:

- (a) set aside the contract or transaction if no significant injustice will be caused to third parties;
- (b) if the council member has not acted honestly and in good faith,

require the council member to compensate the strata corporation or any other person for a loss arising from the contract or transaction, or from the setting aside of the contract or transaction;

(c) require the council member to pay to the strata corporation any profit the council member makes as a consequence of the contract or transaction.

Approval of council member remuneration

34 Any remuneration paid to a member of council for the member's exercise of council powers or performance of council duties must be approved in advance of payment

(a) in the budget,

(b) in the bylaws, or

(c) by a resolution passed by a 3/4 vote at an annual or special general meeting.

Division 2 — Records

Strata corporation records

35 (1) The strata corporation must prepare all of the following records:

(a) minutes of annual and special general meetings and council meetings, including the results of any votes;

(b) a list of council members;

(c) a list of

(i) owners, with their strata lot addresses, mailing addresses if different, strata lot numbers as shown on the strata plan, parking stall numbers, if any, and unit entitlements,

(ii) names and addresses of mortgagees who have filed a Mortgagee's Request for Notification under section 60,

(iii) names of tenants, and

(iv) assignments of voting or other rights by landlords to tenants under sections 147 and 148;

(d) books of account showing money received and spent and the reason for the receipt or expenditure;

(e) any other records required by the regulations.

(2) The strata corporation must retain copies of all of the following:

(a) the records referred to in subsection (1);

(b) the registered strata plan and any strata plan amendments as obtained from the land title office;

(c) this Act and the regulations;

(d) the bylaws and rules;

(e) resolutions that deal with changes to common property, including the designation of limited common property;

(f) waivers and consents under section 41, 44 or 45;

(g) written contracts to which the strata corporation is a party;

(h) any decision of an arbitrator or judge in a proceeding in which the strata corporation was a party, and any legal opinions obtained by the strata corporation;

(i) the budget and financial statement for the current year and for

- previous years;
- (j) income tax returns, if any;
- (k) correspondence sent or received by the strata corporation and council;
- (l) bank statements, cancelled cheques and certificates of deposit;
- (m) Information Certificates issued under section 59;
- (n) the records and documents given to the strata corporation by the owner developer under section 20, or obtained by the strata corporation under section 23;
- (o) any other records required by the regulations.

(3) Records referred to in this section must be retained by the strata corporation for the periods set out in the regulations.

Access to records

36 (1) On receiving a request, the strata corporation must make the records and documents referred to in section 35 available for inspection by, and provide copies of them to,

- (a) an owner,
- (b) a tenant who, under section 147 or 148, has been assigned a landlord's right to inspect and obtain copies of records and documents, or
- (c) a person authorized in writing by an owner or tenant referred to in paragraph (a) or (b).

(2) On receiving the request of a tenant, or a person authorized in writing by a tenant, the strata corporation must

- (a) make the bylaws and rules available for inspection, and
- (b) provide copies of the bylaws and rules.

(3) The strata corporation must comply with a request under subsection (1) or (2) within 2 weeks unless the request is in respect of bylaws or rules, in which case the strata corporation must comply with the request within one week.

(4) The strata corporation may charge a fee for a copy of a record or document provided under this section of not more than the amount set out in the regulations and may refuse to supply the copy until the fee is paid.

Strata manager to return records

37 (1) If a strata management contract ends, the person providing the strata management services must, within 4 weeks, give the strata corporation any records referred to in section 35 that are in the person's possession or control.

(2) A person who fails to comply with subsection (1) must pay to the strata corporation an amount calculated according to the regulations.

Division 3 — Contracts

Capacity to enter contracts and join organizations

38 In addition to its capacities under any other enactment, a strata corporation has the capacity

- (a) to enter into contracts in respect of its powers and duties under this Act and the bylaws, and

(b) to join organizations to further its purposes under this Act and the bylaws.

Cancellation of strata management contracts

39 (1) A contract entered into by or on behalf of the strata corporation for the provision of strata management services to the strata corporation may be cancelled, without liability or penalty, despite any provision of the contract to the contrary,

(a) by the strata corporation on 2 months' notice if the cancellation is first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or

(b) by the other party to the contract on 2 months' notice.

(2) The strata corporation does not need any prior approval to cancel the contract in accordance with its terms or to refuse to renew the contract when it expires.

Division 4 — Annual General Meetings and Special General Meetings

Annual general meeting

40 (1) The strata corporation must hold annual general meetings except as provided under section 41.

(2) An annual general meeting must be held no later than 2 months after the strata corporation's fiscal year end.

Waiver of annual general meeting

41 (1) The strata corporation does not have to hold an annual general meeting if, before the last date by which the meeting must be held, all eligible voters waive, in writing, the holding of the meeting and consent, in writing, to resolutions that

(a) approve the budget for the coming fiscal year,

(b) elect a council by acclamation, and

(c) deal with any other business.

(2) If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of the meeting and to the resolutions under subsection (1).

Special general meeting called by strata corporation

42 The strata corporation may hold a special general meeting at any time after giving notice in accordance with section 45.

Special general meeting called by voters

43 (1) Persons holding at least 25% of the strata corporation's votes may, by written demand, require that the strata corporation hold a special general meeting to consider a resolution or other matter specified in the demand.

(2) The demand must be signed by each of the persons making it.

(3) Subject to section 44, the strata corporation must hold the special general meeting within 4 weeks after the demand is given to the strata corporation.

(4) The president of the council may call the special general meeting without holding a council meeting.

(5) At the special general meeting, the resolution or any other matter

specified in the demand is the first item on the agenda and must be dealt with before consideration of any other matter about which notice has been given.

(6) If a special general meeting is not held within the time period set out in subsection (3), the persons making the demand may themselves hold a special general meeting by complying with the provisions of this Act, the regulations and the bylaws respecting the calling and holding of special general meetings.

Waiver of special general meeting

44 (1) The strata corporation does not have to hold a special general meeting to consider a resolution if all eligible voters waive, in writing, the holding of the meeting and consent, in writing, to the resolution.

(2) If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of the meeting and to the resolution under subsection (1).

Notice requirements for annual or special general meeting

45 (1) The strata corporation must give at least 2 weeks' written notice of an annual or special general meeting to all of the following:

- (a) every owner, whether or not a notice must also be sent to the owner's mortgagee or tenant;
- (b) every mortgagee who has given the strata corporation a Mortgagee's Request for Notification under section 60;
- (c) every tenant who has been assigned a landlord's right to vote under section 147 or 148, if the strata corporation has received notice of the assignment.

(2) A person who has a right to be notified under this section may, in writing, waive the right and may, in writing, revoke a waiver.

(3) The notice of the annual or special general meeting must include a description of the matters that will be voted on at the meeting, including the proposed wording of any resolution requiring a 3/4 vote or unanimous vote.

(4) If the meeting is an annual general meeting, the notice must include the budget and financial statement referred to in section 103.

(5) A vote at an annual or special general meeting may proceed despite the lack of notice as required by this section, if all persons entitled to receive notice waive, in writing, their right to notice.

(6) If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of notice under subsection (5).

Agenda and resolutions at an annual or special general meeting

46 (1) Subject to subsection (2), the council determines the agenda of an annual or special general meeting.

(2) Persons holding at least 25% of the strata corporation's votes may, by written demand, propose a resolution or raise a matter specified in the demand.

(3) A resolution or matter raised under subsection (2) must be included

- (a) in the notice given under section 45 (3) about the next annual or special general meeting of the strata corporation, and
- (b) on the agenda of that meeting.

(4) Subsection (3) does not apply to a special general meeting held under section 43 (6).

Failure to give proper notice of meeting

47 Failure to give proper notice of an annual or special general meeting to a person entitled to receive notice under section 45 does not invalidate a vote taken at the meeting as long as the strata corporation made a reasonable attempt to give the notice in accordance with that section.

Quorum for annual or special general meeting

48 (1) Business must not be conducted at an annual or special general meeting unless a quorum is present.

(2) Subject to the bylaws, a quorum for an annual or special general meeting is

(a) eligible voters holding 1/3 of the strata corporation's votes, present in person or by proxy, or

(b) if there are fewer than 4 strata lots or fewer than 4 owners, eligible voters holding 2/3 of the strata corporation's votes, present in person or by proxy.

(3) Unless otherwise provided in the bylaws, if within 1/2 hour from the time appointed for an annual or special general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time but, if on the day to which the meeting is adjourned a quorum described in subsection (2) is not present within 1/2 hour from the time appointed for the meeting, the eligible voters present in person or by proxy constitute a quorum.

Electronic attendance at meetings

49 (1) A strata corporation may, by bylaw, provide for attendance at an annual or special general meeting by telephone or any other method, if the method permits all persons participating in the meeting to communicate with each other during the meeting.

(2) A person who attends a meeting as provided under subsection (1) is present in person at the meeting.

Voting at annual or special general meetings

50 (1) At an annual or special general meeting, matters are decided by majority vote unless a different voting threshold is required or permitted by the Act or the regulations.

(2) Despite section 45 (3), during an annual or special general meeting amendments may be made to the proposed wording of a resolution requiring a 3/4 vote if the amendments

(a) do not substantially change the resolution, and

(b) are approved by a 3/4 vote before the vote on the resolution.

Reconsideration of resolution passed by 3/4 vote

51 (1) This section applies only if a resolution required to be passed by a 3/4 vote is passed at an annual or special general meeting by persons holding less than 50% of the strata corporation's votes.

(2) The strata corporation must not take any action to implement a resolution referred to in subsection (1) for one week following the vote unless there are

reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage.

(3) Within the one week following the vote, persons holding at least 25% of the strata corporation's votes may, by written demand, require that the strata corporation hold a special general meeting to reconsider the resolution.

(4) The demand must be signed by each person making it.

(5) After receiving a demand for a special general meeting under subsection (3), the strata corporation must not take any action to implement the resolution unless there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage.

(6) The strata corporation must hold the special general meeting within 4 weeks after the demand is given to the strata corporation.

(7) The president of the council may call the special general meeting without holding a council meeting.

(8) At the special general meeting, the resolution to be reconsidered is the first item on the agenda and must be dealt with before consideration of any other matter about which notice has been given.

(9) Despite any other provision of this Act, the regulations or the bylaws, if a quorum is not present within 1/2 hour of the start of the special general meeting, the meeting must not proceed.

(10) The resolution stands and may be implemented only if one of the following conditions is met:

(a) a demand for reconsideration is not made under this section;

(b) the resolution is approved by a 3/4 vote at the special general meeting held under this section;

(c) the meeting held under this section does not proceed for lack of a quorum as set out in subsection (9).

(11) The resolution may be presented for reconsideration under this section only once.

Unanimous votes

52 (1) This section applies only to strata corporations comprised of 10 or more strata lots.

(2) If a resolution required to be passed by a unanimous vote under this Act is supported by all of the strata corporation's votes except for

(a) the vote in respect of one strata lot, in a strata corporation comprised of at least 10 strata lots, or

(b) the votes in respect of more than one strata lot, if those votes together represent less than 5% of the strata corporation's votes,

the strata corporation may, by a resolution passed by a 3/4 vote at an annual or special general meeting, apply to the Supreme Court for an order under subsection (3).

(3) On application under subsection (2), the court may, if satisfied that the passage of the resolution is in the best interests of the strata corporation and would not unfairly prejudice the dissenting voter or voters, make an order providing that the vote proceed as if the dissenting voter or voters had no vote.

(4) In making an order under subsection (3), the court may make any other order it considers just, including an order that the strata corporation offer to purchase a strata lot owned by a dissenting voter at its fair market value or that the strata corporation otherwise compensate a dissenting voter.

Division 5 — Voting

Number of votes per strata lot

53 (1) At an annual or special general meeting each strata lot has one vote unless different voting rights are set out in a Schedule of Voting Rights in the prescribed form in accordance with section 247, 248 or 264.

(2) Despite subsection (1), a strata corporation may, by bylaw, provide that the vote for a strata lot may not be exercised, except on matters requiring a unanimous vote, if the strata corporation is entitled to register a lien against that strata lot under section 116 (1).

(3) If, in accordance with a bylaw passed under subsection (2), a vote for a strata lot may not be exercised, the strata lot's vote must not be considered for the purposes of determining a quorum in accordance with section 48 or for the purposes of sections 43 (1), 46 (2) and 51 (3).

Voters

54 The following persons may vote at an annual or special general meeting:

(a) an owner, unless a tenant or mortgagee has the right to vote under paragraph (b) or (c);

(b) a tenant who has been assigned a landlord's right to vote under section 147 or 148, unless a mortgagee has the right to vote under paragraph (c);

(c) a mortgagee of a strata lot, but only in respect of insurance, maintenance, finance or other matters affecting the security for the mortgage and only if

(i) the mortgage gives the mortgagee the right to vote, and

(ii) at least 3 days before the meeting the mortgagee has given to the strata corporation, the owner and the tenant referred to in paragraph (b), if any, written notice of the mortgagee's intention to vote.

Special voters

55 (1) If a person who may vote under section 54 is under 16 years of age, the person's right to vote may be exercised only by the person's parent or guardian.

(2) If a person who may vote under section 54 lacks the capacity to make a decision for a reason other than being under 16 years of age, the person's right to vote may be exercised only by someone who is legally authorized to act for the person with respect to the strata lot.

Proxies

56 (1) A person who may vote under section 54 or 55 may vote in person or by proxy.

(2) A document appointing a proxy

(a) must be in writing and be signed by the person appointing the proxy,

(b) may be either general or for a specific meeting or a specific resolution, and

(c) may be revoked at any time.

(3) The following persons may be proxies:

(a) only if permitted by regulation and subject to prescribed restrictions, an employee of the strata corporation;

(b) only if permitted by regulation and subject to prescribed restrictions, a person who provides strata management services to the strata corporation;

(c) subject to the regulations, any other person.

(4) A proxy stands in the place of the person appointing the proxy, and can do anything that person can do, including vote, propose and second motions and participate in the discussion, unless limited in the appointment document.

Shared vote

57 (1) If 2 or more persons share one vote with respect to a strata lot, only one of them may vote on any given matter.

(2) If the chair is advised before or during a vote that the 2 or more persons who share the one vote disagree on how their vote should be cast on a matter, the chair must not count their vote in respect of that matter.

Court appointed voter

58 (1) If there is no person to vote in respect of a strata lot, an owner, the strata corporation or an interested person may apply to the Supreme Court for an order under subsection (2).

(2) On application under subsection (1), the court may make an order declaring that there is no person to vote in respect of the strata lot, and appointing the Public Guardian and Trustee or any other person to vote in respect of the strata lot.

(3) If the application concerns a matter that requires a unanimous vote and the court is satisfied that there is no person to vote in respect of a strata lot, the court must make an order under subsection (2).

(4) The court may make any order it considers advisable, including an order respecting the payment of fees, to give effect to an appointment of the Public Guardian and Trustee or other person.

(5) The court may vary an order made under this section.

Division 6 — Information Certificate

Information Certificate

59 (1) Within one week of a request by an owner, a purchaser or a person authorized by an owner or purchaser, the strata corporation must give to the person making the request an Information Certificate in the prescribed form.

(2) The certificate must contain the information required by subsection (3), as of the date of the certificate.

(3) The certificate must disclose all of the following in respect of the strata corporation and the strata lot for which the request is made:

(a) the monthly strata fees payable by the owner;

(b) any amount that the owner owes the strata corporation, other than

an amount paid into court or to the strata corporation in trust under section 114;

(c) any agreements under which the owner takes responsibility for expenses relating to alterations to a strata lot, the common property or the common assets;

(d) any amount that the owner is obligated to pay in the future for a special levy that has already been approved and the date by which the payment is to be made;

(e) any amount by which the expenses of the strata corporation for the current fiscal year are expected to exceed the expenses budgeted for the fiscal year;

(f) the amount in the contingency reserve fund minus any expenditures which have already been approved but not yet taken from the fund;

(g) any amendments to the bylaws that are not yet filed in the land title office;

(h) any resolution passed by a 3/4 vote or unanimous vote that is required to be filed in the land title office but that has not yet been filed in the land title office;

(i) any notice that has been given for a resolution that has not been voted on, if the resolution requires a 3/4 vote or unanimous vote or deals with an amendment to the bylaws;

(j) any court proceeding or arbitration in which the strata corporation is a party and any judgments or orders against the strata corporation;

(k) any notices or work orders received by the strata corporation that remain outstanding for the strata lot, the common property or the common assets;

(l) the number of strata lots in the strata plan that are rented;

(m) any other information required by the regulations.

(4) Copies of all of the following must be attached to the certificate:

(a) the rules of the strata corporation;

(b) the current budget of the strata corporation;

(c) the owner developer's Rental Disclosure Statement under section 139, if any.

(5) The information in subsection (3) disclosed in a certificate is binding on the strata corporation in its dealings with a person who relied on the certificate and acted reasonably in doing so.

(6) On application by the strata corporation, by an owner or by a person who is affected by a certificate, the Supreme Court may make any order it considers just in the circumstances to give effect to or relieve the strata corporation from some or all of the consequences of an inaccurate certificate.

(7) The strata corporation may charge, to the person requesting the certificate, a fee for the certificate of not more than the amount set out in the regulations and may refuse to issue the certificate until the fee is paid.

Division 7 — Giving Notice and Providing Information

Notice to mortgagee

60 A mortgagee of a strata lot who wishes to receive notices of annual or

special general meetings under section 45 and notices of money owing under section 113 must give a Mortgagee's Request for Notification in the prescribed form to the strata corporation.

Notice given by strata corporation

61 (1) A notice or other record or document that the strata corporation is required or permitted to give to a person under this Act, the bylaws or the rules must be given to the person,

(a) if the person has provided the strata corporation with an address outside the strata plan for receiving notices and other records or documents,

(i) by leaving it with the person, or

(ii) by mailing it to the address provided, or

(b) if the person has not provided the strata corporation with an address outside the strata plan for receiving notices and other records or documents,

(i) by leaving it with the person,

(ii) by leaving it with an adult occupant of the person's strata lot,

(iii) by putting it under the door of the person's strata lot,

(iv) by mailing it to the person at the address of the strata lot,

(v) by putting it through a mail slot or in a mail box used by the person for receiving mail, or

(vi) by faxing it to a fax number provided by the person.

(2) The notice, record or document may be addressed to the person by name, or to the person as owner or tenant.

(3) A notice or other record or document that is given to a person under subsection (1) (a) (ii) or (b) (ii) to (vi) is conclusively deemed to have been given 4 days after it is left with an adult, put under the door, mailed, put through a mail slot or in a mail box or faxed.

Address of strata corporation

62 (1) The strata corporation must ensure that the correct mailing address for the strata corporation is filed in the land title office.

(2) The address may be accompanied by a fax number.

(3) If a strata corporation changes its mailing address, it must file a Strata Corporation Change of Mailing Address in the prescribed form in the land title office.

Notice given to strata corporation

63 (1) A notice or other record or document that is required or permitted under this Act, the bylaws or the rules to be given to the strata corporation must be given to the strata corporation

(a) by leaving it with a council member,

(b) by mailing it to the strata corporation at its most recent mailing address on file in the land title office,

(c) by faxing it to the strata corporation using the strata corporation's fax number or a fax number provided by a council member for the purpose of receiving the notice, record or document, or

(d) by putting it through the mail slot, or in the mail box, used by the

strata corporation for receiving notices, records and documents.

(2) A notice or other record or document that is given to the strata corporation under subsection (1) (b) to (d) is conclusively deemed to be given 4 days after it is mailed, faxed or put through the mail slot or in the mail box.

Legal service on strata corporation

64 Despite section 63 but subject to another enactment or a court order, service on a strata corporation of a notice of a proceeding in any court may only be effected by

- (a) personal service on a council member, or
- (b) mailing it, by registered mail, to the strata corporation at its most recent mailing address on file in the land title office.

Informing resident owners and tenants

65 For the purposes of sections 98 (6), 106, 108 (4), 125 (4), 128 (4) and 167, and any regulations that require the strata corporation to inform owners or tenants of certain matters, the strata corporation may, instead of giving notice under section 61, inform resident owners and tenants by one or more of the following methods or by any other method:

- (a) leaving a document containing the information at a location designated by the strata corporation for the distribution of such information;
- (b) posting a document containing the information in a part of the common property designated by the strata corporation for the posting of such information.

Part 5 — Property
Division 1 — General Property Matters

Ownership of property

66 An owner owns the common property and common assets of the strata corporation as a tenant in common in a share equal to the unit entitlement of the owner's strata lot divided by the total unit entitlement of all the strata lots.

Assessment and taxation

67 For the purposes of assessment and taxation, each strata lot, together with the owner's share in the common property and other taxable common assets of the strata corporation, is a separate parcel of land.

Strata lot boundaries

68 (1) Unless otherwise shown on the strata plan, if a strata lot is separated from another strata lot, the common property or another parcel of land by a wall, floor or ceiling, the boundary of the strata lot is midway between the surface of the structural portion of the wall, floor or ceiling that faces the strata lot and the surface of the structural portion of the wall, floor or ceiling that faces the other strata lot, the common property or the other parcel of land.

(2) If a strata lot is not separated from another strata lot, the common property or another parcel of land by a wall, floor or ceiling, the boundary of the strata lot is as shown on the strata plan.

(3) A boundary shown on the strata plan must be shown in a manner approved by the registrar.

(4) Despite subsections (1) to (3), but subject to the regulations, in the case of a bare land strata plan, the boundaries must be shown on the strata plan

(a) by reference to survey markers, and

(b) in compliance with rules, if any, made under section 75 of the *Land Surveyors Act* for the purposes of this section.

Implied easements

69 (1) There exists an easement in favour of each strata lot in the strata plan and the owner of each strata lot

(a) for the strata lot's vertical and sideways support by the common property and by every other strata lot capable of providing support,

(b) for the passage or provision of water, sewage, drainage, gas, oil, electricity, garbage, heating and cooling systems and other services, including telephone, radio and television, through or by means of any pipes, wires, cables, chutes, ducts or other facilities existing in the common property or another strata lot to the extent those systems or services are capable of being, and intended to be, used in connection with the enjoyment of the strata lot, and

(c) for shelter of the strata lot by every part of a building that is shown on the strata plan as part of the common property or another strata lot and that is capable of providing shelter.

(2) There exists an easement in favour of the common property and the owners of the common property

- (a) for the common property's vertical and sideways support by every strata lot capable of providing support,
 - (b) for the passage or provision of the services and facilities described in subsection (1) (b) existing in a strata lot to the extent those systems or services are capable of being, and intended to be, used in connection with the enjoyment of the common property, and
 - (c) for shelter of the common property by every part of a building that is shown on the strata plan as part of a strata lot and that is capable of providing shelter.
- (3) The easements referred to in subsections (1) and (2)
- (a) exist without registration in a land title office,
 - (b) charge and burden that part of the common property capable of providing support or shelter to a strata lot,
 - (c) charge and burden each strata lot capable of providing support or shelter to another strata lot or to the common property,
 - (d) charge and burden each strata lot and that part of the common property in which any part of the services and facilities described in subsections (1) (b) and (2) (b) are located, and
 - (e) include all of the rights and obligations needed to give effect to and enforce them, including a right of entry to inspect, maintain, repair and replace the shelter, support, services and facilities described in subsections (1) and (2).
- (4) The easements referred to in subsections (1) and (2) may be enforced by the strata corporation on its own behalf or on behalf of one or more owners to the same extent as if the strata corporation were the owner of a strata lot or the common property that benefits from the easement.
- (5) The easements referred to in subsections (1) (c) and (2) (c) do not apply to strata lots in a bare land strata plan.

Changes to strata lot

- 70** (1) An owner or owners may, with the prior written approval of the strata corporation, remove all or part of a wall that is a common boundary between
- (a) adjoining strata lots, or
 - (b) strata lots that have been consolidated into a single strata lot.
- (2) The strata corporation must approve the proposed removal under subsection (1) unless the removal
- (a) fails to comply with
 - (i) the British Columbia Building Code referred to in the Building Regulations of British Columbia,
 - (ii) any applicable municipal or regional district bylaws, or
 - (iii) any applicable Nisga'a Government laws, or
 - (b) interferes with the provision of utilities or other services to any other strata lot or to the common property.
- (3) The owner or owners must give copies of any required building permits to the strata corporation when seeking its approval under subsection (1).
- (4) Subject to the regulations, if an owner wishes to increase or decrease the habitable part of the area of a residential strata lot, by making a nonhabitable part of the strata lot habitable or by making a habitable part of

the strata lot nonhabitable, and the unit entitlement of the strata lot is calculated on the basis of habitable area in accordance with section 246 (3) (a) (i) or on the basis of square footage in accordance with section 1 of the *Condominium Act*, R.S.B.C. 1996, c. 64, the owner must

- (a) seek an amendment to the Schedule of Unit Entitlement under section 261, and
- (b) obtain the unanimous vote referred to in section 261 before making the change.

Change in use of common property

71 Subject to the regulations, the strata corporation must not make a significant change in the use or appearance of common property or land that is a common asset unless

- (a) the change is approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or
- (b) there are reasonable grounds to believe that immediate change is necessary to ensure safety or prevent significant loss or damage.

Repair of property

72 (1) Subject to subsection (2), the strata corporation must repair and maintain common property and common assets.

(2) The strata corporation may, by bylaw, make an owner responsible for the repair and maintenance of

- (a) limited common property that the owner has a right to use, or
- (b) common property other than limited common property only if identified in the regulations and subject to prescribed restrictions.

(3) The strata corporation may, by bylaw, take responsibility for the repair and maintenance of specified portions of a strata lot.

Division 2 — Limited Common Property and Exclusive Use of Common Property

Designation of limited common property

73 Common property may be designated as limited common property

- (a) by the owner developer
 - (i) by a designation on the strata plan when it is deposited in the land title office, or
 - (ii) by a plan amendment under section 258,
- (b) by an amendment to the strata plan under section 257, or
- (c) by a resolution passed at an annual or special general meeting under section 74.

Designation of limited common property by 3/4 vote

74 (1) Common property may be designated as limited common property by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) A resolution passed under subsection (1) must be filed in the land title office with a sketch plan that

- (a) satisfies the registrar,
- (b) defines the areas of limited common property, and
- (c) specifies each strata lot whose owners are entitled to the exclusive

use of the limited common property.

(3) A resolution passed under subsection (1) does not have effect until it is filed in the land title office.

(4) The designation of limited common property by a resolution under this section does not require an amendment to the strata plan.

Removal of designation of limited common property

75 (1) If a designation of common property as limited common property was made

(a) by the owner developer at the time the strata plan was deposited or by a plan amendment by the owner developer under section 258, or

(b) by an amendment to the strata plan under section 257,

the designation may only be removed by amending the plan under section 257.

(2) If a designation of common property as limited common property was made by a resolution passed by a 3/4 vote under section 74, it may only be removed by a resolution passed by a 3/4 vote at an annual or special general meeting.

(3) A resolution passed under subsection (2) does not have effect until it is filed in the land title office.

(4) The removal of a designation of limited common property by a resolution under subsection (2) does not require an amendment to the strata plan.

Short term exclusive use

76 (1) Subject to section 71, the strata corporation may give an owner or tenant permission to exclusively use, or a special privilege in relation to, common assets or common property that is not designated as limited common property.

(2) A permission or privilege under subsection (1) may be given for a period of not more than one year, and may be made subject to conditions.

(3) The strata corporation may renew the permission or privilege and on renewal may change the period or conditions.

(4) The permission or privilege given under subsection (1) may be cancelled by the strata corporation giving the owner or tenant reasonable notice of the cancellation.

Access to common property by strata corporation

77 An owner who has the right to use common property, including limited common property, or common assets must allow the strata corporation reasonable access to the common property or common assets to exercise its powers and perform its duties.

Division 3 — Property Acquisition and Disposal

Acquisition of land by strata corporation

78 (1) Before the strata corporation acquires land, the acquisition must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) Land must not be registered at a land title office in the name of the strata corporation unless the document transferring the interest in the land to the

strata corporation is accompanied by a Certificate of Strata Corporation in the prescribed form, stating that

- (a) the resolution referred to in subsection (1) has been passed, and
- (b) the document conforms to the resolution.

(3) The strata corporation may, without prior approval,

- (a) accept a grant of an easement or restrictive covenant benefiting land in the strata plan, or
- (b) accept a discharge of an easement burdening land in the strata plan.

Disposal of land held in strata corporation's name

79 To sell, lease, mortgage, grant an easement over, grant a restrictive covenant affecting or otherwise dispose of land that is a common asset, the strata corporation must proceed as follows:

- (a) a resolution approving the disposition must be passed by a 3/4 vote at an annual or special general meeting;
- (b) any document needed to effect the disposition must be executed by the strata corporation and delivered to the land title office accompanied by a Certificate of Strata Corporation in the prescribed form, stating that the resolution referred to in paragraph (a) has been passed and that the document conforms to the resolution.

Disposal of common property

80 (1) To dispose of common property in a way set out in section 253 (1), the strata corporation must ensure that the requirements of Part 7 of the *Land Title Act* are met.

(2) To dispose of common property in a way not set out in section 253 (1), the strata corporation must ensure that the following requirements are met:

- (a) a resolution approving the disposition must be passed by a 3/4 vote at an annual or special general meeting;
- (b) holders of financial charges noted on the common property record must consent in writing to the proposed disposition unless in the registrar's opinion the interests of the persons who have not consented in writing are not adversely affected by the disposition;
- (c) any document needed to effect the disposition must be executed by the strata corporation and delivered to the land title office accompanied by
 - (i) a Certificate of Strata Corporation in the prescribed form, stating that the resolution referred to in paragraph (a) has been passed and that the document conforms to the resolution, and
 - (ii) the written consents referred to in paragraph (b).

(3) For the purpose of determining what consents are required under subsection (2) (b) from holders of financial charges, section 97 (3) to (8) of the *Land Title Act* applies to the disposition of common property.

Strata corporation must not mortgage common property

81 The strata corporation must not mortgage common property.

Acquisition and disposal of personal property by strata corporation

82 (1) The strata corporation may acquire personal property for the use of the strata corporation.

(2) The strata corporation may sell, lease, mortgage or otherwise dispose of personal property.

(3) The strata corporation must obtain prior approval by a resolution passed by a 3/4 vote at an annual or special general meeting of an acquisition or disposal of personal property if the personal property has a market value of more than

(a) an amount set out in the bylaws, or

(b) \$1 000, if the bylaws are silent as to the amount.

(4) This section does not apply to the acquisition or disposal of an investment instrument referred to in section 95 (2).

Division 4 — Work Orders

Work order against strata corporation property

83 The strata corporation must comply with a requirement to do work on or to

(a) common property, or

(b) land that is a common asset

if the work is required by a notice or order of a public or local authority which is authorized by law to require the work, and the notice or order is given to the strata corporation.

Work order against strata lot

84 (1) Except as provided in section 41.1 of the *Fire Services Act*, a strata corporation that receives a notice or order requiring work to be done on or to a strata lot, from a public or local authority authorized by law to require the work, must promptly give the notice or order to the owner of the strata lot.

(2) An owner who receives a notice or order requiring work to be done on or to the owner's strata lot, from a public or local authority authorized by law to require the work or from the strata corporation under subsection (1), must do the work.

Owner's failure to comply with work order

85 (1) If an owner, after receiving the notice or order under section 84, fails to do the required work, the strata corporation may do the required work.

(2) If the owner appeals the work order and advises the strata corporation in writing of the appeal, the strata corporation must wait for the results of the appeal.

(3) Except in an emergency, the strata corporation must notify the owner in writing of its intention to do the work at least one week before starting the work.

(4) The owner must reimburse the strata corporation for any money the strata corporation spends doing work on or to the strata lot under this section.

Division 5 — Builders Liens and Other Charges

***Builders Lien Act* applies**

86 Except as provided in sections 87 to 90 of this Act, the *Builders Lien Act* applies to land in a strata plan.

Builders liens against strata lots in phased strata plans

87 Despite any other enactment, in a phased strata plan a claim of lien under the *Builders Lien Act* may be filed against only the strata lots in the phase in which the materials were supplied or the work was done.

Builders lien after purchase from owner developer

88 (1) Despite any other Act or agreement to the contrary, if an owner developer conveys a strata lot to a purchaser, a claim of lien under the *Builders Lien Act* filed against the strata lot, or against the strata lot's share in the common property, must be filed before the earlier of

(a) the date on which the time for filing a claim of lien under the *Builders Lien Act* expires, and

(b) the date which is 45 days after the date the strata lot is conveyed to the purchaser.

(2) Despite any other Act or agreement to the contrary, a purchaser of a strata lot from an owner developer must retain a holdback of an amount set out in the regulations until the earlier of

(a) the date on which the time for filing a claim of lien under the *Builders Lien Act* expires, and

(b) the date which is 55 days after the date the strata lot is conveyed to the purchaser.

(3) The holdback is subject to a lien under the *Builders Lien Act*.

(4) The purchaser must release the holdback to the owner developer at the end of the holdback period provided for in subsection (2) unless in the meantime a claim of lien has been filed, or proceedings have been commenced, to enforce a lien against the holdback.

Removal of claim of lien after purchase from owner developer

89 (1) If one or more claims of lien under the *Builders Lien Act* are filed against a strata lot purchased from an owner developer, the purchaser may apply to the Supreme Court for an order for permission to pay into the court the lesser of

(a) the total amount of the claims of lien filed, and

(b) the full amount of the holdback under section 88 (2).

(2) Payment into the court discharges the lien and releases the purchaser from liability to the owner developer or the lien claimant for the liens.

(3) The order under subsection (1) must provide that the claims of lien be removed from the title to the strata lot.

(4) The money paid into the court is security for the liens in place of the strata lot.

(5) If the full amount of the holdback has not been paid into the court, the purchaser must release the balance of the holdback to the owner developer.

Removal of liens and other charges

90 (1) An owner may apply to the Supreme Court to remove a claim of lien under the *Builders Lien Act* or other registered charge that charges more than one strata lot from the title to the owner's strata lot.

(2) The court may order the claim of lien or other charge removed from the title to the owner's strata lot on payment into the court of the strata lot's share of the amount secured by the claim of lien or other charge.

(3) Payment into the court releases the owner from liability to the lien claimant or other charge holder for the amount secured by the claim of lien or other charge.

(4) The strata lot's share of the amount secured by the claim of lien or other charge is calculated as set out in section 166 as if the amount of the claim of lien or other charge were a judgment.

(5) The money paid into the court is security for the lien or other charge in place of the strata lot.

Part 6 — Finances

Division 1 — Operating Fund and Contingency Reserve Fund

Strata corporation responsible for common expenses

91 The strata corporation is responsible for the common expenses of the strata corporation.

Operating fund and contingency reserve fund

92 To meet its expenses the strata corporation must establish, and the owners must contribute, by means of strata fees, to

- (a) an operating fund for common expenses that usually occur either once a year or more often than once a year, and
- (b) a contingency reserve fund for common expenses that usually occur less often than once a year or that do not usually occur.

Minimum and maximum contributions to contingency reserve fund

93 Subject to the requirements set out in the regulations, the strata corporation must determine the amount of the annual contribution to the contingency reserve fund.

Depreciation report

94 (1) The strata corporation may prepare a depreciation report estimating the repair and replacement cost for major items in the strata corporation and the expected life of those items to assist it in determining the appropriate amount for the annual contribution to the contingency reserve fund.

(2) A depreciation report may contain information based on the guidelines for depreciation reports as set out in the regulations and may be in the prescribed form.

Management of contingency reserve fund

95 (1) The strata corporation must account for money in the contingency reserve fund separately from other money of the strata corporation.

(2) The strata corporation must invest all of the money in the contingency reserve fund in one or the other or a combination of the following:

- (a) those investments permitted by the regulations;
- (b) insured accounts with savings institutions in British Columbia.

(3) Any interest or income earned on the money in the contingency reserve fund becomes part of the fund.

(4) Despite subsection (2), the strata corporation may lend money in the contingency reserve fund to the operating fund as permitted by the regulations.

Expenditures from contingency reserve fund

96 The strata corporation must not spend money from the contingency reserve fund unless the expenditure is

- (a) consistent with the purposes of the fund as set out in section 92 (b), and
- (b) first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or authorized under section 98.

Expenditures from operating fund

97 The strata corporation must not spend money from the operating fund

unless the expenditure is

- (a) consistent with the purposes of the fund as set out in section 92 (a), and
- (b) first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or authorized
 - (i) in the budget, or
 - (ii) under section 98 or 104 (3).

Unapproved expenditures

98 (1) If a proposed expenditure has not been put forward for approval in the budget or at an annual or special general meeting, the strata corporation may only make the expenditure in accordance with this section.

(2) Subject to subsection (3), the expenditure may be made out of the operating fund if the expenditure, together with all other unapproved expenditures, whether of the same type or not, that were made under this subsection in the same fiscal year, is

- (a) less than the amount set out in the bylaws, or
- (b) if the bylaws are silent as to the amount, less than \$2 000 or 5% of the total contribution to the operating fund for the current year, whichever is less.

(3) The expenditure may be made out of the operating fund or contingency reserve fund if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise.

(4) A bylaw setting out an amount for the purposes of subsection (2) (a) may set out further conditions for, or limitations on, any expenditures under that provision.

(5) Any expenditure under subsection (3) must not exceed the minimum amount needed to ensure safety or prevent significant loss or damage.

(6) The strata corporation must inform owners as soon as feasible about any expenditure made under subsection (3).

Division 2 — Contribution to Expenses

Calculating strata fees

99 (1) Subject to section 100, owners must contribute to the strata corporation their strata lots' shares of the total contributions budgeted for the operating fund and contingency reserve fund by means of strata fees calculated in accordance with this section and the regulations.

(2) Subject to the regulations, the strata fees for a strata lot's share of the contribution to the operating fund and contingency reserve fund are calculated as follows:

$$\begin{array}{r} \text{unit entitlement of strata lot} \\ \times \text{total} \\ \text{total unit entitlement of all} \quad \text{contribution} \\ \text{strata lots} \end{array}$$

Change to basis for calculation of contribution

100 (1) At an annual or special general meeting held after the first annual general meeting, the strata corporation may, by a resolution passed by a

unanimous vote, agree to use one or more different formulas, other than the formulas set out in section 99 and the regulations, for the calculation of a strata lot's share of the contribution to the operating fund and contingency reserve fund.

(2) An agreement under subsection (1) may be revoked or changed by a resolution passed by a unanimous vote at an annual or special general meeting.

(3) A resolution passed under subsection (1) or (2) has no effect until it is filed in the land title office, with a Certificate of Strata Corporation in the prescribed form stating that the resolution has been passed by a unanimous vote.

No return of contributions on sale of strata lot

101 On the sale of a strata lot, the seller is not entitled to a return of contributions to the contingency reserve fund.

Division 3 — Budgets

Change of fiscal year end

102 (1) The strata corporation may, by a resolution passed by a 3/4 vote at an annual or special general meeting held after the first annual general meeting, change the dates of its fiscal year, and as a result may have a budget for

(a) a period of more than 12 months, but less than 18 months, or

(b) a period of less than 12 months, but more than 6 months.

(2) If a change to the dates of a strata corporation's fiscal year results in a period not covered by a budget, section 104 (2) and (3) applies.

Budget requirements

103 (1) The strata corporation must prepare a budget for the coming fiscal year for approval by a resolution to be passed by a majority vote at each annual general meeting.

(2) The proposed budget must be distributed with the notice of the annual general meeting under section 45 and must be accompanied by a financial statement.

(3) The budget and financial statement

(a) must contain the information required by the regulations, and

(b) may be in the form set out in the regulations.

(4) The proposed budget may be amended by a majority vote at the annual general meeting before the budget itself is put to a vote.

Failure to approve budget

104 (1) If a budget is not approved at an annual general meeting, the strata corporation must within 30 days, or such longer period as approved by a resolution passed by a 3/4 vote at the meeting, prepare a new budget and place it before a special general meeting for approval by a resolution passed by a majority vote.

(2) If a fiscal year to which a budget relates ends before a new budget is approved, the owners must, until the new budget is approved, continue to pay to the strata corporation the same monthly strata fees that they were

required to pay under the previous budget.

(3) Until a new budget is approved, the strata corporation may spend money out of the operating fund only in accordance with section 98 or

- (a) on the type of expenses that are set out in the previous budget and that usually occur once a year or more often than once a year, and
- (b) up to the maximum amount set out in the previous budget for each category of expense.

Budget surpluses and deficits

105 (1) Subject to section 14, contributions to the operating fund which are not required to meet operating expenses accruing during the fiscal year to which the budget relates must be dealt with in one or more of the following ways, unless the strata corporation determines otherwise by a resolution passed by a 3/4 vote at an annual or special general meeting:

- (a) transferred into the contingency reserve fund;
- (b) carried forward as part of the operating fund, as a surplus;
- (c) used to reduce the total contribution to the next fiscal year's operating fund.

(2) If operating expenses exceed the total contribution to the operating fund, the deficit must be eliminated during the next fiscal year.

Informing owners of strata fees

106 Within 2 weeks following the annual or special general meeting at which a budget is passed, the strata corporation must inform owners of any changes to their strata fees resulting from the new budget.

Payment of strata fees

107 (1) A bylaw that establishes a schedule for the payment of strata fees may set out a rate of interest, not to exceed the rate set out in the regulations, to be paid if an owner is late in paying his or her strata fees under that schedule.

(2) The interest payable on a late payment of strata fees in accordance with a bylaw referred to in subsection (1) is not a fine, and forms part of the strata fees for the purposes of section 116.

Division 4 — Special Levies and User Fees

Special levy

108 (1) The strata corporation may raise money from the owners by means of a special levy.

(2) The strata corporation must calculate each strata lot's share of a special levy

- (a) in accordance with section 99, 100 or 195, in which case the levy must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or
- (b) in another way that establishes a fair division of expenses for that particular levy, in which case the levy must be approved by a resolution passed by a unanimous vote at an annual or special general meeting.

(3) The resolution to approve a special levy must set out all of the following:

- (a) the purpose of the levy;

- (b) the total amount of the levy;
 - (c) the method used to determine each strata lot's share of the levy;
 - (d) the amount of each strata lot's share of the levy;
 - (e) the date by which the levy is to be paid or, if the levy is payable in installments, the dates by which the installments are to be paid.
- (4) The strata corporation must
- (a) use the money collected for the purpose set out in the resolution, and
 - (b) inform owners about the expenditure of the money collected.
- (5) If the amount collected exceeds that required, or for any other reason is not fully used for the purpose set out in the resolution, the strata corporation must return the money to the owners in amounts proportional to their contributions.
- (6) Despite subsection (5), if no owner is entitled to receive more than \$100 in total under subsection (5), the strata corporation may deposit the excess in the contingency reserve fund.

Payment of special levy when strata lot sold

- 109** If a special levy is approved before a strata lot is conveyed to a purchaser,
- (a) the seller owes the strata corporation the portion of the levy that is payable before the date the strata lot is conveyed, and
 - (b) the purchaser owes the strata corporation the portion of the levy that is payable on or after the date the strata lot is conveyed.

User fees

- 110** A strata corporation must not impose user fees for the use of common property or common assets by owners, tenants or occupants, or their visitors, other than as set out in the regulations.

Division 5 — Borrowing Powers of Strata Corporation

Strata corporation may borrow

111 (1) The strata corporation may, after approval by a resolution passed by a 3/4 vote at an annual or special general meeting, borrow money required by it to exercise its powers and perform its duties and, subject to section 81, may secure the repayment of money borrowed by it, and the payment of interest on that money.

(2) Without limiting subsection (1), the strata corporation may secure the repayment of money borrowed by it, and the payment of interest, by one or more of the following:

- (a) a mortgage of property, other than common property;
- (b) an assignment of unpaid strata fees or special levies;
- (c) a negotiable instrument.

Division 6 — Money Owing to Strata Corporation

Notice to owner or tenant of money owing to strata corporation

112 (1) Before suing or beginning arbitration to collect money from an owner or tenant, the strata corporation must give the owner or tenant at least 2 weeks' written notice demanding payment and indicating that action may

be taken if payment is not made within that 2 week period.

(2) Before the strata corporation registers a lien against an owner's strata lot under section 116, the strata corporation must give the owner at least 2 weeks' written notice demanding payment and indicating that a lien may be registered if payment is not made within that 2 week period.

Notice to mortgagee

113 If a mortgagee has given the strata corporation a Mortgagee's Request for Notification under section 60, the strata corporation

(a) may give the mortgagee written notice that the strata lot owner has failed to pay money owing to the strata corporation for more than 60 days, and

(b) must give the mortgagee a copy of any notice given to the owner under section 112.

Disputed debt

114 (1) If there is a dispute over whether an owner or tenant owes money to the strata corporation, the owner or tenant may pay the disputed amount

(a) into court if court proceedings have been started and the Rules of Court allow payment into court, or

(b) to the strata corporation to hold in trust if the matter has been referred to arbitration or if court proceedings have been started.

(2) On receipt of an amount under subsection (1) (b), the strata corporation holds the money and any interest on the money in trust for the parties to the dispute until the dispute is resolved.

(3) After the dispute is resolved, the strata corporation must pay the amount to the party entitled to it as set out in the decision of the court or arbitrator.

Certificate of Payment

115 (1) Within one week of the request of an owner or purchaser, or a person authorized by an owner or purchaser, the strata corporation must give the person making the request a Certificate of Payment in the prescribed form if

(a) the owner does not owe money to the strata corporation, or

(b) the owner does owe money but

(i) the money claimed by the strata corporation has been paid into court, or to the strata corporation in trust, under section 114, or

(ii) arrangements satisfactory to the strata corporation have been made to pay the money owing.

(2) The certificate is current for the purposes of section 256 for a period of 60 days from the date it is issued.

(3) The strata corporation may charge a fee for the certificate, but the fee must not exceed the amount set out in the regulations.

(4) In completing the certificate, the strata corporation may include money owing in respect of

(a) the matters set out in section 116, and

(b) fines and the costs of remedying a contravention of a bylaw or rule charged against the owner or fines and costs for which the owner is responsible under section 131.

(5) A certificate must not include claims of damages against an owner which have not been determined by a court or by arbitration.

Certificate of Lien

116 (1) The strata corporation may register a lien against an owner's strata lot by registering in the land title office a Certificate of Lien in the prescribed form if the owner fails to pay the strata corporation any of the following with respect to that strata lot:

- (a) strata fees;
- (b) a special levy;
- (c) a reimbursement of the cost of work referred to in section 85;
- (d) the strata lot's share of a judgment against the strata corporation;
- (e) [Repealed 1999-21-25.]

(2) The strata corporation may register a lien against any strata lot, but only one strata lot, owned by an owner as owner developer, by registering in the land title office a Certificate of Lien in the prescribed form if the owner developer fails to pay an amount payable to the strata corporation under section 14 (4) or (5), 17 (b) or 20 (3).

(3) Subsections (1) and (2) do not apply if

- (a) the amount owing has, under section 114, been paid into court or to the strata corporation in trust,
- (b) arrangements satisfactory to the strata corporation have been made to pay the money owing, or
- (c) the amount owing is in respect of a fine or the costs of remedying a contravention.

(4) On registration the certificate creates a lien against the owner's strata lot in favour of the strata corporation for the amount owing.

(5) The strata corporation's lien ranks in priority to every other lien or registered charge except

- (a) to the extent that the strata corporation's lien is for a strata lot's share of a judgment against the strata corporation,
- (b) if the other lien or charge is in favour of the Crown and is not a mortgage of land, or
- (c) if the other lien or charge is made under the *Builders Lien Act*.

(6) On receiving the amount owing, the strata corporation must within one week remove the lien by registering in the land title office an Acknowledgment of Payment in the prescribed form.

Forced sale of owner's strata lot to collect money owing

117 (1) After the strata corporation has registered a Certificate of Lien against a strata lot, the strata corporation may apply to the Supreme Court for an order for the sale of the strata lot.

(2) If the strata corporation has obtained a judgment for the amount owing, the court may, after considering all the circumstances, make an order for the sale of the strata lot.

(3) If the strata corporation has not obtained a judgment for the amount owing, the court may try the issue and may

- (a) order that judgment be entered against the owner in favour of the strata corporation for the amount of the lien or for an amount that the

court, as a result of the trial, finds owing, and

(b) if judgment is entered against the owner, make an order for the sale of the strata lot after considering all the circumstances.

(4) An order for the sale of a strata lot must provide that, if the amount owing is not paid within the time period required by the order, the strata corporation may sell the strata lot at a price and on terms to be approved by the court.

Costs added to amount owing

118 The following costs of registering a lien against an owner's strata lot under section 116 or enforcing a lien under section 117 may be added to the amount owing to the strata corporation under a Certificate of Lien:

(a) reasonable legal costs;

(b) land title and court registry fees;

(c) other reasonable disbursements.

Part 7 — Bylaws and Rules

Division 1 — General

Nature of bylaws

119 (1) The strata corporation must have bylaws.

(2) The bylaws may provide for the control, management, maintenance, use and enjoyment of the strata lots, common property and common assets of the strata corporation and for the administration of the strata corporation.

Standard Bylaws

120 (1) The bylaws of the strata corporation are the Standard Bylaws except to the extent that different bylaws are filed in the land title office.

(2) On deposit of the strata plan an owner developer may file bylaws that differ from the Standard Bylaws.

Unenforceable bylaws

121 (1) A bylaw is not enforceable to the extent that it

- (a) contravenes this Act, the regulations, the *Human Rights Code* or any other enactment or law,
- (b) destroys or modifies an easement created under section 69, or
- (c) prohibits or restricts the right of an owner of a strata lot to freely sell, lease, mortgage or otherwise dispose of the strata lot or an interest in the strata lot.

(2) Subsection (1) (c) does not apply to

- (a) a bylaw under section 141 that prohibits or limits rentals,
- (b) a bylaw under section 122 relating to the sale of a strata lot, or
- (c) a bylaw restricting the age of persons who may reside in a strata lot.

Bylaws relating to sale of strata lot

122 The strata corporation may pass a bylaw governing activities relating to the sale of a strata lot, including locations for the posting of signs and times for the showing of common property and holding of open houses, but the bylaw may not prohibit or unreasonably restrict those activities.

Limits to pet and age bylaws

123 (1) A bylaw that prohibits a pet does not apply to a pet living with an owner, tenant or occupant at the time the bylaw is passed and which continues to live there after the bylaw is passed.

(2) A bylaw that restricts the age of persons who may reside in a strata lot does not apply to a person who resides in the strata lot at the time the bylaw is passed and who continues to reside there after the bylaw is passed.

Voluntary dispute resolution bylaw

124 (1) The bylaws may provide for a process for the voluntary resolution of disputes among owners, tenants and the strata corporation or any combination of them.

(2) A voluntary dispute resolution process in the bylaws must not

- (a) require a person to use the voluntary dispute resolution process, or
- (b) confer on any person or body a power to make a binding decision.

(3) The use of a voluntary dispute resolution process in the bylaws does not affect a person's powers, duties or rights including, without limitation, the

right to sue or begin arbitration.

(4) An admission, statement, document or record that is made only for the purpose of a voluntary dispute resolution process in the bylaws may not be used in court, in an arbitration or in any other proceeding.

Rules

125 (1) The strata corporation may make rules governing the use, safety and condition of the common property and common assets.

(2) A rule is not enforceable to the same extent that a bylaw is not enforceable under section 121 (1).

(3) All rules, including those posted on signs, must be set out in a written document that is capable of being photocopied.

(4) The strata corporation must inform owners and tenants of any new rules as soon as feasible.

(5) If a rule conflicts with a bylaw of the strata corporation, the bylaw prevails.

(6) A rule ceases to have effect at the first annual general meeting held after it is made, unless the rule is ratified by a resolution passed by a majority vote

(a) at that annual general meeting, or

(b) at a special general meeting held before that annual general meeting.

(7) Once a rule has been ratified under subsection (6), it is effective until it is repealed, replaced or altered, without the need for further ratification.

Division 2 — Amending the Bylaws

Amendment of bylaws

126 The bylaws of a strata corporation may be changed, repealed, replaced, added to or otherwise amended by complying with the requirements of this Division.

Amendment of bylaws before first annual general meeting

127 (1) Despite section 128, if a strata plan is a bare land strata plan or if all the strata lots in a strata plan are residential, no amendment may be made to the bylaws before the first annual general meeting unless it is approved by a resolution passed by a unanimous vote at a special general meeting.

(2) If all the strata lots in a strata plan are nonresidential, the bylaws may be amended, in accordance with section 128, at a special general meeting held before the first annual general meeting.

(3) If a strata plan is composed of residential and nonresidential strata lots, no amendment may be made to the bylaws before the first annual general meeting, unless

(a) it is approved by a resolution passed by a unanimous vote at a special general meeting, or

(b) separate residential and nonresidential sections are formed.

(4) If separate sections are formed,

(a) the residential section may not amend the bylaws before the first annual general meeting unless the amendment is approved by a resolution passed by a unanimous vote at a special general meeting of

the section, and

(b) the nonresidential section may amend the bylaws, in accordance with section 197, at a special general meeting of the section held before the first annual general meeting.

Bylaw amendment procedures

128 (1) Subject to section 197, amendments to bylaws must be approved at an annual or special general meeting,

(a) in the case of a strata plan composed entirely of residential strata lots, by a resolution passed by a 3/4 vote,

(b) in the case of a strata plan composed entirely of nonresidential strata lots, by a resolution passed by a 3/4 vote or as otherwise provided in the bylaws, or

(c) in the case of a strata plan composed of both residential and nonresidential strata lots, by both a resolution passed by a 3/4 vote of the residential strata lots and a resolution passed by a 3/4 vote of the nonresidential strata lots, or as otherwise provided in the bylaws for the nonresidential strata lots.

(2) An amendment to a bylaw has no effect until an Amendment to Bylaws in the prescribed form is filed in the land title office.

(3) An Amendment to Bylaws must be filed in the land title office within 60 days of the amendment being approved.

(4) The strata corporation must inform owners and tenants of any amendment to the bylaws as soon as feasible after the amendment is approved.

Division 3 — Enforcing the Bylaws and Rules

Enforcement options

129 (1) To enforce a bylaw or rule the strata corporation may do one or more of the following:

(a) impose a fine under section 130;

(b) remedy a contravention under section 133;

(c) deny access to a recreational facility under section 134.

(2) Before enforcing a bylaw or rule the strata corporation may give a person a warning or may give the person time to comply with the bylaw or rule.

Fines

130 (1) The strata corporation may fine an owner if a bylaw or rule is contravened by

(a) the owner,

(b) a person who is visiting the owner or was admitted to the premises by the owner for social, business or family reasons or any other reason, or

(c) an occupant, if the strata lot is not rented by the owner to a tenant.

(2) The strata corporation may fine a tenant if a bylaw or rule is contravened by

(a) the tenant,

(b) a person who is visiting the tenant or was admitted to the premises by the tenant for social, business or family reasons or any other reason,

or

(c) an occupant, if the strata lot is not sublet by the tenant to a subtenant.

Landlord's and owner's responsibility for fines and costs incurred by tenant

131 (1) If the strata corporation fines a tenant or requires a tenant to pay the costs of remedying a contravention of the bylaws or rules, the strata corporation may collect the fine or costs from the tenant, that tenant's landlord and the owner, but may not collect an amount that, in total, is greater than the fine or costs.

(2) If the landlord or owner pays some or all of the fine or costs levied against the tenant, the tenant owes the landlord or owner the amount paid.

Maximum fines

132 (1) The strata corporation must set out in its bylaws the maximum amount it may fine an owner or tenant for each contravention of a bylaw or rule.

(2) The strata corporation may set out in its bylaws

(a) different maximum amounts of fines for different bylaws and rules, and

(b) the frequency at which fines may be imposed for a continuing contravention of a bylaw or rule.

(3) The maximum amount of a fine and the maximum frequency of imposition of fines must not exceed the maximums set out in the regulations.

Strata corporation may remedy a contravention

133 (1) The strata corporation may do what is reasonably necessary to remedy a contravention of its bylaws or rules, including

(a) doing work on or to a strata lot, the common property or common assets, and,

(b) removing objects from the common property or common assets.

(2) The strata corporation may require that the reasonable costs of remedying the contravention be paid by the person who may be fined for the contravention under section 130.

Denial of access to recreational facility

134 The strata corporation may, for a reasonable length of time, deny an owner, tenant, occupant or visitor the use of a recreational facility that is common property or a common asset if the owner, tenant, occupant or visitor has contravened a bylaw or rule relating to the recreational facility.

Complaint, right to answer and notice of decision

135 (1) The strata corporation must not

(a) impose a fine against a person,

(b) require a person to pay the costs of remedying a contravention, or

(c) deny a person the use of a recreational facility

for a contravention of a bylaw or rule unless the strata corporation has

(d) received a complaint about the contravention,

(e) given the owner or tenant the particulars of the complaint, in writing, and a reasonable opportunity to answer the complaint, including a

hearing if requested by the owner or tenant, and

(f) if the person is a tenant, given notice of the complaint to the person's landlord and to the owner.

(2) The strata corporation must, as soon as feasible, give notice in writing of a decision on a matter referred to in subsection (1) (a), (b) or (c) to the persons referred to in subsection (1) (e) and (f).

(3) Once a strata corporation has complied with this section in respect of a contravention of a bylaw or rule, it may impose a fine or other penalty for a continuing contravention of that bylaw or rule without further compliance with this section.

Complaint against council member

136 (1) If a complaint is made about a council member contravening a bylaw or rule, the council member must not participate in a decision made under section 135 about the complaint.

(2) Subsection (1) does not apply if all the owners are on the council.

Eviction by landlord

137 A repeated or continuing contravention of a reasonable and significant bylaw or rule by a tenant of a residential strata lot is an event that allows the landlord to give the tenant a notice terminating the tenancy agreement under section 47 [*landlord's notice: cause*] of the *Residential Tenancy Act*.

Eviction by strata corporation

138 (1) A repeated or continuing contravention of a reasonable and significant bylaw or rule by a tenant of a residential strata lot that seriously interferes with another person's use and enjoyment of a strata lot, the common property or the common assets is an event that allows the strata corporation to give the tenant a notice terminating the tenancy agreement under section 47 [*landlord's notice: cause*] of the *Residential Tenancy Act*.

(2) An eviction under subsection (1) does not affect any rights of the landlord under the tenancy agreement.

Part 8 — Rentals

Rental disclosure by owner developer

139 (1) An owner developer who rents or intends to rent one or more residential strata lots must

(a) file with the superintendent before the first residential strata lot is offered for sale to a purchaser, or conveyed to a purchaser without being offered for sale, a Rental Disclosure Statement in the prescribed form, and

(b) give a copy of the statement to each prospective purchaser before the prospective purchaser enters into an agreement to purchase.

(2) The owner developer may change the statement by changing the number of strata lots to be rented or the rental period for the strata lots, or both, if the owner developer

(a) owns all the strata lots in the strata plan, or

(b) obtains the prior approval of the change by a resolution passed by a 3/4 vote at an annual or special general meeting.

(3) For the purposes of the 3/4 vote referred to in subsection (2), the following persons are not eligible voters:

(a) a person voting in respect of a nonresidential strata lot;

(b) a person voting in respect of a residential strata lot which is currently rented;

(c) the owner developer.

(4) An owner developer who changes a statement under subsection (2) must immediately

(a) file the changed statement with the superintendent,

(b) give a copy of the changed statement to each purchaser who received a previous version of the statement, and

(c) give a copy of the changed statement to each prospective purchaser before the prospective purchaser enters into an agreement to purchase.

Contravention of disclosure requirements

140 If the owner developer contravenes section 139, the purchaser of a residential strata lot may cancel the agreement to purchase without penalty.

Restriction of rentals by strata corporation

141 (1) The strata corporation must not screen tenants, establish screening criteria, require the approval of tenants, require the insertion of terms in tenancy agreements or otherwise restrict the rental of a strata lot except as provided in subsection (2).

(2) The strata corporation may only restrict the rental of a strata lot by a bylaw that

(a) prohibits the rental of residential strata lots, or

(b) limits one or more of the following:

(i) the number or percentage of residential strata lots that may be rented;

(ii) the period of time for which residential strata lots may be rented.

(3) A bylaw under subsection (2) (b) (i) must set out the procedure to be

followed by the strata corporation in administering the limit.

Limits to rental restriction bylaws

142 (1) For the purposes of this section, "family" and "family member" have the meaning set out in the regulations.

(2) A bylaw referred to in section 141 (2) does not apply to prevent the rental of a strata lot to a member of the owner's family.

(3) A rental of a strata lot to a family member under this section creates an assignment of the owner's powers and duties under section 148.

Rental restriction bylaw does not immediately apply to some strata lots

143 (1) A bylaw that prohibits or limits rentals does not apply to a strata lot until the later of

(a) one year after a tenant who is occupying the strata lot at the time the bylaw is passed ceases to occupy it as a tenant, and

(b) one year after the bylaw is passed.

(2) Subject to subsection (1), if a strata lot has been designated as a rental strata lot on a Rental Disclosure Statement in the prescribed form, and if all the requirements of section 139 have been met, a bylaw that prohibits or limits rentals does not apply to that strata lot until the earlier of

(a) the date the strata lot is conveyed by the first purchaser of the strata lot, and

(b) the date the rental period expires, as disclosed in the statement.

Exemption from rental restriction bylaw

144 (1) An owner may apply to the strata corporation for an exemption from a bylaw that prohibits or limits rentals on the grounds that the bylaw causes hardship to the owner.

(2) The application must be in writing and must state

(a) the reason the owner thinks an exemption should be made, and

(b) whether the owner wishes a hearing.

(3) If the owner wishes a hearing, the strata corporation must hear the owner or the owner's agent within 3 weeks after the date the application is given to the strata corporation.

(4) An exemption is allowed if the strata corporation does not give its decision in writing to the owner

(a) within one week after the hearing, or

(b) if no hearing is requested, within 2 weeks after the application is given to the strata corporation.

(5) An exemption granted by the strata corporation may be for a limited time.

(6) The strata corporation must not unreasonably refuse to grant an exemption.

Rental agreement in contravention of rental restriction bylaw

145 (1) If an agreement for the rental of a residential strata lot contravenes a bylaw that prohibits or limits rentals, the tenant

(a) is not in contravention of the bylaw, and

(b) may, within 90 days of learning of the landlord's contravention, end the tenancy agreement without penalty by giving notice to the landlord.

(2) If a tenant ends a tenancy agreement under subsection (1), the landlord

must pay the tenant's reasonable moving expenses to a maximum of one month's rent.

Landlord to give bylaws, rules and Notice of Tenant's Responsibilities to tenant

- 146** (1) Before a landlord rents all or part of a residential strata lot, the landlord must give the prospective tenant
- (a) the current bylaws and rules, and
 - (b) a Notice of Tenant's Responsibilities in the prescribed form.
- (2) Within 2 weeks of renting all or part of a residential strata lot, the landlord must give the strata corporation a copy of the notice signed by the tenant.
- (3) If a landlord fails to comply with subsection (1) or (2), the tenant
- (a) is still bound by the bylaws and rules, but
 - (b) may, within 90 days of learning of the landlord's failure to comply, end the tenancy agreement without penalty by giving notice to the landlord.
- (4) If a tenant ends a tenancy agreement under subsection (3), the landlord must pay the tenant's reasonable moving expenses to a maximum of one month's rent.

Assignment of powers and duties to tenant

- 147** (1) A landlord may assign to a tenant some or all of the powers and duties of the landlord that arise under this Act, the bylaws or the rules, but may not assign to a tenant the landlord's responsibility under section 131 for fines or the costs of remedying a contravention of the bylaws or rules.
- (2) The assignment is not effective until the landlord gives the strata corporation a written notice stating all of the following:
- (a) the name of the tenant to whom the assignment is made;
 - (b) the powers and duties that have been assigned;
 - (c) the time period during which the assignment is effective.

Long term lease

- 148** (1) In this section, "**long term lease**" means a lease to the same person for a set term of 3 years or more.
- (2) If a residential strata lot is leased under a long term lease, the tenant is assigned the powers and duties of the landlord under this Act, the bylaws and the rules for the term of the lease.
- (3) Before exercising any powers of the landlord, the tenant must have given to the strata corporation written notice of the assignment referred to in subsection (2), stating the name of the tenant and the time period during which the lease is effective.
- (4) The strata corporation must give a copy of the notice referred to in subsection (3) to the landlord and to the owner.
- (5) The assignment does not include an assignment of the landlord's responsibility under section 131 for fines or the costs of remedying a contravention of the bylaws or rules.
- (6) The tenant must not, without the owner's consent, exercise any power or right of an owner
- (a) to acquire or dispose of land,
 - (b) to cancel or amend the strata plan, or

(c) to do anything that would affect the owner's interest in the strata lot, common property or land that is a common asset.

(7) The landlord must not deal with his or her interest in the strata lot, common property or land that is a common asset in a way that unreasonably interferes with the rights of the tenant under the lease or assignment.

Part 9 — Insurance

Property insurance required for strata corporation

149 (1) The strata corporation must obtain and maintain property insurance on

- (a) common property,
- (b) common assets,
- (c) buildings shown on the strata plan, and
- (d) fixtures built or installed on a strata lot, if the fixtures are built or installed by the owner developer as part of the original construction on the strata lot.

(2) For the purposes of subsection (1) (d) and section 152 (b), "fixtures" has the meaning set out in the regulations.

(3) Subsection (1) (d) does not apply to a bare land strata plan.

(4) The property insurance must

- (a) be on the basis of full replacement value, and
- (b) insure against major perils, as set out in the regulations, and any other perils specified in the bylaws.

Liability insurance required for strata corporation

150 (1) The strata corporation must obtain and maintain liability insurance to insure the strata corporation against liability for property damage and bodily injury.

(2) The insurance must be of at least the amount required in the regulations.

Errors and omissions insurance

151 The strata corporation may obtain and maintain errors and omissions insurance for council members against their liability and expenses for errors and omissions made in the exercise of their powers and performance of their duties as council members.

Optional strata corporation insurance

152 The strata corporation may obtain and maintain insurance in respect of the following:

- (a) a peril or liability of the strata corporation that is not referred to in section 149 or 150;
- (b) fixtures built or installed on a strata lot that were not built or installed by the owner developer as part of the original construction on the strata lot.

Insurable interest

153 The strata corporation has an insurable interest in any property insured under section 149 or 152.

Review and report on insurance

154 The strata corporation must

- (a) review annually the adequacy of the strata corporation's insurance, and
- (b) report on the insurance coverage at each annual general meeting.

Named insureds

155 Despite the terms of the insurance policy, named insureds in a strata corporation's insurance policy include

- (a) the strata corporation,
- (b) the owners and tenants from time to time of the strata lots shown on the strata plan, and
- (c) the persons who normally occupy the strata lots.

Payment of insurance proceeds

156 Despite the terms of the insurance policy, in making a payment, other than a payment arising from the liability of the strata corporation, under the strata corporation's insurance policy, an insurer must make the payment

- (a) to the order of the insurance trustee designated by the bylaws, or
- (b) if an insurance trustee is not designated, to the order of the strata corporation to be held in trust until paid out under section 157.

Application of insurance money

157 Insurance money received under section 156 with respect to damaged property must be used to repair or replace the damaged property without delay unless the strata corporation decides not to make the repair or replacement under section 159.

Insurance deductible

158 (1) Subject to the regulations, the payment of an insurance deductible in respect of a claim on the strata corporation's insurance is a common expense to be contributed to by means of strata fees calculated in accordance with section 99 (2) or 100 (1).

(2) Subsection (1) does not limit the capacity of the strata corporation to sue an owner in order to recover the deductible portion of an insurance claim if the owner is responsible for the loss or damage that gave rise to the claim.

(3) Despite any other section of this Act or the regulations, strata corporation approval is not required for a special levy or for an expenditure from the contingency reserve fund to cover an insurance deductible required to be paid by the strata corporation to repair or replace damaged property, unless the strata corporation has decided not to repair or replace under section 159.

Decision not to repair or replace

159 (1) The strata corporation may, by a resolution passed by a 3/4 vote at an annual or special general meeting held no later than 60 days after the receipt of the money referred to in section 156, decide not to repair or replace the damaged property.

(2) Subject to section 160, if the strata corporation decides not to repair or replace the damaged property, the insurance trustee or the strata corporation that receives the payment under subsection (1) of this section holds the money and any interest on the money in trust for each person who has an interest in the money, including the holder of a registered charge, and

- (a) must distribute the money according to each person's interest, or
- (b) if an application is made under section 160, must distribute the money in accordance with the order made under that section.

Court orders

160 (1) If the strata corporation decides not to repair or replace the

damaged property and the strata plan is not cancelled, any of the following persons may apply to the Supreme Court for an order under this section:

- (a) an owner;
 - (b) the holder of a registered charge against a strata lot;
 - (c) an insurer of land shown on the strata plan;
 - (d) any other person the court considers an appropriate person.
- (2) On application by a person referred to in subsection (1), the court may, by order, implement a scheme to do one or more of the following:
- (a) rebuild some or all of the damaged property or to make some other use of the land;
 - (b) provide for the interests of the owners and registered charge holders on a just and equitable basis.
- (3) The court may make any order it considers advisable to give effect to the scheme, including, without limitation, orders with respect to
- (a) the payment of insurance money received by the strata corporation,
 - (b) the discharge of the liabilities of the strata corporation, the persons liable to contribute to the discharge and their share of the liability,
 - (c) the amendment of the strata plan,
 - (d) the transfer or conveyance of the interest of owners whose strata lots have been wholly or partially destroyed to the other owners in proportion to the unit entitlements of the strata lots of the other owners, and for the compensation of the owners whose interests have been transferred or conveyed,
 - (e) the sale of land shown on the strata plan, or the sale of the common assets, and
 - (f) the distribution of any of the common assets of the strata corporation.

Owner's insurance

161 (1) Despite the *Insurance Act* or any other law, an owner may obtain and maintain insurance for any or all of the following:

- (a) loss or damage to the owner's strata lot and the fixtures referred to in section 149 (1) (d)
 - (i) against perils that are not insured by the strata corporation, and
 - (ii) for amounts that are in excess of amounts insured by the strata corporation;
 - (b) fixtures in the owner's strata lot, other than the fixtures referred to in section 149 (1) (d);
 - (c) improvements to fixtures referred to in section 149 (1) (d);
 - (d) loss of rental value of the owner's strata lot in excess of insurance obtained and maintained by the strata corporation;
 - (e) liability for property damage and bodily injury, whether occurring on the owner's strata lot or on the common property.
- (2) Despite this Act, the *Insurance Act* or any other law, an owner of a strata lot in a bare land strata plan may obtain and maintain insurance on buildings or fixtures built or installed on the strata lot.

Contribution

162 Despite the terms of the insurance policy,

- (a) neither the strata corporation's insurance policy nor an owner's insurance policy is liable to be brought into contribution with another policy unless the other policy is issued on the same property, and
- (b) neither the strata corporation's insurance policy nor the owner's insurance policy is "other insurance" in relation to another policy unless the other policy is issued on the same property.

Part 10 — Legal Proceedings and Arbitration
Division 1 — Suits Against the Strata Corporation

Strata corporation may be sued

163 (1) The strata corporation may be sued as representative of the owners with respect to any matter relating to the common property, common assets, bylaws or rules, or involving an act or omission of the strata corporation.

(2) An owner may sue the strata corporation.

Preventing or remedying unfair acts

164 (1) On application of an owner or tenant, the Supreme Court may make any interim or final order it considers necessary to prevent or remedy a significantly unfair

(a) action or threatened action by, or decision of, the strata corporation, including the council, in relation to the owner or tenant, or

(b) exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting.

(2) For the purposes of subsection (1), the court may

(a) direct or prohibit an act of the strata corporation, the council, or the person who holds 50% or more of the votes,

(b) vary a transaction or resolution, and

(c) regulate the conduct of the strata corporation's future affairs.

Other court remedies

165 On application of an owner, tenant, mortgagee of a strata lot or interested person, the Supreme Court may do one or more of the following:

(a) order the strata corporation to perform a duty it is required to perform under this Act, the bylaws or the rules;

(b) order the strata corporation to stop contravening this Act, the regulations, the bylaws or the rules;

(c) make any other orders it considers necessary to give effect to an order under paragraph (a) or (b).

Owner's liability for judgment against strata corporation

166 (1) A judgment against the strata corporation is a judgment against all the owners.

(2) A strata lot's share of a judgment against the strata corporation is calculated in accordance with section 99 (2) or 100 (1) as if the amount of the judgment were a contribution to the operating fund and contingency reserve fund, and an owner's liability is limited to that proportionate share of the judgment.

(3) Other than as set out in this section, an owner has no personal liability, in his or her capacity as an owner, for loss or damage arising from any of the following:

(a) the management and maintenance of the common property and common assets by the strata corporation;

(b) the actions or omissions of the council or strata corporation;

(c) any contracts made or debts or liabilities incurred by or on behalf of the strata corporation.

Defending suits

167 (1) The strata corporation must inform owners as soon as feasible if it is sued.

(2) The expense of defending a suit brought against the strata corporation is shared by the owners in the same manner as a judgment is shared under section 166, except that an owner who is suing the strata corporation is not required to contribute.

Strata corporation may join owner

168 In suits against the strata corporation, the strata corporation may join as a party the owner whose act or omission gave rise to the claim against the strata corporation.

Limit on owner's responsibility for costs

169 (1) If the strata corporation joins or sues an owner in the owner's capacity as owner or as owner developer, or if an owner sues the strata corporation, that owner

(a) is not liable to contribute to legal costs that a court or arbitrator requires the strata corporation to pay,

(b) does not, despite being an owner, have a right to information or documents relating to the suit, including legal opinions kept under section 35 (2) (h), and

(c) does not, despite being an owner, have a right to attend those portions of any annual or special general meeting or council meeting at which the suit is dealt with or discussed.

(2) If the strata corporation pays an amount to an owner in full or partial satisfaction of the owner's claim against the strata corporation, whether or not under a judgment, the owner is not liable to share in the cost of the payment with other owners.

Division 2 — Suits by the Strata Corporation

Suits against owners

170 The strata corporation may sue an owner.

Strata corporation may sue as representative of all owners

171 (1) The strata corporation may sue as representative of all owners, except any who are being sued, about any matter affecting the strata corporation, including any of the following matters:

(a) the interpretation or application of this Act, the regulations, the bylaws or the rules;

(b) the common property or common assets;

(c) the use or enjoyment of a strata lot;

(d) money owing, including money owing as a fine, under this Act, the bylaws or the rules.

(2) Before the strata corporation sues under this section, the suit must be authorized by a resolution passed by a 3/4 vote at an annual or special general meeting.

(3) For the purposes of the 3/4 vote referred to in subsection (2), a person being sued is not an eligible voter.

(4) The authorization referred to in subsection (2) is not required for a

proceeding under the *Small Claims Act* against an owner or other person to collect money owing to the strata corporation, including money owing as a fine, if the strata corporation has passed a bylaw dispensing with the need for authorization, and the terms and conditions of that bylaw are met.

(5) All owners, except any being sued, must contribute to the expense of suing under this section.

(6) A strata lot's share of the total contribution to the expense of suing is calculated in accordance with section 99 (2) or 100 (1) except that

- (a) an owner who is being sued is not required to contribute, and
- (b) the unit entitlement of a strata lot owned by an owner who is being sued is not used in the calculations.

Strata corporation may sue on behalf of some owners

172 (1) The strata corporation may sue on behalf of one or more owners about matters affecting only their strata lots if, before beginning the suit,

- (a) it obtains the written consent of those owners, and
- (b) the suit is authorized by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) Only those owners on whose behalf the suit is brought must contribute to the expense of suing under this section.

(3) A strata lot's share of the total contribution to the expense of suing is calculated in accordance with section 99 (2) or 100 (1) except that

- (a) only owners on whose behalf the suit is brought are required to contribute, and
- (b) only the unit entitlement of strata lots owned by owners on whose behalf the suit is brought are used in the calculations.

Other court remedies

173 On application by the strata corporation, the Supreme Court may do one or more of the following:

- (a) order an owner, tenant or other person to perform a duty he or she is required to perform under this Act, the bylaws or the rules;
- (b) order an owner, tenant or other person to stop contravening this Act, the regulations, the bylaws or the rules;
- (c) make any other orders it considers necessary to give effect to an order under paragraph (a) or (b).

Division 2.1 — Validity of Suits and Arbitrations

Validity of suits and arbitrations undertaken by strata corporation

173.1 (1) The failure of a strata corporation to obtain an authorization required under section 171 (2) or 172 (1) (b) or the written consent of an owner under section 172 (1) (a) in relation to a suit or an arbitration

- (a) does not affect the strata corporation's capacity to commence a suit or arbitration that is otherwise undertaken in accordance with this Act,
- (b) does not invalidate a suit or arbitration that is otherwise undertaken in accordance with this Act, and
- (c) does not, in respect of a suit or arbitration commenced or continued by the strata corporation that is otherwise undertaken in accordance with this Act, constitute

- (i) a defence to that suit or arbitration, or
- (ii) an objection to the capacity of the strata corporation to commence or continue that suit or arbitration.

(2) Despite any decision of a court to the contrary made before or after the coming into force of this section, subsection (1) applies to a suit and an arbitration commenced or continued before or after the coming into force of this section.

(3) This section is retroactive to the extent necessary to give full force and effect to its provisions and must not be construed as lacking retroactive effect in relation to any matter merely because it makes no specific reference to that matter.

Division 3 — Administrator of Strata Corporation

Appointment of administrator

174 (1) The strata corporation, or an owner, tenant, mortgagee or other person having an interest in a strata lot, may apply to the Supreme Court for the appointment of an administrator to exercise the powers and perform the duties of the strata corporation.

(2) The court may appoint an administrator if, in the court's opinion, the appointment of an administrator is in the best interests of the strata corporation.

(3) The court may

- (a) appoint the administrator for an indefinite or set period,
- (b) set the administrator's remuneration,
- (c) order that the administrator exercise or perform some or all of the powers and duties of the strata corporation, and
- (d) relieve the strata corporation of some or all of its powers and duties.

(4) The remuneration and expenses of the administrator must be paid by the strata corporation.

(5) The administrator may delegate a power.

(6) On application of the administrator or a person referred to in subsection (1), the court may remove or replace the administrator or vary an order under this section.

Division 4 — Arbitration

Application of this Division

175 (1) This Division applies to a dispute referred to in section 177 if any of the parties to the dispute is an owner or tenant at the time the dispute arises.

(2) Despite subsection (1), this Division does not apply if

- (a) Part 5 of the *Residential Tenancy Act* applies to the dispute, or
- (b) Part 5 of the *Residential Tenancy Act* does not apply to the dispute and all parties have agreed that the *Commercial Arbitration Act* will apply.

Suit requirements and procedures apply

176 The requirements and procedures regarding authorization for suits and liability for expenses and judgments in suits by and against the strata corporation, as set out in sections 166, 167, 169, 171 and 172, apply with appropriate changes to an arbitration in which the strata corporation is a

party.

Disputes that can be arbitrated

177 (1) The strata corporation may refer a dispute with an owner or tenant to arbitration if the dispute concerns a matter set out in subsection (3).

(2) An owner or tenant may refer a dispute with the strata corporation or with another owner or tenant to arbitration if the dispute concerns a matter set out in subsection (3).

(3) A dispute may be referred to arbitration if it concerns any of the following:

- (a) the interpretation or application of this Act, the regulations, the bylaws or the rules;
- (b) the common property or common assets;
- (c) the use or enjoyment of a strata lot;
- (d) money owing, including money owing as a fine, under this Act, the bylaws or the rules;
- (e) an action or threatened action by, or decision of, the strata corporation, including the council, in relation to an owner or tenant;
- (f) the exercise of voting rights by a person who holds 50% or more of the votes, including proxies, at an annual or special general meeting.

Effect of court proceedings on arbitration

178 (1) A dispute cannot be referred to arbitration once a court proceeding has been commenced.

(2) A court having jurisdiction may hear a dispute that has been referred to arbitration, but a party to the arbitration may apply to the court for an order to stay the court's proceedings.

(3) The court must stay its proceedings unless the court is satisfied there is good reason to continue its proceedings.

(4) In determining whether to stay its proceedings, the court may consider all of the following:

- (a) the legal and factual complexity of the dispute;
- (b) the suitability of the intended arbitrator;
- (c) the comparative expense and delay of the court proceedings and the arbitration;
- (d) the interests of any other parties;
- (e) the likelihood that all the parties to the arbitration will cooperate to do all things necessary for the proper conduct of the arbitration;
- (f) any other matter the court thinks proper.

Beginning arbitration

179 (1) A party may begin arbitration by giving the other party a Notice Beginning Arbitration in the prescribed form that describes the dispute and proposes either an arbitrator, a choice of arbitrators or a method for appointing an arbitrator.

(2) Within 2 weeks after receiving the Notice Beginning Arbitration, the party receiving the notice must give the party who began the arbitration a Notice of Reply in the prescribed form.

(3) The Notice of Reply must

- (a) indicate agreement to one of the proposed arbitrators or the

proposed method of appointing an arbitrator, or

(b) propose another arbitrator, choice of arbitrators or method of appointing an arbitrator.

(4) Within one week after receiving a Notice of Reply that proposes another arbitrator, choice of arbitrators or method of appointing an arbitrator, the party who began the arbitration must give the other party a Notice Responding to Reply in the prescribed form.

(5) The Notice Responding to Reply must

(a) indicate agreement to one of the proposed arbitrators or the proposed method of appointing an arbitrator, or

(b) reject the proposed arbitrator, choice of arbitrators or method of appointing an arbitrator.

(6) If an arbitrator, choice of arbitrators or method of appointing an arbitrator is rejected in the Notice Responding to Reply, each party has one week after that notice is given to appoint his or her own arbitrator, and the 2 arbitrators must either

(a) name a third person as the sole arbitrator, or

(b) name a third arbitrator to act with them and to chair the panel.

(7) On application of a party, the Supreme Court may appoint an arbitrator if for any reason a single arbitrator or a panel of arbitrators is not appointed within 6 weeks after the Notice Beginning Arbitration is given.

(8) A person who is an owner, tenant or occupant in the strata corporation, or the strata manager or other employee of the strata corporation, may not be an arbitrator unless all the parties consent.

(9) Subject to subsection (8), any person 19 years old or older may be an arbitrator.

Consolidation of disputes

180 Similar disputes that arise between different parties may be heard in one arbitration if all parties agree on

(a) the appointment of the arbitrator, and

(b) the steps to be taken to consolidate the disputes into one arbitration.

Mediation

181 Before holding a hearing, the arbitrator must advise the parties of the possibility of a mediated settlement.

Notice of arbitration

182 (1) Before holding a hearing, the arbitrator may provide notice to a person who is not a party to the arbitration but who in the arbitrator's opinion may be directly affected by the issues under consideration at the arbitration.

(2) A person who receives notice under this section may make a statement in writing to the arbitrator.

(3) A person who makes a statement under subsection (2) may be joined as a party in the arbitration if

(a) the person consents to being joined as a party,

(b) the arbitrator requests that the person be joined as a party, and

(c) the other parties consent.

Arbitration procedures

183 (1) Subject to this Division and the regulations, the arbitrator may

conduct the hearing in the manner the arbitrator considers appropriate.

(2) Before the hearing the parties to the arbitration must submit to the arbitrator a written statement describing the nature of the dispute and the evidence they intend to call.

(3) The arbitrator must hold a hearing as soon as possible at a location in or near the strata corporation's premises.

(4) The arbitration hearing is open to all owners or tenants, unless all the parties to the arbitration agree that the hearing should be held in private.

(5) A party may be represented at any stage of the arbitration by another person, including a lawyer.

(6) If all parties agree, the arbitration hearing may consist of an exchange of written statements or any other procedure.

Examination and evidence

184 (1) The parties to an arbitration must, when ordered by the arbitrator, submit to being examined by the arbitrator and must produce all relevant records that the arbitrator may require.

(2) The arbitrator must allow each party adequate opportunity to present and rebut evidence.

(3) A person who is not a party to a dispute may give evidence only if

(a) the person consents to give evidence, and

(b) the person is requested to give evidence by a party to the dispute.

(4) The arbitrator may admit evidence that he or she considers relevant to the issues in dispute, whether or not that evidence would be admissible in a court.

(5) The arbitrator may require that a party or a witness give evidence on oath or affirmation, and may administer the oath or affirmation.

Arbitrator's decision

185 (1) The arbitrator may make whatever decision he or she considers just having regard to this Act, the regulations, the bylaws and the rules, and may do one or more of the following:

(a) order a party to do something;

(b) order a party to refrain from doing something;

(c) order a party to pay money as damages.

(2) The arbitrator's decision must include reasons, be in writing and be signed by the arbitrator.

(3) Within 4 weeks of the date of the decision, the arbitrator may vary a decision to correct a clerical or typographical error or omission, or a similar type of error or omission.

Costs

186 (1) The arbitrator may make an order for costs, specifying the persons entitled to costs, the persons who must pay the costs, the amount of the costs and the manner of payment.

(2) If the arbitrator does not make an order respecting costs, a party may, within 30 days of being notified of the decision, apply to the arbitrator for an order respecting costs.

(3) If no application is made under subsection (2), or if following an

application the arbitrator does not make an order respecting costs, subject to any agreement to the contrary, the parties must bear their own costs and must pay equal shares of the fees of the arbitrator.

Decision final

187 The decision of the arbitrator is final and binding on the parties except that

- (a) the decision may be reviewed as provided under the *Judicial Review Procedure Act*, and
- (b) the decision may be appealed under section 188.

Appeal to court

188 (1) A party to an arbitration may, within 30 days after receiving the decision, appeal to the Supreme Court on any question of law arising out of the decision if

- (a) all of the parties to the arbitration consent, or
- (b) the court grants leave to appeal.

(2) In an application under subsection (1), the court may grant leave, but only if it determines that

- (a) the importance of the decision justifies the intervention of the court and that the determination of the question of law may prevent a miscarriage of justice, or
- (b) the question of law is of importance to some class or body of persons of which the applicant is a member, or that the question of law is of general or public importance.

Enforcement of decision

189 (1) An arbitrator's decision and order for costs may be filed in the Supreme Court and on being filed have the same effect, and all proceedings may be taken on them, as if they were orders of the Supreme Court.

(2) An arbitrator's decision and order for costs may be filed in the Provincial Court if

- (a) the amount claimed or the value of the personal property or services is within the monetary jurisdiction of the court, and
- (b) the decision is in respect of
 - (i) debt or damages,
 - (ii) recovery of personal property,
 - (iii) specific performance of an agreement relating to personal property or services, or
 - (iv) relief from opposing claims to personal property.

(3) On being filed under subsection (2), the decision and order for costs have the same effect, and all proceedings may be taken on them, as if they were orders of the Provincial Court.

(4) Despite subsections (1) to (3), a decision or order for costs may not be filed until

- (a) the time limit for an appeal has expired and no appeal has been taken, or
- (b) the appeal is completed or abandoned.

Part 11 — Sections

Act applies to strata corporation with sections

190 (1) Subject to the regulations, the provisions of this Act apply to a strata corporation with sections.

(2) If there is a conflict between a provision of this Part and a provision of another Part, the provision of this Part prevails.

Sections allowed

191 (1) A strata corporation may have sections only for the purpose of representing the different interests of

(a) owners of residential strata lots and owners of nonresidential strata lots,

(b) owners of nonresidential strata lots, if they use their strata lots for significantly different purposes, or

(c) owners of different types of residential strata lots.

(2) For the purposes of subsection (1) (c), strata lots are different types if they fall within the criteria set out in the regulations.

Creation of sections by owner developer

192 An owner developer may create sections for a strata corporation at the time the strata plan is deposited by filing in the land title office

(a) bylaws that provide for the creation and administration of each section, and

(b) any resolutions to designate limited common property, in accordance with section 74, for the exclusive use of all the strata lots in a section.

Creation or cancellation of sections by strata corporation

193 (1) To create or cancel sections, the strata corporation must hold an annual or special general meeting to consider the creation or cancellation.

(2) The notice of meeting must include

(a) a resolution to amend the bylaws to provide for either the creation and administration of each section or the cancellation of the sections, and

(b) any resolutions to designate limited common property, in accordance with section 74, for the exclusive use of all the strata lots in a section or to remove a designation in accordance with section 75.

(3) The resolution referred to in subsection (2) (a) must be passed

(a) by a 3/4 vote by the eligible voters in the proposed or existing section, and

(b) by a 3/4 vote by all the eligible voters in the strata corporation.

(4) On the filing in the land title office of a bylaw amendment creating a section, a section is created bearing the name "Section *[number of section]* of *[name of strata corporation]*".

(5) On the creation of a section the registrar may establish a general index for the section.

Powers and duties of section

194 (1) After the creation of sections, the strata corporation retains its powers and duties in matters of common interest to all the owners.

(2) With respect to a matter that relates solely to the section, the section is a corporation and has the same powers and duties as the strata corporation

(a) to establish its own operating fund and contingency reserve fund for common expenses of the section, including expenses relating to limited common property designated for the exclusive use of all the strata lots in the section,

(b) to budget and require section owners to pay strata fees and special levies for expenditures the section authorizes,

(c) to sue or arbitrate in the name of the section,

(d) to enter into contracts in the name of the section,

(e) to acquire and dispose of land and other property in the name of or on behalf of the section, and

(f) to enforce bylaws and rules.

(3) Despite subsection (2), a section must not enter into a contract, or sue or arbitrate, in the name of the strata corporation and the strata corporation has no liability for contracts made, or debts or legal costs incurred, by the section.

(4) A section may obtain insurance only

(a) against perils that are not insured by the strata corporation, or

(b) for amounts that are in excess of amounts insured by the strata corporation.

(5) For the purposes of subsection (4), a section has the same insurable interest as the strata corporation has in property contained within the section.

(6) Division 4 of Part 10 applies to a dispute between sections and between a section and the strata corporation.

Expenses of section

195 Subject to section 100 and the regulations, expenses of the strata corporation that relate solely to the strata lots in a section are shared by the owners of strata lots in the section and each strata lot's share of a contribution to the operating fund and contingency reserve fund is calculated as follows:

$$\frac{\text{unit entitlement of strata lot}}{\text{total unit entitlement of all strata lots in section}} \times \text{total contribution}$$

Administration of section

196 (1) The eligible voters of a section may call and hold meetings and pass resolutions in the same manner as eligible voters of the strata corporation.

(2) Each section must elect an executive for that section and the section executive has the same powers and duties with respect to the section as the strata corporation's council has with respect to the strata corporation.

(3) A member of a section executive is eligible for election to the strata corporation's council.

Bylaws and rules for section

197 (1) The strata corporation's bylaws apply to the section unless they have been amended by the section.

(2) The bylaws may only be amended by the section if the bylaw amendment is in respect of a matter that relates solely to the section.

(3) Subject to section 127 (4) (a), an amendment to the bylaws respecting a matter that relates solely to the section must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting of the section.

(3.1) Despite subsection (3), if a section is composed entirely of nonresidential strata lots, an amendment to the bylaws respecting a matter that relates solely to the section must be approved by a resolution passed

(a) by a 3/4 vote, or

(b) if a different voting threshold is provided for in the bylaws of the section, by that voting threshold

at an annual or special general meeting of the section.

(4) The executive of a section may make rules governing the use, safety and condition of

(a) land and other property acquired under section 194 (2) (e), and

(b) limited common property designated for the exclusive use of all the strata lots in the section.

(5) Section 125 applies to section rules.

Judgments against strata corporation relating to section

198 (1) If a judgment against the strata corporation relates solely to the strata lots in a section, the judgment is against only the owners of strata lots in the section.

(2) A strata lot's share of a judgment referred to in subsection (1) is calculated in accordance with section 195 as if the amount of the judgment were a contribution to the operating fund and contingency reserve fund, and an owner's liability is limited to that proportionate share of the judgment.

Part 12 — Leasehold Strata Plans

Definitions

199 In this Part:

"ground lease" means a registered lease of land

- (a) granted by a leasehold landlord for the purposes of this Part, and
- (b) to which a model strata lot lease is attached;

"leasehold landlord" means the government of British Columbia, the government of Canada, a municipality, a regional district, a Nisga'a Village or the Nisga'a Nation, or another public authority as defined by a regulation made under this Act;

"leasehold strata plan" means a strata plan in which the land shown on the strata plan is subject to a ground lease;

"leasehold tenant" means a person, including an owner developer, registered in the land title office as a tenant under a strata lot lease, whether entitled to it in the person's own right, in a representative capacity or otherwise, and includes a subtenant;

"strata lot lease" means a lease of a strata lot arising from the conversion of a ground lease under section 203 (1), and includes an assignment or transmission of a strata lot lease;

"termination", in respect of a strata lot lease, means

- (a) the expiry of the strata lot lease without renewal, or
- (b) the termination of the strata lot lease under section 213 (2).

Act applies to leasehold strata plans

200 (1) Subject to the regulations, the provisions of this Act apply to a leasehold strata plan.

(2) If there is a conflict between a provision of this Part and a provision of another Part, the provision of this Part prevails.

Deposit of leasehold strata plan

201 The registrar must not accept for deposit a leasehold strata plan unless

- (a) the title to the land included in the leasehold strata plan is registered in the name of a leasehold landlord,
- (b) the person applying to deposit the leasehold strata plan is the registered lessee under the ground lease,
- (c) the unexpired term of the ground lease is at least 50 years after the date of the application to deposit the leasehold strata plan,
- (d) all the land subject to the ground lease is shown on the leasehold strata plan, and
- (e) the leasehold strata plan is signed by the leasehold landlord.

New indefeasible title

202 When a leasehold strata plan is deposited, the registrar must

- (a) assign to the leasehold strata plan a serial deposit number, and
- (b) register new indefeasible titles in the name of the leasehold landlord for each of the strata lots shown on the plan.

Conversion of ground lease

203 (1) The deposit of the leasehold strata plan operates as a conversion of the ground lease into individual leases of the leasehold landlord's interest in

each strata lot, including its share in the common property,

(a) in the form of the model strata lot lease attached to the ground lease, and

(b) granted to the owner developer by the leasehold landlord.

(2) The conversion of the ground lease does not affect the obligations of the owner developer and the leasehold landlord under the ground lease.

Signature of leasehold landlord not required

204 The signature of the leasehold landlord is not required for an assignment of a strata lot lease by the owner developer, unless the ground lease provides otherwise.

Obligations under strata lot lease

205 A leasehold tenant

(a) is conclusively deemed to have agreed with the leasehold landlord to observe the terms and conditions contained in the strata lot lease, and

(b) despite any agreement to the contrary, is not bound by anything contained in the ground lease that is not also contained in the strata lot lease.

Restrictions on lease, assignment or occupancy of strata lot

206 (1) The leasehold landlord may impose restrictions on the lease, assignment or occupancy of the strata lots included in a leasehold strata plan.

(2) A restriction

(a) has no effect unless it is set out in a schedule of restrictions and filed in the land title office at the time the strata plan is deposited, and

(b) comes into effect on the registration of the plan.

(3) When a restriction is filed in accordance with subsection (2), it binds the strata corporation and the leasehold tenant to the same extent as if the schedule of restrictions contained binding agreements on the part of the strata corporation and the leasehold tenant with the leasehold landlord and with every other leasehold tenant to comply in all respects with that schedule.

Change to restrictions

207 (1) Subject to subsection (3), a leasehold landlord may, on its own or on application by the strata corporation approved by a resolution passed by a 3/4 vote at an annual or special general meeting, add to, alter or repeal any of the restrictions referred to in section 206.

(2) The amended schedule of restrictions has no effect until filed in a land title office.

(3) A leasehold landlord, other than the government of British Columbia, may amend the schedule of restrictions only with the approval of the Lieutenant Governor in Council.

(4) The amendment of the restrictions on occupancy of a strata lot does not affect persons who were leasehold tenants immediately before the amendment, but affects persons who become leasehold tenants as a result of the sublease or assignment of the strata lot lease after the amendment.

Duties of strata corporation

- 208** (1) On request of the leasehold landlord, the strata corporation must
- (a) perform its duties under this Act,
 - (b) obtain and maintain insurance and pay premiums on behalf of the leasehold tenants to the extent that the leasehold tenants are required to do so under their strata lot leases,
 - (c) repair and maintain the common property and common assets of the strata corporation on behalf of the leasehold tenants to the extent and standard that the leasehold tenants are required to do so under their strata lot leases, and
 - (d) require, to the extent that the leasehold tenants are required to do so under their strata lot leases, the leasehold tenants to comply with the following:
 - (i) the bylaws and rules;
 - (ii) this Act, the regulations or any other enactment or law;
 - (iii) any restrictions imposed by the leasehold landlord under sections 206 and 207.
- (2) On application by the leasehold landlord, the Supreme Court may order the strata corporation to comply with a request made under subsection (1).
- (3) The strata corporation is conclusively deemed to have a bylaw that requires the leasehold tenants to comply with the requirements of their strata lot leases that are referred to in this section.

Leasehold landlord's remedies on leasehold tenant's default

- 209** (1) Despite any agreement or enactment to the contrary, the leasehold landlord is not entitled to reenter and take possession of the strata lot or terminate the strata lot lease on a leasehold tenant's default in performing obligations under the strata lot lease, but may apply to the Supreme Court for an order for sale of the leasehold tenant's interest in the strata lot.
- (2) On an application for sale, the court may
- (a) declare that the leasehold tenant failed to observe and perform obligations under the strata lot lease, and specify the nature of the default, and
 - (b) order that, if the default is not corrected within the time period required by the order, the leasehold landlord may sell the leasehold tenant's interest in the strata lot at a price and on terms to be approved by the court.
- (3) On an application for an order for sale or for approval of a sale, the court may, by order, give directions it considers necessary for the distribution of the proceeds and the delivery of possession.

Renewal of strata lot lease

- 210** (1) A strata lot lease may be renewed at the option of the leasehold landlord.
- (2) A renewal of a strata lot lease must be for a term of at least 5 years.
- (3) The leasehold landlord must, at least one year before the expiry of the strata lot lease, give notice in writing to the leasehold tenant that the leasehold landlord has elected
- (a) to renew the strata lot lease for the renewal term specified in the

notice, or

(b) not to renew the strata lot lease.

(4) If the notice is not given under subsection (3), the leasehold landlord must renew the strata lot lease for a term of 5 years.

(5) If the election is not to renew, the leasehold landlord must purchase the leasehold tenant's interest in the strata lot under section 214.

Renewal terms

211 (1) A renewal of a strata lot lease must be on the same terms as the current strata lot lease, except that the term of the strata lot lease and the rent may be changed.

(2) The rent must be that share of the current market rental value of the land included in the strata plan, excluding all buildings and improvements, apportioned to the strata lot in the proportion that the most recent assessed value of the strata lot bears to the total of the most recent assessed values of all the strata lots included in the leasehold strata plan.

(3) Agreement on the rent for the renewal period must be reached by the beginning of the renewal period unless expressly provided otherwise in the strata lot lease, or agreed to in writing between the leasehold landlord and the leasehold tenant.

(4) Despite section 175, if agreement on the rent is not reached under subsection (3) of this section, the rent must be determined by arbitration under the *Commercial Arbitration Act*.

Renewal of fewer than 2/3 of strata lot leases

212 An election to grant renewals to fewer than 2/3 of the strata lot leases in the leasehold strata plan is ineffective unless before delivery of the notices under section 210 (3)

(a) the leasehold landlord gives to each leasehold tenant a written notice specifying the strata lot leases that will not be renewed and the strata lot leases that will be renewed, and

(b) each of the leasehold tenants whose strata lot leases are to be renewed consents in writing to fewer than 2/3 of the strata lot leases being renewed.

Destruction of buildings

213 (1) If the buildings that are part of the leasehold strata plan are destroyed or damaged by more than 1/3 of their fair market value, the leasehold tenants may elect not to rebuild by a resolution passed by a 3/4 vote at an annual or special general meeting.

(2) When the leasehold tenants pass the resolution referred to in subsection (1), all the strata lot leases terminate and the leasehold landlord must purchase each leasehold tenant's interest in the strata lot in accordance with section 214.

Purchase of leasehold tenant's interest on termination

214 (1) The leasehold landlord must purchase a leasehold tenant's interest in the strata lot on the termination of the strata lot lease.

(2) The purchase price must be arrived at as of the date the strata lot lease terminates and must be,

- (a) if a basis for calculating the purchase price was set out in the strata lot lease or in a schedule filed with the leasehold strata plan, the price calculated on that basis, or
 - (b) if a basis for calculating the purchase price was not set out in the strata lot lease or a schedule, the fair market value of the leasehold tenant's interest in the strata lot evaluated, in accordance with the regulations, as if the strata lot lease did not expire.
- (3) The leasehold landlord may change the basis for calculating the purchase price of the strata lots set out in a schedule if
- (a) the leasehold tenants consent to the change by a resolution passed by a unanimous vote at an annual or special general meeting, and
 - (b) an amended schedule is filed in the land title office, accompanied by a Certificate of Strata Corporation in the prescribed form, stating that the resolution referred to in paragraph (a) has been passed and that the amended schedule conforms to the resolution.
- (4) Unless expressly provided otherwise in the strata lot lease or agreed to in writing by the leasehold landlord and the leasehold tenant, the purchase price under subsection (2) (b) must be determined, despite section 175, by arbitration under the *Commercial Arbitration Act* if the leasehold landlord and the leasehold tenant have failed to agree on the purchase price by 30 days before the date the strata lot lease expires, or 30 days after the date of a termination under section 213 (2).
- (5) The leasehold landlord must purchase the leasehold tenant's interest in the strata lot within 30 days after the earlier of
- (a) the date the purchase price is agreed to, and
 - (b) the date the purchase price is determined by arbitration referred to in subsection (4).

Cancellation of strata plan

215 (1) On termination of all of the strata lot leases, the leasehold strata plan must be cancelled and the strata corporation must be wound up in accordance with Part 16.

(2) A leasehold strata plan may only be cancelled and the strata corporation wound up on termination of all the strata lot leases.

Conversion to freehold strata plan

216 (1) When the leasehold landlord transfers the fee simple estate in each of the strata lots included in a ground lease to each of the leasehold tenants and the registrar registers each leasehold tenant as the fee simple owner of their strata lot described in the strata lot lease,

- (a) the strata plan continues as a strata plan and the land shown on the strata plan is not subject to a ground lease,
- (b) the strata corporation continues as if it were originally created by deposit of a strata plan that was not a leasehold strata plan,
- (c) the strata lot lease ceases to exist and the leasehold tenant and the leasehold tenant's successors in interest cease to be liable for the performance of obligations in the strata lot lease, and
- (d) any charge in existence against the leasehold tenant's interest immediately before the registration of the fee simple becomes a charge

against the fee simple estate acquired by the leasehold tenant, and, if the charge was registered, the registrar must register it against the fee simple title.

(2) The registrar may register the fee simple title in the strata lot only if the registrar has

- (a) received a similar application for registration in respect of all leasehold strata lots included in the leasehold strata plan, and
- (b) determined that all the applications are registrable.

Part 13 — Phased Strata Plans

Definition

217 In this Part, "**common facility**" means a major facility in a phased strata plan, including a laundry room, playground, swimming pool, recreation centre, clubhouse or tennis court, if the facility is available for the use of the owners.

Act applies to phased strata plan

218 (1) Subject to the regulations, the provisions of this Act apply to a phased strata plan.

(2) If there is a conflict between a provision of this Part and a provision of another Part, the provision of this Part prevails.

Owner developer in phased strata plan

219 For the purposes of this Part, an owner developer includes a person named as an applicant in a Phased Strata Plan Declaration.

Transfer of owner developer's interest

220 If an owner developer transfers the owner developer's interest in land described in a Phased Strata Plan Declaration, the owner developer's rights and responsibilities under the declaration and this Act transfer to the new owner developer.

Deposit of phased strata plan in land title office

221 (1) The registrar may only accept a phase of a phased strata plan for deposit if

- (a) a Phased Strata Plan Declaration in the prescribed form, approved by an approving officer in accordance with section 222, is filed with the first phase,
- (b) each phase is approved by an approving officer in accordance with section 224, and in accordance with section 225 if required,
- (c) the boundaries of each phase are clearly identified, and
- (d) each phase, when deposited, complies with sections 240, 244 and 245.

(2) Phases in a phased strata plan must be deposited in the order in which the phases are set out in the Phased Strata Plan Declaration.

(3) The unit entitlement of strata lots in all of the phases must be calculated in accordance with section 246 using the same basis for calculations for all of the phases.

(4) On the deposit of any phase of a phased strata plan other than the final phase, the registrar may make a notation of the Phased Strata Plan Declaration on the title to every strata lot created by the plan and on the title to the remainder parcel.

(5) On the deposit of the final phase of a phased strata plan, the registrar may remove the notations made under subsection (4).

Approval of Phased Strata Plan Declaration

222 (1) Before a person applies to deposit the first phase of a phased strata plan, the person must obtain the approval of an approving officer to a Phased Strata Plan Declaration in the prescribed form.

(2) The approval of the approving officer referred to in subsection (1) expires after one year unless the first phase is deposited before that time.

Security for common facilities

223 (1) If common facilities are to be constructed in a phase other than the first phase, or constructed on a separate parcel, an approving officer may only approve the Phased Strata Plan Declaration if the owner developer

(a) posts a bond, an irrevocable letter of credit or other security in an amount that, in the opinion of the approving officer, is sufficient to cover the full cost of constructing the common facility, including the cost of the land, or

(b) makes other arrangements, satisfactory to the approving officer, to ensure the completion of the common facility.

(2) The bond, irrevocable letter of credit or other security required under subsection (1) (a) must be drawn in favour of, and must be held by,

(a) the municipality in which the land is located,

(b) the regional district in which the land is located if the land is not located in a municipality and is not Nisga'a Lands,

(c) the Nisga'a Village if the land is located within Nisga'a Village Lands, or

(d) the Nisga'a Nation if the land is Nisga'a Lands other than Nisga'a Village Lands.

(3) If the owner developer complies with subsections (1) and (2), the approving officer may not require any further security for common facilities as a condition for approving the declaration.

Approval of phase

224 (1) Before the owner developer applies to deposit a phase of a phased strata plan, the owner developer must obtain the approval of an approving officer to that phase.

(2) The approving officer must approve a phase of a phased strata plan if it substantially complies with the requirements for that phase as set out in the Phased Strata Plan Declaration.

(3) If the approving officer approves a phase of the phased strata plan, the approving officer must endorse the approval on the plan in accordance with the regulations.

Approving officer's approval for common facilities

225 (1) If a common facility is to be constructed in conjunction with a phase of a strata plan, the phase must be approved by an approving officer in accordance with the regulations.

(2) The approving officer must approve the phase if

(a) the owner developer fulfills the requirements of section 223, or

(b) the common facility is at least 50% completed, as verified by the certificate of a registered architect or professional engineer.

Release of security

226 (1) Security provided under section 223 must be released if any of the following requirements are met:

(a) the common facility is substantially completed, as verified by the

- certificate of a registered architect or professional engineer;
- (b) after a council is elected, the strata corporation and the owner developer enter into an agreement for the completion of the common facilities and the release of the security is authorized by a resolution passed by a 3/4 vote at an annual or special general meeting;
- (c) the Supreme Court orders the release under subsection (4);
- (d) the Supreme Court makes an order under subsection (5) or under section 233 (6) or 235 (6) for the provision of the common facilities.

- (2) For the purpose of the 3/4 vote referred to in subsection (1) (b), the owner developer is not an eligible voter.
- (3) Security provided under section 223 must not be released unless one of the requirements in subsection (1) of this section has been met.
- (4) If the municipality, regional district, Nisga'a Village or Nisga'a Nation refuses to release the security, the owner developer may apply to the Supreme Court for an order that it be released.
- (5) After deposit of the first phase, if a common facility is not substantially completed within the time for completion set out in the Phased Strata Plan Declaration, the strata corporation or an owner may apply to the Supreme Court for one or both of the following orders:
 - (a) that the owner developer complete whatever common facilities the court considers equitable;
 - (b) that some or all of the security provided for the common facilities be paid as provided by the court.

Owner developer's contribution to expenses

227 (1) Subject to sections 233 (2) and 235 (3), until all phases of a phased strata plan have been deposited, the owner developer must contribute to the expenses of the strata corporation that are attributable to the common facilities.

(2) Subject to the regulations, the owner developer's share of the expenses under subsection (1) is calculated as follows:

$$\frac{\text{unit entitlement of strata lots in phases not deposited}}{\text{unit entitlement of strata lots in all phases whether deposited or not}} \times \text{expenses attributable to the common facilities}$$

(3) For the purposes of subsection (2), the unit entitlement of strata lots in the phases not deposited is as set out in the Phased Strata Plan Declaration.

Effect of deposit of phase

228 (1) When a phase of a phased strata plan is deposited,

- (a) the land in the phase is subdivided from the rest of the parcel or parcels referred to in section 240 and is consolidated with the land in any previously deposited strata plan of the same development,
- (b) despite sections 269 to 271, the strata corporation established by the deposit of the phase is amalgamated with the strata corporation established by the deposit of the strata plan for the first phase, and
- (c) the owners of the strata lots in the phase are members of the strata corporation established by the deposit of the strata plan for the first

phase.

(2) The provisions of Part 3 apply to the new phase to the extent set out in the regulations.

Notification of deposit of subsequent phase

229 The owner developer must immediately notify the strata corporation of the deposit of a phase other than the first phase of a phased strata plan.

Annual general meeting after deposit of subsequent phase

230 Subject to the regulations, if a phase other than the first phase of a phased strata plan is deposited, the strata corporation must hold an annual general meeting during the 6 week period that begins on the earlier of

(a) the date on which 50% plus one of the strata lots in the new phase have been conveyed to purchasers, and

(b) the date that is 6 months after the deposit of the new phase.

Deemed election to proceed

231 On the date contained in the Phased Strata Plan Declaration for the election to proceed with a phase, the owner developer is conclusively deemed to have elected to proceed with that phase as set out in the declaration unless

(a) an amendment to the declaration has been approved in accordance with section 232 or 233, or

(b) an election not to proceed has been made and filed under section 235.

Amendment of declaration to extend time for election

232 (1) An owner developer who wishes to amend a Phased Strata Plan Declaration to extend the time for making an election to proceed with the next phase must apply to an approving officer for an amendment extending the time in which to make the election.

(2) The approving officer must not allow a declaration to be amended to extend the time for the election

(a) more than once, or

(b) for more than one year from the date stated in the declaration, except in accordance with a court order under subsection (3).

(3) On application of an owner developer, the Supreme Court may order an approving officer to grant the extension of time requested.

Other amendments to declaration

233 (1) An owner developer who wishes to amend a Phased Strata Plan Declaration, other than by extending the time for an election under section 232, must apply to an approving officer for approval of the amendment.

(2) Unless otherwise agreed between the owner developer and the strata corporation, if the owner developer amends the declaration to reduce the unit entitlement of a subsequent phase, the approving officer may require the owner developer to contribute to the expenses of the strata corporation that are attributable to the common facilities as if the unit entitlement in the subsequent phase had not been reduced.

(3) Subsection (2) applies only if

- (a) common facilities have been constructed in the existing phases, or
- (b) the strata corporation has become contractually obligated to contribute toward the operating costs of common facilities on a separate parcel.

(4) On application by the strata corporation, the Supreme Court may order that the owner developer pay money, post a bond, provide a letter of credit or provide other security for the owner developer's share of the expenses of the strata corporation under subsection (2).

(5) On application by the strata corporation, the Supreme Court may determine whether the amendment to the Phased Strata Plan Declaration significantly alters the common facilities to be built in a subsequent phase in a way that is unfair to the strata corporation.

(6) If the court determines that the amendment is a significant and unfair alteration, the court may make one or both of the following orders:

- (a) that the owner developer complete whatever common facilities the court considers equitable;
- (b) that some or all of the security provided for the common facilities be paid as provided by the court.

(7) An agreement referred to in subsection (2) must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, and for the purposes of that 3/4 vote, the owner developer is not an eligible voter.

Matters that apply to amendment of declaration

234 (1) The owner developer must give the strata corporation written notice of an application under section 232 or 233.

(2) The strata corporation has 30 days from receipt of the notice referred to in subsection (1) to make written representations to the approving officer.

(3) The strata corporation may, by written notice to the approving officer, waive its right to make written representations to the approving officer.

(4) The approving officer, after considering the representations, if any, of the owner developer and the strata corporation, may approve the extension or amendment with or without changes or may refuse to approve the extension or amendment.

(5) If an amendment, including an extension of the time in which to make an election, is approved, the owner developer must deposit an amended Phased Strata Plan Declaration with the registrar.

Election not to proceed

235 (1) An owner developer who elects not to proceed with the next phase must, before the time set in the Phased Strata Plan Declaration for the election to proceed,

- (a) give written notice of the election not to proceed to the strata corporation and the approving officer, and
- (b) file with the registrar a notice of the election not to proceed, together with a reference plan, in accordance with section 100 (1) (a) of the *Land Title Act*, of the remainder parcel.

(2) On receipt of the notice of the election not to proceed, the registrar must remove the Phased Strata Plan Declaration notation from the title to the

strata lots and from the title to the remainder parcel.

(3) Unless otherwise agreed between the owner developer and the strata corporation, if an owner developer elects not to proceed, the Supreme Court may order, on application of the owner developer or the strata corporation made within 2 years of the receipt of notice under subsection (1) (a), that the owner developer

(a) contribute to the expenses of the strata corporation that are attributable to the common facilities as if the owner developer had elected to proceed, and

(b) pay money, post a bond, provide a letter of credit or provide other security for the owner developer's share of the expenses of the strata corporation under paragraph (a).

(4) Subsection (3) applies only if

(a) common facilities have been constructed in the existing phases, or

(b) the strata corporation has become contractually obligated to contribute toward the operating costs of common facilities on a separate parcel.

(5) On application by the strata corporation, the Supreme Court may determine whether the owner developer's election not to proceed is unfair to the strata corporation.

(6) If the court determines that the election is unfair, the court may make one or both of the following orders:

(a) that the owner developer complete whatever common facilities the court considers equitable;

(b) that some or all of the security provided for the common facilities be paid as provided by the court.

(7) An agreement referred to in subsection (3) must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, and for the purposes of that 3/4 vote, the owner developer is not an eligible voter.

Delay in proceeding

236 (1) On application by the strata corporation, the Supreme Court may order that the owner developer complete a phase by a set date if

(a) the owner developer has elected to proceed, or is deemed to have elected to proceed under section 231, and

(b) the court is satisfied that the owner developer has not proceeded with the phase

(i) within a reasonable time after the date stated in the Phased Strata Plan Declaration or an amended declaration, or

(ii) at a reasonable speed.

(2) If the owner developer does not comply with the court order under subsection (1), the court may declare that the owner developer be deemed to have elected not to proceed.

Development after election not to proceed requires approval

237 (1) Subject to subsection (2), if the owner developer elects not to proceed with a subsequent phase, land that would have been a part of the subsequent phase may only be developed in accordance with the applicable

municipal or regional district bylaws or applicable Nisga'a Government laws relating to that parcel as a separate parcel.

(2) In approving the development of land referred to in subsection (1), the municipality, regional district, Nisga'a Village or Nisga'a Nation may

(a) take into consideration the development already constructed in earlier phases, and

(b) treat the development of the subsequent phase as if it were a part of the phased development rather than a separate parcel.

Building permit

238 (1) An application for a building permit for a phase in a phased strata plan must include the common facilities for the phase as set out in the Phased Strata Plan Declaration.

(2) Parcels in a phased strata plan that will be consolidated under section 228 (1) (a) on the deposit of a phase are deemed to be consolidated for the purpose of enabling a building inspector to issue a building permit in respect of a building.

Part 14 — Land Titles

Effect of deposit of strata plan

239 (1) Land may be subdivided into 2 or more strata lots by the deposit of a strata plan in a land title office.

(2) The strata lots created by the deposit of a strata plan may, subject to this Act, devolve or be disposed of in the same manner and form as any land the title to which is registered in a land title office.

(3) Despite any other provision of this Act, a strata lot may not be subdivided by the deposit of a strata plan that, under section 2, would establish a strata corporation.

Title requirements for deposit of strata plan

240 Title to the land shown on the strata plan must be registered in the name of the person applying to deposit the plan, and the land shown on the strata plan must be shown as

- (a) a single parcel on a subdivision plan, reference plan or air space plan deposited in a land title office,
- (b) separate parcels, if the parcels are separated only by a highway, dike, stream or right of way,
- (c) separate parcels that share a common boundary, if the parcels form part of a phased strata plan as set out in a Phased Strata Plan Declaration in the prescribed form, or
- (d) separate parcels separated by land not owned by the person applying to deposit the strata plan, if an approving officer is satisfied that the strata plan would result in a viable development of benefit to the community.

Endorsement of nonoccupancy

241 (1) If a strata plan includes a building that has not been previously occupied, the plan must be endorsed by a British Columbia land surveyor certifying that the building has not been previously occupied.

(2) The endorsement must be dated not more than 180 days before the date the strata plan is tendered for deposit.

Approval for conversion of previously occupied buildings

242 (1) For the purposes of this section, "**approving authority**" means

- (a) the municipal council of the municipality if the land is located in a municipality,
- (b) the regional board of the regional district if the land is located in a regional district but not in a municipality and is not Nisga'a Lands,
- (c) the Nisga'a Village Government if the land is located within Nisga'a Village Lands, or
- (d) the Nisga'a Lisims Government if the land is Nisga'a Lands other than Nisga'a Village Lands.

(2) If a person applying to deposit a strata plan wishes to include in the strata plan a previously occupied building, the person must submit the proposed strata plan to the approving authority.

(3) The approving authority may

- (a) approve the strata plan, or approve the strata plan subject to terms

and conditions, or

(b) refuse to approve the strata plan, or refuse to approve the strata plan until terms and conditions imposed by the approving authority are met.

(4) The decision of the approving authority under subsection (3) is final and may not be appealed.

(5) The approving authority must not approve the strata plan unless the building substantially complies with the following:

(a) the applicable bylaws of the municipality or regional district;

(b) applicable Nisga'a Government laws;

(c) the British Columbia Building Code referred to in the Building Regulations of British Columbia.

(6) In making its decision, the approving authority must consider

(a) the priority of rental accommodation over privately owned housing in the area,

(b) any proposals for the relocation of persons occupying a residential building,

(c) the life expectancy of the building,

(d) projected major increases in maintenance costs due to the condition of the building, and

(e) any other matters that, in its opinion, are relevant.

(7) If the approving authority approves the strata plan without terms and conditions, an authorized signatory of the approving authority must endorse the plan in accordance with the regulations.

(8) If the approving authority approves the strata plan subject to terms and conditions, an authorized signatory of the approving authority must endorse the plan in accordance with the regulations once the terms and conditions have been met.

(9) The endorsement must be dated not more than 180 days before the date the strata plan is tendered for deposit.

(10) The approving authority may, by resolution, with respect to a specified type of previously occupied building,

(a) delegate to an approving officer or other person designated in the resolution the exercise of the powers and performance of the duties of the approving authority under this section, and

(b) impose limits or conditions on the exercise of the powers and performance of the duties delegated by the resolution.

(11) This section does not apply to a strata plan that includes a previously occupied building if the person applying to deposit the strata plan is the government or the Crown in right of Canada.

Approval of bare land strata plan

243 (1) Before a person applies to deposit a bare land strata plan, the person must obtain the approval of an approving officer.

(2) If the approving officer approves the bare land strata plan, the approving officer must endorse the approval on the bare land strata plan in accordance with the regulations.

(3) An approving officer must not approve a bare land strata plan unless it

complies with the regulations.

Strata plan requirements

244 (1) A strata plan must

- (a) show the boundaries of the land included in the strata plan and, except in the case of a strata lot in a bare land strata plan, show the location of the buildings,
- (b) contain a description sufficient for the registrar to identify the title to the land included in the strata plan,
- (c) show the boundaries of the strata lots in accordance with section 68, and distinguish the strata lots by numbers or letters in consecutive order,
- (d) show the area in square metres of each strata lot, including the areas and spaces referred to in subsection (2), if they are part of a strata lot,
- (e) comply with rules, if any, made under section 75 of the *Land Surveyors Act* for the purposes of this section,
- (f) be endorsed by a British Columbia land surveyor with an endorsement that
 - (i) buildings shown on the strata plan are within the external boundaries of the land that is the subject of the strata plan, or
 - (ii) appropriate and necessary easements or other interests exist to provide for access to any parts of the building that are not within the boundaries,
- (g) be signed by
 - (i) the person applying to deposit the plan under section 240, and
 - (ii) each holder of a registered charge on all or part of the land included in the strata plan,unless, in the registrar's opinion, the interests of persons who have not signed are not adversely affected by the deposit of the plan,
- (h) be endorsed by an approving officer
 - (i) if it is a phased strata plan, under sections 224 and 225,
 - (ii) if it is a bare land strata plan, under section 243, or
 - (iii) if it is both a phased strata plan and a bare land strata plan, under sections 224, 225 and 243.
- (i) in the case of a strata plan that includes a building,
 - (i) be endorsed by a British Columbia land surveyor under section 241 if the building has not been previously occupied, or
 - (ii) be endorsed by an authorized signatory of an approving authority under section 242 if the building has been previously occupied, and
- (j) contain anything that is required by the regulations.

(2) Parking stalls, garage areas, storage areas and similar areas or spaces intended to be used in conjunction with a residential strata lot must not be designated as separate strata lots but must be included as part of a strata lot or as part of the common property.

Strata plans: accompanying documents

245 A strata plan tendered for deposit in a land title office must be

accompanied by

- (a) a Schedule of Unit Entitlement in the prescribed form that complies with section 246, and
 - (i) if the unit entitlement has been calculated in accordance with section 246 (3) (a) (i) or (b) (i), a certificate of a British Columbia land surveyor that states that the schedule reflects the habitable area of residential strata lots and the total area of nonresidential strata lots, or
 - (ii) evidence of the superintendent's approval if required under section 246,
- (b) if voting rights are set out in a schedule, a Schedule of Voting Rights in the prescribed form that complies with section 247 or 248, together with evidence of the superintendent's approval if the approval is required,
- (c) the mailing address of the strata corporation as required by section 62 (1),
- (d) any bylaws that differ in any respect from the Standard Bylaws, and
- (e) the number of copies of the plan required by the registrar.

Schedule of Unit Entitlement

246 (1) The person applying to deposit a strata plan must establish the unit entitlement of a strata lot in accordance with subsection (3).

(2) The person applying to deposit a strata plan must indicate the unit entitlement of each strata lot in a Schedule of Unit Entitlement in the prescribed form.

(3) The unit entitlement of a strata lot, other than a strata lot in a bare land strata plan, must be calculated as follows:

- (a) if the strata lot is a residential strata lot, the unit entitlement is either
 - (i) the habitable area, in square metres, of the strata lot, as determined by a British Columbia land surveyor, rounded to the nearest whole number,
 - (ii) a whole number that is the same for all of the residential strata lots, or
 - (iii) a number that is approved by the superintendent and that in the superintendent's opinion allocates a fair portion of the common expenses to the owner of the strata lot;
- (b) if the strata lot is a nonresidential strata lot, the unit entitlement is either
 - (i) the total area, in square metres, of the strata lot, as determined by a British Columbia land surveyor, rounded to the nearest whole number,
 - (ii) a whole number that is the same for all of the nonresidential strata lots, or
 - (iii) a number that is approved by the superintendent and that in the superintendent's opinion allocates a fair portion of the common expenses to the owner of the strata lot.

(4) For the purposes of subsection (3), "habitable area" has the meaning set out in the regulations.

- (5) If the strata plan consists of both residential and nonresidential strata lots, the Schedule of Unit Entitlement must be approved by the superintendent as fairly distributing the common expenses between the owners of the residential strata lots and the owners of the nonresidential strata lots.
- (6) The unit entitlement of a strata lot in a bare land strata plan must be
- (a) a whole number that is the same for all of the strata lots in the strata plan, or
 - (b) a number that is approved by the superintendent and that in the superintendent's opinion allocates a fair portion of the common expenses to the owner of the strata lot.
- (7) Subject to the regulations, an owner or the strata corporation may apply to the Supreme Court for an order under subsection (8) if
- (a) the unit entitlement of a residential strata lot is calculated on the basis of habitable area in accordance with subsection (3) (a) (i) or on the basis of square footage in accordance with section 1 of the *Condominium Act*, R.S.B.C. 1996, c. 64, and
 - (b) the actual habitable area or square footage is not accurately reflected in the unit entitlement of the strata lot as shown on the Schedule of Unit Entitlement.
- (8) On application under subsection (7) and after consideration of the matters set out in the regulations, the Supreme Court may
- (a) order that a Schedule of Unit Entitlement be amended, in accordance with the regulations, to accurately reflect the habitable area or square footage of a strata lot, and
 - (b) make any other orders it considers necessary to give effect to an order under this subsection.

Schedule of Voting Rights not approved by superintendent

247 (1) If a strata plan has at least one nonresidential strata lot, the person applying to deposit the strata plan may establish a Schedule of Voting Rights in the prescribed form that sets out the number of votes per strata lot.

(2) In the Schedule of Voting Rights

- (a) if a strata plan is composed of both residential and nonresidential strata lots,
 - (i) all residential strata lots must have one vote each, and
 - (ii) the number of votes for each nonresidential strata lot must be calculated as follows:

unit entitlement of nonresidential strata lot

average unit entitlement of residential strata lots

where the average unit entitlement of residential strata lots equals the total unit entitlement of all residential strata lots divided by the total number of residential strata lots, or

- (b) if a strata plan is composed entirely of nonresidential strata lots, the number of votes for each strata lot must be calculated as follows:

unit entitlement of strata lot

total unit entitlement of all
strata lots

Schedule of Voting Rights approved by superintendent

248 (1) If a strata plan has at least one nonresidential strata lot, the person applying to deposit the strata plan may submit to the superintendent for approval a Schedule of Voting Rights in the prescribed form that sets out the number of votes per strata lot in a way that is different from the requirements of section 247.

(2) The superintendent must approve the Schedule of Voting Rights if satisfied that it establishes a fair distribution of votes among owners.

Registrar must deposit

249 (1) The registrar must deposit a strata plan if satisfied that the application to deposit the strata plan and any accompanying documents comply with the requirements for deposit and registration in the *Land Title Act* and this Act, and any other applicable requirements.

(2) On deposit of a strata plan the registrar must assign to the strata plan a serial deposit number and register new indefeasible titles for the strata lots.

(3) For the purposes of this Act, and despite sections 261 (2), 267 and 270, the registrar is under no duty to ensure that a Schedule of Unit Entitlement or Schedule of Voting Rights complies with the requirements of this Act or the regulations, requires the approval of the superintendent or has been approved by the superintendent.

General index

250 (1) On the deposit of a strata plan, the registrar must establish a general index for the strata corporation.

(2) The registrar must make an endorsement of all of the following in the general index:

- (a) the Schedule of Unit Entitlement referred to in section 245 (a);
- (b) the Schedule of Voting Rights, if any, referred to in section 245 (b);
- (c) the mailing address, and any fax number, of the strata corporation filed under section 62 or 245 (c);
- (d) the bylaws referred to in section 245 (d);
- (e) any amendments to the bylaws;
- (f) any amalgamation agreements under section 269;
- (g) any order of the registrar under section 275 or of the Supreme Court under section 279;
- (h) any resolutions and accompanying documents that are required to be filed in the land title office under this Act;
- (i) any other document relating to the strata corporation that is required to be filed in the land title office and that is not noted or endorsed elsewhere in the records of the land title office.

(3) If a document is required under this Act to be filed in the land title office, the filing is complete when an endorsement of the document is made in the general index.

Common property

251 (1) The registrar must include on each indefeasible title for a strata lot a

reference to the owner's share in the common property created by the strata plan.

(2) An owner must not deal with the owner's share in the common property and common assets of the strata corporation separately from the owner's strata lot except as expressly allowed by this Act.

(3) A document that deals with a strata lot deals also, without express reference, with the share of the owner in the common property and common assets of the strata corporation.

Common property record

252 (1) On the deposit of a strata plan, the registrar must establish a common property record for the strata corporation.

(2) The common property record in subsection (1) forms part of the register.

(3) Despite any other provision of this Act or the *Land Title Act*, the registrar must note on the common property record a charge or other interest that separately charges the common property.

Subdivision of common property

253 (1) A disposition of common property by way of any of the following is a subdivision of land and Part 7 of the *Land Title Act* applies to that subdivision:

- (a) a transfer of a freehold estate;
- (b) a lease for a term exceeding 3 years;
- (c) an interest that confers or may confer a right to acquire a freehold estate or a lease exceeding 3 years.

(2) Unless a contrary intention is shown, the signatures required under section 97 of the *Land Title Act* operate as a release of the interests of owners and registered charge holders in the common property to be subdivided, but do not operate to release a charge or interest that exclusively affects that common property.

(3) Despite the *Land Title Act*, the registrar may permit the signatures required under section 97 of that Act to appear on an accompanying instrument.

(4) When common property is subdivided, it ceases to be common property and becomes land held in the name of or on behalf of the strata corporation but not shown on the strata plan.

Certificate of Strata Corporation

254 A Certificate of Strata Corporation delivered to the land title office is, as far as the registrar is concerned, conclusive evidence of the facts stated in the certificate.

Acquisition of land

255 If the strata corporation acquires land, the following words must be used to describe the transferees: "The Owners, Strata Plan [*the registration number of the strata plan*], a strata corporation under the *Strata Property Act*".

Certificate of Payment required

256 (1) The registrar must not accept any of the following for registration unless it is accompanied by a current Certificate of Payment in the

prescribed form referred to in section 115 or, in the case of an electronic application for registration, unless it is accompanied by an electronic declaration under section 168.41 of the *Land Title Act*:

- (a) a lease of a strata lot;
 - (b) an assignment of a lease of a strata lot;
 - (c) an agreement for sale of a strata lot;
 - (d) a conveyance of title to a strata lot.
- (2) The registrar is not required to retain the certificate.

Part 15 — Strata Plan Amendment and Amalgamation

Division 1 — Strata Plan Amendment

Amending strata plan to designate limited common property

257 To amend a strata plan to designate limited common property, or to amend a strata plan to remove a designation of limited common property made by the owner developer at the time the strata plan was deposited or by amendment of the strata plan, the strata plan must be amended as follows:

- (a) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;
- (b) an application to amend the strata plan must be made to the registrar accompanied by
 - (i) a reference or explanatory plan, whichever the registrar requires, that
 - (A) shows the amendment, and
 - (B) is in a form required under the *Land Title Act* for a reference or explanatory plan, and
 - (ii) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan conforms to the resolution.

Parking designated by owner developer as limited common property

258 (1) An owner developer may, at any time before the first annual general meeting of the strata corporation, amend the strata plan to designate parking stalls as limited common property for the exclusive use of owners of strata lots in the strata plan.

(2) In designating parking stalls under subsection (1), the owner developer acts as the council and must

- (a) act honestly and in good faith with a view to the best interests of the strata corporation, and
- (b) exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

(3) An owner developer may, at any time before the first annual general meeting of the strata corporation, amend the strata plan to designate a maximum of 2 extra parking stalls as limited common property for the exclusive use of the owners of each strata lot in the strata plan.

(4) In this section, "**extra parking stalls**" means any parking stalls, on land shown on the strata plan as set aside for parking, that are in addition to the

total number of parking stalls calculated by adding

(a) one stall per strata lot, or any greater number of stalls required by an applicable municipal bylaw, Nisga'a Government law or other enactment, plus

(b) one stall per 10 strata lots for visitor parking or any greater number of visitor parking stalls required by an applicable municipal bylaw, Nisga'a Government law or other enactment.

(5) In designating extra parking stalls under subsection (3), the owner developer is not required to act with a view to the best interests of the strata corporation, but must act honestly and in good faith and exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

(6) A designation of parking stalls under subsection (1) or (3) does not require approval by a resolution at an annual or special general meeting.

(7) An application to amend the strata plan under this section must be made to the registrar accompanied by a reference or explanatory plan, whichever the registrar requires, that

(a) shows the amendment, and

(b) is in a form required under the *Land Title Act* for a reference or explanatory plan.

Amending strata plan to add to, consolidate or divide a strata lot

259 (1) Strata lots may not be consolidated unless

(a) they are owned by the same person, and

(b) the holders of registered charges against the strata lots have dealt, to the satisfaction of the registrar, with the issue of the priority of their interests as they will apply to the consolidated strata lot.

(2) If a strata lot being divided includes a building that was not shown on the strata plan at the time the strata plan was deposited, sections 241 and 242 apply.

(3) To divide a strata lot into 2 or more strata lots, to consolidate 2 or more strata lots or to add part of a strata lot to another strata lot, the strata plan must be amended as follows:

(a) subject to section 260, a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;

(b) an application to amend the strata plan must be made to the registrar accompanied by

(i) a subdivision, reference or explanatory plan, whichever the registrar requires, that

(A) shows the amendment,

(B) complies, as far as the registrar considers necessary, with sections 244 and 245, and

(C) is in a form required under the *Land Title Act* for a subdivision, reference or explanatory plan,

(ii) if a strata lot is being divided, a certificate signed by an approving officer indicating that the proposed amendment complies with any applicable municipal or regional district bylaws or

- applicable Nisga'a Government laws,
- (iii) if the amendment changes the unit entitlement of any strata lot, a new Schedule of Unit Entitlement that meets the requirements of section 264, together with evidence of the superintendent's approval,
 - (iv) if the amendment changes the voting rights of any strata lot, a Schedule of Voting Rights that meets the requirements of section 264, together with evidence of the superintendent's approval,
 - (v) if approval of the amendment is required, a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) or in section 260 (4) has been passed and that the subdivision, reference or explanatory plan and any new Schedule of Unit Entitlement or Schedule of Voting Rights conform to the resolution, and
 - (vi) any document required by the registrar to resolve the priority of interests of any holders of registered charges against the strata lots being altered.

(4) Despite any other provision of this Act, an amendment to a strata plan under this section may result in a residential strata lot having less than one or more than one vote.

(5) Despite any other provision of this Act, a strata plan may not be amended to divide a strata lot if the amendment would result in a strata plan consisting of bare land strata lots and strata lots that are not bare land strata lots.

Exceptions to requirement for unanimous vote

260 (1) Subject to subsection (4), an amendment to the strata plan to divide a strata lot into 2 or more strata lots does not require any strata corporation approval if

- (a) the combined unit entitlement of the 2 or more strata lots being created is the same as or less than the unit entitlement of the strata lot being divided,
- (b) the total number of votes of the 2 or more strata lots being created is the same as or less than the number of votes of the strata lot being divided, and
- (c) the amendment will not increase the share of the common expenses borne by a strata lot, other than the strata lot being divided.

(2) An amendment to the strata plan to consolidate 2 or more strata lots does not require any strata corporation approval if

- (a) the unit entitlement of the consolidated strata lot is the same as or less than the combined unit entitlement of the 2 or more strata lots being consolidated,
- (b) the total number of votes of the consolidated strata lot is the same as or less than the number of votes of the 2 or more strata lots being consolidated, and
- (c) the amendment will not increase the share of the common expenses borne by a strata lot, other than the strata lots being consolidated.

- (3) An amendment to the strata plan to add part of a strata lot to another strata lot does not require any strata corporation approval if
- (a) the total unit entitlement of the 2 strata lots after the amendment is the same as or less than the total unit entitlement of the strata lots before the amendment,
 - (b) the total number of votes of the 2 strata lots after the amendment is the same as or less than the total number of votes of the strata lots before the amendment, and
 - (c) the amendment will not increase the share of the common expenses borne by a strata lot, other than the strata lots being altered.
- (4) An amendment to the strata plan to divide a residential strata lot into 2 or more strata lots must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting.

Amending Schedule of Unit Entitlement

261 (1) To amend a Schedule of Unit Entitlement to reflect a change in the habitable area of a residential strata lot in a strata plan in which the unit entitlement of the strata lot is calculated on the basis of habitable area in accordance with section 246 (3) (a) (i) or on the basis of square footage in accordance with section 1 of the *Condominium Act*, R.S.B.C. 1996, c. 64, the schedule must be amended as follows:

- (a) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;
 - (b) an application to amend the schedule must be made to the registrar accompanied by
 - (i) a new Schedule of Unit Entitlement that meets the requirements of section 246, together with evidence of the superintendent's approval, and
 - (ii) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the Schedule of Unit Entitlement conforms to the resolution.
- (2) The registrar must, if satisfied that the application and accompanying documents to amend the Schedule of Unit Entitlement comply with the requirements of this Act and the regulations, file the Schedule of Unit Entitlement.

Amending strata plan to make land held by strata corporation into new strata lot

262 (1) Land that is held in the name of or on behalf of the strata corporation, but not shown on the strata plan, must not be added to a strata lot or used to create a new strata lot, unless

- (a) it shares a common boundary with land in the strata plan,
 - (b) it is separated only by a highway, dike, stream or right of way from land in the strata plan, or
 - (c) it is separated from the land in the strata plan, but the approving officer is satisfied that the amendment to the strata plan would result in a viable development of benefit to the community.
- (2) A strata lot in another strata plan may not be added to a strata lot or used

to create a new strata lot under this section.

(3) To add land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, to a strata lot or to create a new strata lot out of that land, the strata plan must be amended as follows:

- (a) subject to paragraph (b), a resolution approving the amendment must be passed by a 3/4 vote at an annual or special general meeting;
- (b) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting if
 - (i) the amendment will change the unit entitlement of a strata lot,
 - (ii) the amendment will decrease the relative voting power of a strata lot, other than the strata lot being added to or created, or
 - (iii) the amendment will increase the share of common expenses borne by a strata lot, other than the strata lot being added to or created;
- (c) an application to amend the strata plan must be made to the registrar accompanied by
 - (i) a reference or explanatory plan, whichever the registrar requires, that
 - (A) shows the amendment,
 - (B) complies, as far as the registrar considers necessary, with sections 244 and 245, and
 - (C) is in a form required under the *Land Title Act* for a reference or explanatory plan,
 - (ii) a certificate signed by an approving officer indicating that the proposed amendment complies with any applicable municipal or regional district bylaws or applicable Nisga'a Government laws,
 - (iii) if the amendment changes the unit entitlement of any strata lot, a new Schedule of Unit Entitlement that meets the requirements of section 264, together with evidence of the superintendent's approval,
 - (iv) if the amendment changes the voting rights of any strata lot, a Schedule of Voting Rights that meets the requirements of section 264, together with evidence of the superintendent's approval,
 - (v) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) or (b), whichever is required, has been passed and that the reference or explanatory plan and any new Schedule of Unit Entitlement or Schedule of Voting Rights conform to the resolution,
 - (vi) a transfer of any land that is being added to the strata lot or made into a new strata lot, and
 - (vii) any document required by the registrar to resolve the priority of interests of any holders of registered charges against the land affected by the amendment.

Amending strata plan to add a strata lot to common property

263 (1) A strata lot or part of a strata lot may not be added to common property unless it is free of mortgages or any other charges that may result in a transfer of an estate or interest in the strata lot.

(2) To add a strata lot or part of a strata lot to common property, the strata plan must be amended as follows:

- (a) a resolution approving the amendment must be passed by a unanimous vote at an annual or special general meeting;
- (b) an application to amend the strata plan must be made to the registrar accompanied by
 - (i) a reference or explanatory plan, whichever the registrar requires, that
 - (A) shows the amendment,
 - (B) complies, as far as the registrar considers necessary, with sections 244 and 245, and
 - (C) is in a form required under the *Land Title Act* for a reference or explanatory plan,
 - (ii) if the amendment changes the unit entitlement of any strata lot, a new Schedule of Unit Entitlement that meets the requirements of section 264, together with evidence of the superintendent's approval,
 - (iii) if the amendment changes the voting rights of any strata lot, a Schedule of Voting Rights that meets the requirements of section 264, together with evidence of the superintendent's approval,
 - (iv) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan and any new Schedule of Unit Entitlement or Schedule of Voting Rights conform to the resolution,
 - (v) a transfer of any land that is being added to the common property, and
 - (vi) any document required by the registrar to ensure that the land being added to the common property is free of mortgages or charges referred to in subsection (1).

Calculation of unit entitlement and voting rights following amendment

264 (1) If a strata plan amendment under section 259, 262 or 263 changes unit entitlement, a new Schedule of Unit Entitlement must be established in accordance with section 246 by using the same formula for calculations that was used to establish the Schedule of Unit Entitlement that is being replaced.

(2) If a strata plan amendment under section 259, 262 or 263 changes voting rights, a new Schedule of Voting Rights must be established in accordance with section 247 or 248 by using the same formula for calculations that was used to establish the Schedule of Voting Rights that is being replaced.

(3) If a strata plan amendment will result in a residential strata lot having less than one vote or more than one vote, a Schedule of Voting Rights in the prescribed form setting out the number of votes per strata lot must be established even if the strata plan does not have at least one nonresidential strata lot.

(4) Despite section 247 (2) (a) (i), a Schedule of Voting Rights established under this section may provide that a residential strata lot has less than one or more than one vote.

(5) If an amendment to a Schedule of Unit Entitlement under section 261 changes unit entitlement, a new Schedule of Unit Entitlement must be established in accordance with section 246 by using the same formula for calculations that was used to establish the Schedule of Unit Entitlement that is being replaced.

(6) Each of the following must be submitted to the superintendent for approval:

(a) a new Schedule of Unit Entitlement established under subsection (1);

(b) a new Schedule of Voting Rights established under subsection (2);

(c) a new Schedule of Unit Entitlement established under subsection (5).

Amending strata plan to make common property into land held by the strata corporation

265 (1) A subdivision of common property is required to make common property into land held in the name of or on behalf of the strata corporation but not shown on the strata plan.

(2) The subdivision referred to in subsection (1) is a subdivision of land to which Part 7 of the *Land Title Act* applies.

(3) Section 253 (2), (3) and (4) applies to a subdivision of land referred to in this section.

Amending strata plan to add land held by strata corporation to the common property

266 (1) Land that is held in the name of or on behalf of the strata corporation, but not shown on the strata plan, may not be added to the common property unless it is free of mortgages and other charges referred to in section 263 (1), and one of the following requirements is met:

(a) it shares a common boundary with land in the strata plan;

(b) it is separated only by a highway, dike, stream or right of way from land in the strata plan;

(c) it is separated from the land in the strata plan, but the approving officer is satisfied that the amendment to the strata plan would result in a viable development of benefit to the community.

(2) A strata lot in another strata plan may not be added to the common property under this section.

(3) To add land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, to common property, the strata plan must be amended as follows:

(a) a resolution approving the amendment must be passed by a 3/4 vote at an annual or special general meeting;

(b) an application to amend the strata plan must be made to the registrar accompanied by

(i) a reference or explanatory plan, whichever the registrar requires, that

- (A) shows the amendment,
 - (B) complies, as far as the registrar considers necessary, with sections 244 and 245, and
 - (C) is in a form required under the *Land Title Act* for a reference or explanatory plan,
- (ii) a Certificate of Strata Corporation in the prescribed form stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan conforms to the resolution,
- (iii) any document required by the registrar to resolve the priority of interests of any holders of registered charges against the land held in the name of or on behalf of the strata corporation, and
- (iv) any document required by the registrar to ensure that the land being added to the common property is free of mortgages and charges referred to in section 263 (1).

Registrar's duties on amendment

267 The registrar must, if satisfied that an application and accompanying documents to amend a strata plan comply with this Act and the *Land Title Act* and the regulations made under those Acts,

- (a) deposit the reference or explanatory plan,
- (b) note the amendment on the strata plan,
- (c) make any entry of the amendment that the registrar considers necessary on the common property record,
- (d) file the Certificate of Strata Corporation, any certificate of compliance respecting conformity with any applicable municipal or regional district bylaws or Nisga'a Government laws and any Schedule of Unit Entitlement or Schedule of Voting Rights,
- (e) register any new indefeasible title and any other registrable document that the registrar has required, and
- (f) cancel the title to any land that is being consolidated with other land.

Easements following amendment

268 On the amendment of a strata plan under section 259, 262, 263 or 266, a new or changed strata lot and any new common property created by the plan is subject to the obligation of, and has the benefit of, easements that, immediately before the deposit, affected the land within the strata plan.

Division 2 — Amalgamation

Amalgamation

269 (1) Two or more strata corporations may amalgamate by entering into an amalgamation agreement that contains

- (a) the terms and conditions of the amalgamation, and
 - (b) the bylaws that will apply to the proposed amalgamated strata corporation.
- (2) The amalgamating strata corporations must proceed as follows:
- (a) a resolution approving the amalgamation agreement must be passed by each of the amalgamating strata corporations by a 3/4 vote at an annual or special general meeting;

- (b) an application to amalgamate the strata corporations must be made to the registrar accompanied by
- (i) the amalgamation agreement,
 - (ii) a reference or explanatory plan, whichever the registrar requires, that
 - (A) consolidates the strata plans into a single strata plan,
 - (B) complies, as far as the registrar considers necessary, with sections 244 and 245, and
 - (C) is in a form required under the *Land Title Act* for a reference or explanatory plan,
 - (iii) a new Schedule of Unit Entitlement that meets the requirements of section 246, together with evidence of the superintendent's approval if the approval is required,
 - (iv) if a Schedule of Voting Rights has been filed with the superintendent, a new Schedule of Voting Rights that meets the requirements of section 247 or 248, together with evidence of the superintendent's approval if the approval is required,
 - (v) a Certificate of Strata Corporation in the prescribed form from each strata corporation, stating that the resolution referred to in paragraph (a) has been passed and that the reference or explanatory plan and the new Schedule of Unit Entitlement and any new Schedule of Voting Rights conform to the amalgamation agreement, and
 - (vi) any bylaws of the amalgamated strata corporation that differ in any respect from the Standard Bylaws.

Registrar's duties on amalgamation

270 The registrar must, if satisfied that the application and accompanying documents received under section 269 comply with this Act and the *Land Title Act* and the regulations made under those Acts,

- (a) comply with the requirements of section 267,
- (b) endorse on the amalgamation agreement the name of the amalgamated strata corporation,
- (c) file bylaws, if any, for the amalgamated strata corporation, and
- (d) alter the indefeasible titles and amend all relevant plans in whatever way is necessary to give full effect to the amalgamation agreement.

Effect of amalgamation

271 On and after the date the registrar deposits the reference or explanatory plan,

- (a) the amalgamating strata corporations are amalgamated and are continued as one strata corporation under the name endorsed on the amalgamation agreement,
- (b) the amalgamated strata corporation is seized of, and holds and possesses, the property, rights and interests and is subject to the liabilities and obligations of each amalgamating strata corporation,
- (c) the bylaws of the amalgamated strata corporation are the Standard Bylaws except to the extent that different bylaws have been filed with the registrar under section 269, and

(d) each owner in each amalgamating strata corporation is bound by the terms of the amalgamation agreement.

Part 16 — Cancellation of Strata Plan and Winding Up of Strata Corporation
Division 1 — Voluntary Winding Up Without Liquidator

Vote to cancel strata plan and become tenants in common

272 (1) To apply to the registrar to cancel a strata plan and become tenants in common of

- (a) land shown on the strata plan,
- (b) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and
- (c) personal property held by or on behalf of the strata corporation,

a resolution must be passed by a unanimous vote at an annual or special general meeting.

(2) The resolution must approve all of the following:

- (a) the cancellation of the strata plan;
- (b) the dissolution of the strata corporation;
- (c) the conversion schedule referred to in section 273;
- (d) the conversion of each owner's interest, in the owner's strata lot and in the common property and common assets of the strata corporation, to an interest as a tenant in common in the shares set out in the conversion schedule in
 - (i) land that was shown on the strata plan immediately before it was cancelled,
 - (ii) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and
 - (iii) personal property held by or on behalf of the strata corporation.

Conversion schedule

273 (1) The conversion schedule must meet any requirements as to form and content that are required by this Act and the regulations, and must do all of the following:

- (a) state whether the strata corporation holds land in its name, or has land held on its behalf, that is not shown on the strata plan;
- (b) identify land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, by legal description sufficient to allow the registrar to identify it in the records of the land title office;
- (c) list the name and postal address of each owner and registered charge holder of the land;
- (d) list all registered interests in the land
 - (i) as they exist at the time of the resolution, and
 - (ii) as they will exist if the registrar grants an order and the owners become tenants in common in shares calculated according to the following formula:

most recent assessed value of an owner's
strata lot

most recent assessed value of all the strata
lots

in the strata plan, excluding any strata lots held

by or on behalf of the strata corporation

(2) If there is no assessed value for the owner's strata lot or for any strata lot in the strata plan, an appraised value

(a) that has been determined by an independent appraiser, and

(b) that is approved by a resolution passed by a 3/4 vote at an annual or special general meeting

may be used in place of the assessed value for the purposes of the formula in subsection (1) (d) (ii).

(3) If a strata corporation has a schedule of interest on destruction that was required under section 4 (g) of the *Condominium Act*, R.S.B.C. 1996, c. 64, or a similar schedule that was required under any former Act, that schedule determines the owner's interests in the land and personal property on the winding up of the strata corporation and for that purpose replaces the formula in subsection (1) (d) (ii).

Application to registrar

274 To cancel a strata plan under section 272, an application, in a form satisfactory to the registrar, must be made to the registrar accompanied by

(a) the conversion schedule,

(b) the written consent to the winding up signed by all holders of registered charges against land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan,

(c) a Certificate of Strata Corporation in the prescribed form stating that
(i) the unanimous resolution referred to in section 272 (1) has been passed and the conversion schedule conforms to the resolution, and

(ii) the strata corporation has no debts other than debts held by persons who have consented in writing, under paragraph (b), to the winding up of the strata corporation,

(d) a reference plan, in a form required under the *Land Title Act*, that shows

(i) the land shown on the strata plan, and

(ii) the land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and

(e) any document required by the registrar

(i) to resolve the priority of interests of any registered charges against the land shown on the strata plan or held in the name of or on behalf of the strata corporation, but not shown on the strata plan, or

(ii) to transfer title.

Registrar's order

275 (1) If the registrar is satisfied that the requirements of section 274 are met, the registrar may order that

(a) the strata plan is cancelled, and

(b) land that was shown on the strata plan or held in the name of or on behalf of the strata corporation, but not shown on the strata plan, vests

in the owners as tenants in common in the shares set out in the conversion schedule.

- (2) An order of the registrar
 - (a) may be made on terms the registrar considers necessary,
 - (b) may be made conditional on the creation, enlargement, extension, cancellation or registration of any interest that the registrar considers necessary to give effect to a term of the order, and
 - (c) may be made without a hearing.
- (3) When the order is made, the registrar must
 - (a) file the order,
 - (b) register indefeasible titles to the land referred to in the order in accordance with the order, and
 - (c) give a copy of the order to each owner and registered charge holder shown on the conversion schedule by sending it by registered mail to the address shown on that schedule.
- (4) When the order is filed
 - (a) the strata corporation is dissolved,
 - (b) the owners are owners, as tenants in common, of
 - (i) the land in accordance with the titles registered by the registrar, and
 - (ii) the personal property in shares equal to their shares of the land as set out in the conversion schedule,
 - (c) any encumbrances against each strata lot and the common property are claims against the interest of each owner in the land and interests appurtenant to the land in the strata plan, and have the same priority they had before the registrar's order,
 - (d) all claims against the property created after the deposit of the strata plan, other than the encumbrances mentioned in paragraph (c), are extinguished, and
 - (e) owners are jointly and individually liable for the debts of the strata corporation to the creditors who do not have claims against the property of the strata corporation.

Division 2 — Voluntary Winding Up With Liquidator

Application of *Business Corporations Act* to voluntary winding up of strata corporation

276 (1) Except as otherwise provided in this Act and the regulations, the provisions of the *Business Corporations Act* that apply to a voluntary liquidation of a company apply to the voluntary winding up of a strata corporation with a liquidator and, for that purpose,

- (a) a reference to “registrar” in the *Business Corporations Act* as it applies for the purposes of this Act must be read as a reference to the registrar as defined in this Act,
- (b) a reference to “commencement of the liquidation” in the *Business Corporations Act* as it applies for the purposes of this Act must be read as a reference to the date on which the unanimous resolution referred to in section 277 of this Act is passed, and
- (c) a requirement in the *Business Corporations Act* as it applies for the

purposes of this Act that documents must be filed with the registrar must be read as a requirement that the documents must be filed in the land title office.

(2) Division 10 of Part 10 and section 324 of the *Business Corporations Act* do not apply to the voluntary winding up of a strata corporation with a liquidator.

(3) A person commits an offence who contravenes section 327 (2) or 335 of the *Business Corporations Act* as it applies for the purposes of this Act and sections 428 to 430 of the *Business Corporations Act* apply in relation to those offences.

Disposal of books and papers of strata corporation

276.1 If a strata corporation has been wound up under this Division, the liquidator is responsible for the care and custody of the strata corporation's records and documents for 2 years after the date of cancellation of the strata plan, but not longer.

Appointment of liquidator

277 (1) To appoint a liquidator to wind up the strata corporation, a resolution to cancel the strata plan and appoint a liquidator must be passed by a unanimous vote at an annual or special general meeting.

(2) A liquidator must have the qualifications of a liquidator that are required by the *Business Corporations Act*.

(3) The resolution must give the name and address of the liquidator and approve all of the following:

- (a) the cancellation of the strata plan;
- (b) the dissolution of the strata corporation;
- (c) the surrender to the liquidator of each owner's interest in
 - (i) land shown on the strata plan,
 - (ii) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and
 - (iii) personal property held by or on behalf of the strata corporation;
- (d) an estimate of the costs of winding up;
- (e) the interest schedule referred to in section 278.

Interest schedule

278 (1) The interest schedule must meet any requirements as to form and content that are required by this Act and the regulations, and must do all of the following:

- (a) state whether the strata corporation holds land in its name, or has land held on its behalf, that is not shown on the strata plan;
- (b) identify land shown on the strata plan and land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, by legal description sufficient to allow the registrar to identify it in the records of the land title office;
- (c) list the name and postal address of each owner;
- (d) list the name, postal address and the estimated value of the interest of each holder of a registered charge against the land;
- (e) list the name, postal address and interest of each creditor of the

strata corporation who is not a holder of a registered charge against the land;

(f) list each owner's share of the proceeds of distribution in accordance with the following formula:

most recent assessed value of an owner's
strata lot

most recent assessed value of all the strata
lots
in the strata plan, excluding any strata lots
held

by or on behalf of the strata corporation

(2) If there is no assessed value for the owner's strata lot or for any strata lot in the strata plan, an appraised value

(a) that has been determined by an independent appraiser, and

(b) that is approved by a resolution passed by a 3/4 vote at an annual or special general meeting

may be used in place of the assessed value for the purposes of the formula in subsection (1) (f).

(3) If a strata corporation has a schedule of interest on destruction that was required under section 4 (g) of the *Condominium Act*, R.S.B.C. 1996, c. 64, or a similar schedule that was required under any former Act, that schedule determines the owner's share of the proceeds of distribution on the winding up of the strata corporation and for that purpose replaces the formula in subsection (1) (f).

Vesting order

279 (1) Within 30 days of being appointed, the liquidator must apply to the Supreme Court for an order confirming the appointment of the liquidator and vesting in the liquidator

(a) land shown on the strata plan,

(b) land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and

(c) personal property held by or on behalf of the strata corporation

for the purpose of selling the land and personal property and distributing the proceeds as set out in the interest schedule.

(2) The court may grant the order if satisfied that the requirements of section 277 have been met.

Filing vesting order

280 (1) The liquidator must deliver a certified copy of the vesting order under section 279, accompanied by the interest schedule, to the registrar.

(2) The registrar must file the order and interest schedule if satisfied that

(a) the legal description of the land in the interest schedule is sufficient to allow the registrar to identify it in the records of the land title office, and

(b) the liquidator will have a good, safeholding and marketable title to the land.

(3) When the order is filed, the liquidator must notify the owners, registered charge holders and other creditors identified in the interest schedule by

registered mail to their addresses given in that schedule.

Effect of filing vesting order

281 When the vesting order is filed

- (a) the strata plan is cancelled,
- (b) the registrar must register indefeasible title in the name of the liquidator to
 - (i) the land that was shown on the strata plan immediately before it was cancelled, and
 - (ii) the land held in the name of or on behalf of the strata corporation, but not shown on the strata plan, and
- (c) the personal property of the strata corporation vests in the liquidator.

Approval of disposition

282 (1) Before any land or personal property is disposed of, the liquidator must obtain the approval of the disposition by a resolution passed by a 3/4 vote at an annual or special general meeting, or the disposition is void.

(2) The resolution may specify the conditions under which a disposition may be made.

Filing of application for dissolution

283 The registrar must not file the application for dissolution referred to in section 343 (1) of the *Business Corporations Act* as it applies for the purposes of this Act unless that application is accompanied by a Certificate of Strata Corporation in the prescribed form stating that the final accounts referred to in the application have been approved by a resolution passed by a 3/4 vote at an annual or special general meeting.

Division 3 — Court Ordered Winding Up

Application for court order to wind up strata corporation

284 (1) An owner, a mortgagee of a strata lot or any other person the Supreme Court considers appropriate may apply to the Supreme Court for an order winding up the strata corporation.

(2) On application by a person referred to in subsection (1), the court may order that a liquidator be appointed if the court is of the opinion that the winding up would be in the best interests of the owners, registered charge holders and other creditors.

(3) In determining whether the winding up would be in the best interests of the owners, registered charge holders and other creditors, the court must consider

- (a) the scheme and intent of this Act,
- (b) the probability of unfairness to one or more owners, registered charge holders or other creditors, if winding up is not ordered, and
- (c) the probability of confusion and uncertainty in the affairs of the strata corporation or the owners if winding up is not ordered.

Winding up

285 Division 2 applies to a winding up under this Division except that the Supreme Court

- (a) may vary or dispense with any of the provisions in Division 2,

- (b) may impose any conditions and give any directions that it thinks fit for the purpose of the winding up,
- (c) has for the purposes of this Division the powers referred to in section 160, and
- (d) may vary its order.

Division 4 — General

Application

286 This Part applies to bare land strata plans except to the extent set out in the regulations.

Plan cancellation provisions of *Land Title Act* do not apply

287 The plan cancellation provisions of the *Land Title Act* do not apply to a strata plan deposited under this Act.

Delivery of duplicate title

288 (1) A strata plan must not be cancelled unless all of the duplicate indefeasible titles, if any, of the strata lots included in the strata plan have been cancelled under the *Land Title Act* or are deemed to be cancelled under subsection (4).

(2) On application to the registrar to cancel a strata plan, the registrar may, by a written demand to the owner of a strata lot in the strata plan and to anyone to whom a duplicate indefeasible title was issued, require that a duplicate indefeasible title be delivered to the registrar for cancellation.

(3) A person who receives the written demand for the duplicate indefeasible title must deliver it to the registrar within 30 days after receiving the demand.

(4) If the person fails to deliver the duplicate indefeasible title to the registrar as required under subsection (3), the duplicate indefeasible title is deemed to be cancelled and the registrar may cancel the existing indefeasible title.

Priorities must be resolved

289 A strata plan may be cancelled under Division 1 or 2 only if the priorities of all registered charges against the strata lots and the common property, as they are to apply to the land included in the strata plan after the strata plan has been cancelled, have been resolved to the satisfaction of the registrar.

Part 17 — General

Offences

290 An individual who knowingly makes a false statement in a Certificate of Strata Corporation in the prescribed form commits an offence and is liable on conviction to a fine of not more than \$2 000 or to imprisonment for not more than 6 months, or to both.

Application of other laws

291 (1) The *Business Corporations Act* does not apply to a strata corporation except as specifically provided in this Act.

(2) Section 5 of the *Offence Act* does not apply to this Act or to the regulations.

(3) The rule against perpetuities and the *Perpetuity Act* do not apply to an agreement or instrument entered into by a strata corporation.

(4) For the purposes of the *Land (Spouse Protection) Act*, a strata lot is deemed to be land on which a building is located.

Power to make regulations

292 (1) The Lieutenant Governor in Council may make regulations as authorized by section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting a fee, including a maximum fee, for a document supplied by a strata corporation or for a procedure or function required or permitted under this Act;
- (b) respecting forms permitted or required under this Act;
- (c) respecting the amount to be calculated for the purposes of section 14 (5), 17 (b) or 37 (2);
- (d) specifying the persons whose names and addresses must be provided for the purposes of section 20 (2) (a) (vi);
- (e) regarding a record or information
 - (i) to be given by an owner developer to a strata corporation under section 20,
 - (ii) to be prepared or retained by the strata corporation under section 35, and
 - (iii) to be included in an Information Certificate under section 59;
- (f) specifying the time periods for which records must be retained by a strata corporation;
- (g) respecting the persons who may be proxies, the number of proxies they may hold, the circumstances in which they may be proxies and restrictions on their powers as proxies;
- (h) exempting persons from the requirements of or varying the requirements under section 70 (4);
- (i) respecting a change in the use or appearance of common property or land that is a common asset under section 71;
- (j) identifying common property the repair and maintenance of which may be made the responsibility of an owner under section 72 (2);
- (k) respecting the amount of a lien holdback under section 88 (2);

- (l) providing for the form of and information to be included in depreciation reports, budgets and financial statements;
- (l.1) specifying permitted investments for the purposes of section 95 (2) (a);
- (m) varying the method for calculating a strata lot's share of contributions for the purposes of sections 99, 195 or any other section or varying the method for calculating an owner developer's contribution for the expenses of common facilities under section 227;
- (n) respecting the maximum amount of interest to be paid under a bylaw referred to in section 107 (1);
- (o) respecting the imposition of user fees by a strata corporation under section 110;
- (p) respecting the maximum amount of a fine or the maximum frequency of imposition of fines under section 132;
- (q) respecting the minimum amount of liability insurance under section 150 and the payment of an insurance deductible referred to in section 158;
- (r) specifying the criteria for differentiating between different types of strata lots for the purposes of section 191 (2);
- (s) respecting the evaluation of the fair market value of a leasehold tenant's interest for the purposes of section 214;
- (t) applying or disapplying provisions of the Act to phased strata plans and the phases of phased strata plans, and modifying the operation of provisions of the Act to provide for the orderly administration of phases in a phased strata plan;
- (u) respecting strata plans, including their form, content and approval;
- (v) respecting the form and content of an endorsement required or permitted under this Act;
- (w) respecting the procedure for applications under, exempting persons from the requirements of, setting out matters for the court to consider or varying the requirements under section 246 (7) and (8);
- (x) respecting the form and content of a conversion schedule under section 273 (1) and an interest schedule under section 278 (1);
- (y) respecting the cancellation of bare land strata plans and, without limitation,
 - (i) establishing the circumstances under which a bare land strata plan may be cancelled,
 - (ii) establishing the procedures to be followed in the cancellation of a bare land strata plan, and
 - (iii) limiting the application of the regulations to bare land strata plans that are created before a prescribed date;
- (z) varying a provision of this Act to provide for a different time period or monetary amount than that stated in the Act.

(3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) defining strata plans to be bare land strata plans;
- (b) defining "family" and "family member" for the purposes of section 142;

- (c) defining "fixtures" and "major perils" for the purposes of section 149;
- (d) defining "public authority" for the purposes of the definition of "leasehold landlord" in section 199;
- (e) defining "habitable area" for the purposes of section 246 (4);
- (f) defining any word or expression used but not defined in this Act;
- (g) respecting the conduct of hearings by arbitrators;
- (h) respecting the determination of the amount of the annual contribution to the contingency reserve fund under section 93;
- (i) respecting the circumstances in which a strata corporation may lend money in the contingency reserve fund to the operating fund;
- (j) respecting all matters that by this Act are required or permitted to be prescribed.

(4) For surrendered land, the regulations may provide for one or more of the following:

- (a) the registration under the land title legislation of leases of prescribed land if the land has been surrendered under the *Indian Act* (Canada) and is vested in Her Majesty the Queen in right of Canada;
- (b) the subdivision of all or part of the surrendered land into strata lots by the deposit in a land title office of leasehold strata plans;
- (c) strata corporations with respect to the surrendered land, including the composition of the strata corporations;
- (d) related matters, including the rights and obligations of any person or strata corporation.

(5) For the purposes of subsection (4), the regulations may

- (a) exempt all or part of the surrendered land, any leases and any person or strata corporation from the application of all or part of this Act, and
- (b) enact additional provisions respecting the surrendered land, any leases and any person or strata corporation even though the additional provisions may be wholly or partially inconsistent with this Act.

Transitional

293 (1) Except as otherwise provided by this Act and the regulations, this Act and the regulations apply to a strata plan deposited and a strata corporation created under the *Condominium Act*, R.S.B.C. 1996, c. 64 or any former Act.

(2) On the coming into force of this subsection, a regulation of a strata corporation is deemed to be a rule and the provisions of this Act that apply to rules apply to regulations made by a strata corporation.

(3) The coming into force of this Act does not affect the deposit of a strata plan if the application for deposit was made before the coming into force of this Act.

(4) The Lieutenant Governor in Council may make regulations for meeting or removing any difficulty arising out of the transition to this Act from the *Condominium Act*, R.S.B.C. 1996, c. 64, and for that purpose disapplying or varying any provision of this Act.

Spent

294–321 [*Repeal and consequential amendments. Spent. 1998-43-294 to 321.*]

Commencement

322 This Act comes into force by regulation of the Lieutenant Governor in Council.

STRATA PROPERTY ACT
[SBC 1998] CHAPTER 43
Schedule of Standard Bylaws

Division 1 — Duties of Owners, Tenants, Occupants and Visitors

Payment of strata fees

1 An owner must pay strata fees on or before the first day of the month to which the strata fees relate.

Repair and maintenance of property by owner

2 (1) An owner must repair and maintain the owner's strata lot, except for repair and maintenance that is the responsibility of the strata corporation under these bylaws.

(2) An owner who has the use of limited common property must repair and maintain it, except for repair and maintenance that is the responsibility of the strata corporation under these bylaws.

Use of property

3 (1) An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that

- (a) causes a nuisance or hazard to another person,
- (b) causes unreasonable noise,
- (c) unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot,
- (d) is illegal, or
- (e) is contrary to a purpose for which the strata lot or common property is intended as shown expressly or by necessary implication on or by the strata plan.

(2) An owner, tenant, occupant or visitor must not cause damage, other than reasonable wear and tear, to the common property, common assets or those parts of a strata lot which the strata corporation must repair and maintain under these bylaws or insure under section 149 of the Act

(3) An owner, tenant, occupant or visitor must ensure that all animals are leashed or otherwise secured when on the common property or on land that is a common asset.

(4) An owner, tenant or occupant must not keep any pets on a strata lot other than one or more of the following:

- (a) a reasonable number of fish or other small aquarium animals;
- (b) a reasonable number of small caged mammals;
- (c) up to 2 caged birds;
- (d) one dog or one cat.

Inform strata corporation

4 (1) Within 2 weeks of becoming an owner, an owner must inform the

strata corporation of the owner's name, strata lot number and mailing address outside the strata plan, if any.

(2) On request by the strata corporation, a tenant must inform the strata corporation of his or her name.

Obtain approval before altering a strata lot

5 (1) An owner must obtain the written approval of the strata corporation before making an alteration to a strata lot that involves any of the following:

- (a) the structure of a building;
- (b) the exterior of a building;
- (c) chimneys, stairs, balconies or other things attached to the exterior of a building;
- (d) doors, windows or skylights on the exterior of a building, or that front on the common property;
- (e) fences, railings or similar structures that enclose a patio, balcony or yard;
- (f) common property located within the boundaries of a strata lot;
- (g) those parts of the strata lot which the strata corporation must insure under section 149 of the Act.

(2) The strata corporation must not unreasonably withhold its approval under subsection (1), but may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alteration.

(3) This section does not apply to a strata lot in a bare land strata plan.

Obtain approval before altering common property

6 (1) An owner must obtain the written approval of the strata corporation before making an alteration to common property, including limited common property, or common assets.

(2) The strata corporation may require as a condition of its approval that the owner agree, in writing, to take responsibility for any expenses relating to the alteration.

Permit entry to strata lot

7 (1) An owner, tenant, occupant or visitor must allow a person authorized by the strata corporation to enter the strata lot

- (a) in an emergency, without notice, to ensure safety or prevent significant loss or damage, and
- (b) at a reasonable time, on 48 hours' written notice, to inspect, repair or maintain common property, common assets and any portions of a strata lot that are the responsibility of the strata corporation to repair and maintain under these bylaws or insure under section 149 of the Act.

(2) The notice referred to in subsection (1) (b) must include the date and approximate time of entry, and the reason for entry.

Division 2 — Powers and Duties of Strata Corporation

Repair and maintenance of property by strata corporation

8 The strata corporation must repair and maintain all of the following:

- (a) common assets of the strata corporation;

- (b) common property that has not been designated as limited common property;
- (c) limited common property, but the duty to repair and maintain it is restricted to
 - (i) repair and maintenance that in the ordinary course of events occurs less often than once a year, and
 - (ii) the following, no matter how often the repair or maintenance ordinarily occurs:
 - (A) the structure of a building;
 - (B) the exterior of a building;
 - (C) chimneys, stairs, balconies and other things attached to the exterior of a building;
 - (D) doors, windows and skylights on the exterior of a building or that front on the common property;
 - (E) fences, railings and similar structures that enclose patios, balconies and yards;
- (d) a strata lot in a strata plan that is not a bare land strata plan, but the duty to repair and maintain it is restricted to
 - (i) the structure of a building,
 - (ii) the exterior of a building,
 - (iii) chimneys, stairs, balconies and other things attached to the exterior of a building,
 - (iv) doors, windows and skylights on the exterior of a building or that front on the common property, and
 - (v) fences, railings and similar structures that enclose patios, balconies and yards.

Division 3 — Council

Council size

9 (1) Subject to subsection (2), the council must have at least 3 and not more than 7 members.

(2) If the strata plan has fewer than 4 strata lots or the strata corporation has fewer than 4 owners, all the owners are on the council.

Council members' terms

10 (1) The term of office of a council member ends at the end of the annual general meeting at which the new council is elected.

(2) A person whose term as council member is ending is eligible for reelection.

(3) to (5) [Repealed 1999-21-51.]

Removing council member

11 (1) Unless all the owners are on the council, the strata corporation may, by a resolution passed by a majority vote at an annual or special general meeting, remove one or more council members.

(2) After removing a council member, the strata corporation must hold an election at the same annual or special general meeting to replace the council member for the remainder of the term.

Replacing council member

12 (1) If a council member resigns or is unwilling or unable to act for a period of 2 or more months, the remaining members of the council may appoint a replacement council member for the remainder of the term.

(2) A replacement council member may be appointed from any person eligible to sit on the council.

(3) The council may appoint a council member under this section even if the absence of the member being replaced leaves the council without a quorum.

(4) If all the members of the council resign or are unwilling or unable to act for a period of 2 or more months, persons holding at least 25% of the strata corporation's votes may hold a special general meeting to elect a new council by complying with the provisions of the Act, the regulations and the bylaws respecting the calling and holding of meetings.

Officers

13 (1) At the first meeting of the council held after each annual general meeting of the strata corporation, the council must elect, from among its members, a president, a vice president, a secretary and a treasurer.

(2) A person may hold more than one office at a time, other than the offices of president and vice president.

(3) The vice president has the powers and duties of the president

(a) while the president is absent or is unwilling or unable to act, or

(b) for the remainder of the president's term if the president ceases to hold office.

(4) If an officer other than the president is unwilling or unable to act for a period of 2 or more months, the council members may appoint a replacement officer from among themselves for the remainder of the term.

Calling council meetings

14 (1) Any council member may call a council meeting by giving the other council members at least one week's notice of the meeting, specifying the reason for calling the meeting.

(2) The notice does not have to be in writing.

(3) A council meeting may be held on less than one week's notice if

(a) all council members consent in advance of the meeting, or

(b) the meeting is required to deal with an emergency situation, and all council members either

(i) consent in advance of the meeting, or

(ii) are unavailable to provide consent after reasonable attempts to contact them.

(4) The council must inform owners about a council meeting as soon as feasible after the meeting has been called.

Requisition of council hearing

15 (1) By application in writing, stating the reason for the request, an owner or tenant may request a hearing at a council meeting.

(2) If a hearing is requested under subsection (1), the council must hold a meeting to hear the applicant within one month of the request.

(3) If the purpose of the hearing is to seek a decision of the council, the council must give the applicant a written decision within one week of the

hearing.

Quorum of council

16 (1) A quorum of the council is

- (a) 1, if the council consists of one member,
- (b) 2, if the council consists of 2, 3 or 4 members,
- (c) 3, if the council consists of 5 or 6 members, and
- (d) 4, if the council consists of 7 members.

(2) Council members must be present in person at the council meeting to be counted in establishing quorum.

Council meetings

17 (1) At the option of the council, council meetings may be held by electronic means, so long as all council members and other participants can communicate with each other.

(2) If a council meeting is held by electronic means, council members are deemed to be present in person.

(3) Owners may attend council meetings as observers.

(4) Despite subsection (3), no observers may attend those portions of council meetings that deal with any of the following:

- (a) bylaw contravention hearings under section 135 of the Act;
- (b) rental restriction bylaw exemption hearings under section 144 of the Act;
- (c) any other matters if the presence of observers would, in the council's opinion, unreasonably interfere with an individual's privacy.

Voting at council meetings

18 (1) At council meetings, decisions must be made by a majority of council members present in person at the meeting.

(2) Unless there are only 2 strata lots in the strata plan, if there is a tie vote at a council meeting, the president may break the tie by casting a second, deciding vote.

(3) The results of all votes at a council meeting must be recorded in the council meeting minutes.

Council to inform owners of minutes

19 The council must inform owners of the minutes of all council meetings within 2 weeks of the meeting, whether or not the minutes have been approved.

Delegation of council's powers and duties

20 (1) Subject to subsections (2) to (4), the council may delegate some or all of its powers and duties to one or more council members or persons who are not members of the council, and may revoke the delegation.

(2) The council may delegate its spending powers or duties, but only by a resolution that

- (a) delegates the authority to make an expenditure of a specific amount for a specific purpose, or
- (b) delegates the general authority to make expenditures in accordance with subsection (3).

(3) A delegation of a general authority to make expenditures must

- (a) set a maximum amount that may be spent, and
- (b) indicate the purposes for which, or the conditions under which, the money may be spent.

(4) The council may not delegate its powers to determine, based on the facts of a particular case,

- (a) whether a person has contravened a bylaw or rule,
- (b) whether a person should be fined, and the amount of the fine, or
- (c) whether a person should be denied access to a recreational facility.

Spending restrictions

21 (1) A person may not spend the strata corporation's money unless the person has been delegated the power to do so in accordance with these bylaws.

(2) Despite subsection (1), a council member may spend the strata corporation's money to repair or replace common property or common assets if the repair or replacement is immediately required to ensure safety or prevent significant loss or damage.

Limitation on liability of council member

22 (1) A council member who acts honestly and in good faith is not personally liable because of anything done or omitted in the exercise or intended exercise of any power or the performance or intended performance of any duty of the council.

(2) Subsection (1) does not affect a council member's liability, as an owner, for a judgment against the strata corporation.

Division 4 — Enforcement of Bylaws and Rules

Maximum fine

23 The strata corporation may fine an owner or tenant a maximum of

- (a) \$50 for each contravention of a bylaw, and
- (b) \$10 for each contravention of a rule.

Continuing contravention

24 If an activity or lack of activity that constitutes a contravention of a bylaw or rule continues, without interruption, for longer than 7 days, a fine may be imposed every 7 days.

Division 5 — Annual and Special General Meetings

Person to chair meeting

25 (1) Annual and special general meetings must be chaired by the president of the council.

(2) If the president of the council is unwilling or unable to act, the meeting must be chaired by the vice president of the council.

(3) If neither the president nor the vice president of the council chairs the meeting, a chair must be elected by the eligible voters present in person or by proxy from among those persons who are present at the meeting.

Participation by other than eligible voters

26 (1) Tenants and occupants may attend annual and special general meetings, whether or not they are eligible to vote.

(2) Persons who are not eligible to vote, including tenants and occupants, may participate in the discussion at the meeting, but only if permitted to do so by the chair of the meeting.

(3) Persons who are not eligible to vote, including tenants and occupants, must leave the meeting if requested to do so by a resolution passed by a majority vote at the meeting.

Voting

27 (1) At an annual or special general meeting, voting cards must be issued to eligible voters.

(2) At an annual or special general meeting a vote is decided on a show of voting cards, unless an eligible voter requests a precise count.

(3) If a precise count is requested, the chair must decide whether it will be by show of voting cards or by roll call, secret ballot or some other method.

(4) The outcome of each vote, including the number of votes for and against the resolution if a precise count is requested, must be announced by the chair and recorded in the minutes of the meeting.

(5) If there is a tie vote at an annual or special general meeting, the president, or, if the president is absent or unable or unwilling to vote, the vice president, may break the tie by casting a second, deciding vote.

(6) If there are only 2 strata lots in the strata plan, subsection (5) does not apply.

(7) Despite anything in this section, an election of council or any other vote must be held by secret ballot, if the secret ballot is requested by an eligible voter.

Order of business

28 The order of business at annual and special general meetings is as follows:

- (a) certify proxies and corporate representatives and issue voting cards;
- (b) determine that there is a quorum;
- (c) elect a person to chair the meeting, if necessary;
- (d) present to the meeting proof of notice of meeting or waiver of notice;
- (e) approve the agenda;
- (f) approve minutes from the last annual or special general meeting;
- (g) deal with unfinished business;
- (h) receive reports of council activities and decisions since the previous annual general meeting, including reports of committees, if the meeting is an annual general meeting;
- (i) ratify any new rules made by the strata corporation under section 125 of the Act;
- (j) report on insurance coverage in accordance with section 154 of the Act, if the meeting is an annual general meeting;
- (k) approve the budget for the coming year in accordance with section 103 of the Act, if the meeting is an annual general meeting;
- (l) deal with new business, including any matters about which notice has been given under section 45 of the Act;
- (m) elect a council, if the meeting is an annual general meeting;
- (n) terminate the meeting.

Division 6 — Voluntary Dispute Resolution

Voluntary dispute resolution

29 (1) A dispute among owners, tenants, the strata corporation or any combination of them may be referred to a dispute resolution committee by a party to the dispute if

- (a) all the parties to the dispute consent, and
- (b) the dispute involves the Act, the regulations, the bylaws or the rules.

(2) A dispute resolution committee consists of

- (a) one owner or tenant of the strata corporation nominated by each of the disputing parties and one owner or tenant chosen to chair the committee by the persons nominated by the disputing parties, or
- (b) any number of persons consented to, or chosen by a method that is consented to, by all the disputing parties.

(3) The dispute resolution committee must attempt to help the disputing parties to voluntarily end the dispute.

Division 7 — Marketing Activities by Owner Developer

Display lot

30 (1) An owner developer who has an unsold strata lot may carry on sales functions that relate to its sale, including the posting of signs.

(2) An owner developer may use a strata lot, that the owner developer owns or rents, as a display lot for the sale of other strata lots in the strata plan.

