

2020 Bill 20

Second Session, 30th Legislature, 69 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 20

REAL ESTATE AMENDMENT ACT, 2020

THE MINISTER OF SERVICE ALBERTA

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 20

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2020

REAL ESTATE AMENDMENT ACT, 2020

(Assented to _____, 2020)

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

Amends RSA 2000 cR-5

1 The *Real Estate Act* is amended by this Act.

2 The following is added before the enacting clause:

Preamble

WHEREAS the Government of Alberta recognizes the need for
effective regulation of the real estate industry; and

WHEREAS the Real Estate Council of Alberta is intended to
provide that regulation to protect the public and support the real
estate industry;

**3 The enacting clause is amended by adding “THEREFORE”
before “HER MAJESTY”.**

4 Section 1(1) is amended

**(a) in clause (a) by striking out “the Alberta Association of
the Appraisal Institute of Canada, the Alberta Assessors
Association, the Canadian National Association of Real**

Explanatory Notes

1 Amends chapter R-5 of the Revised Statutes of Alberta 2000.

2 Adds preamble.

3 The enacting clause presently reads:

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

4 Section 1(1) presently reads in part:

1(1) In this Act,

Estate Appraisers” **and substituting** “the Association of Condominium Managers of Alberta, the Canadian Condominium Institute North Alberta Chapter, the Canadian Condominium Institute South Alberta Chapter”;

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

- (a.1) “Board” means the Board of Directors of the Council, as composed pursuant to section 6;

(c) by repealing clause (d) and substituting the following:

- (d) “business of a licensee” means the trades of a real estate broker, the services of a property manager referred to in clause (s.2) or the dealings of a mortgage broker undertaken by a licensee;

(d) in clause (e) by striking out “section 67, bylaws made by the Council” **and substituting** “clause (e.2)(ii) and section 67, bylaws made by the Board”;

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

- (e.1) “condominium corporation” means a corporation as defined in the *Condominium Property Act*;
- (e.2) “condominium management service” means the exercising of a power or the performing of a duty of a condominium corporation on behalf of the condominium corporation, including, but not limited to,
 - (i) collecting, holding or disbursing, or attempting to collect, hold or disburse, contributions levied by the condominium corporation or other amounts levied by or due to the corporation under the *Condominium Property Act*,
 - (ii) enforcing the bylaws or rules of the corporation,
 - (iii) negotiating or entering into contracts on behalf of the corporation, and
 - (iv) supervising employees or contractors hired or engaged by the corporation,

- (a) *“association” means the Alberta Real Estate Association, the Alberta Mortgage Brokers’ Association, the Alberta Association of the Appraisal Institute of Canada, the Alberta Assessors Association, the Canadian National Association of Real Estate Appraisers, the Building Owners and Managers Association of Edmonton, the Building Owners and Managers Association of Calgary, the Real Estate Institute of Canada and the division of the Real Estate Institute of Canada called the Institute of Real Estate Management or any successor organization to any of those associations or institutes;*
- (d) *“business of an industry member” means the trades of a real estate broker, the activities of a real estate appraiser referred to in clause (u.1) or the dealings of a mortgage broker undertaken by an industry member;*
- (e) *“bylaws” means, except in section 67, bylaws made by the Council;*
- (k.1) *“former industry member” means a person who ceases to be an industry member;*
- (n) *“industry” means the real estate broker industry, the real estate appraiser industry and the mortgage broker industry;*
- (o) *“industry member” means any person who holds an authorization as a real estate broker, a real estate appraiser or a mortgage broker, or as any category or class of real estate broker, real estate appraiser or mortgage broker, issued by the Council;*
- (s.1) *“property management” includes any of the following:*
 - (i) *leasing or offering to lease real estate or negotiating or approving, or offering to negotiate or approve, a lease or rental of real estate;*
 - (ii) *holding money received in connection with an activity referred to in subclause (i);*
 - (iii) *advertising, negotiating or carrying out any other activity, directly or indirectly, for the purpose of furthering an activity referred to in subclause (i) or (ii);*
- (w) *“rules” means rules made by the Council;*

but does not include any activity excluded by the *Condominium Property Act*, this Act or the regulations under either Act;

(f) by repealing clause (k.1) and substituting the following:

(k.1) “former licensee” means a person who ceases to be a licensee;

(g) in clause (n) by striking out “real estate appraiser industry” and substituting “property manager industry”;

(h) by adding the following after clause (n):

(n.1) “Industry Council” means an Industry Council established under section 7.1;

(i) by repealing clause (o) and substituting the following:

(o) “licensee” means any person who holds a licence as a real estate broker, a property manager or a mortgage broker, or as any category or class of real estate broker, property manager or mortgage broker, issued by an Industry Council;

(j) in clause (s.1) by adding the following after subclause (iii):

(iv) engaging in a condominium management service referred to in clause (e.2);

(v) collecting, or offering or attempting to collect, on behalf of the owner or other person in charge of real estate, money payable as

(A) rent for the use of real estate, or

(B) contributions for the control, management or administration of real estate;

(k) by adding the following after clause (s.1):

(s.2) “property manager” means a person engaged in property management as defined in clause (s.1);

(l) by adding the following after clause (v):

- (w.1) *“service agreement” means a contract that establishes the relationship between the parties as to the services and obligations to be performed by an industry member;*
- (x) *“trade” includes any of the following:*
- (i) *a disposition or acquisition of, or transaction in, real estate by purchase or sale;*
 - (ii) *an offer to purchase or sell real estate;*
 - (iii) *an offering, advertisement, listing or showing of real estate for purchase or sale;*
 - (iv) *property management;*
 - (v) *holding oneself out as trading in real estate;*
 - (vi) *the solicitation, negotiation or obtaining of a contract, agreement or any arrangement for an activity referred to in subclauses (i) to (v);*
 - (vii) *collecting, or offering or attempting to collect, on behalf of the owner or other person in charge of real estate, money payable as*
 - (A) *rent for the use of the real estate, or*
 - (B) *contributions for the control, management or administration of the real estate;*
 - (viii) *any conduct or act in furtherance or attempted furtherance of an activity referred to in subclauses (i) to (vii).*

(v.1) “registrar” means the registrar appointed under section 8.1;

(m) in clause (w) by striking out “rules made by the Council” and substituting “, except in clause (e.2)(ii) and section 76.2, rules made by an Industry Council”;

(n) in clause (w.1) by striking out “an industry member” and substituting “a licensee”;

(o) in clause (x)

(i) by repealing subclauses (iv) and (vii);

(ii) in subclause (viii) by striking out “(vii)” and substituting “(vi)”.

5 Section 2 is amended

(a) by repealing subsection (1)(c.1);

(b) in subsection (2) by striking out “authorized” and substituting “licensed”;

(c) in subsection (4)(c) by striking out “an authorization” and substituting “a licence”;

(d) in subsection (5) by striking out “any licence permitting the use of real estate for residential, commercial or other purposes” and substituting “the use of real estate for any purpose when that use is authorized by another enactment”;

5 Section 2 presently reads in part:

2(1) This Act as it relates to trading in real estate does not apply to

(c.1) a condominium corporation in respect of managing its own affairs,

(2) A person who is licensed under the Land Agents Licensing Act is not required to be authorized as a real estate broker under this Act with respect to that person's activities as a land agent.

(4) This Act, as it relates to acting as a real estate appraiser, does not apply to

(e) by adding the following after subsection (5):

(6) This Act, as it relates to engaging in a condominium management service, does not apply to a condominium corporation in respect of the condominium corporation managing its own affairs.

(7) This Act, as it relates to property management, does not apply to a person exempted by the regulations.

6 Section 3 is amended by renumbering section 3 as section 3(1) and adding the following after subsection (1):

(2) The Council consists of the members of the Board.

7 Section 5 is repealed and the following is substituted:

Purposes of the Board

5 The purposes of the Board are

- (a)** to set the strategic direction and ensure the effective operation of the Council;
- (b)** to protect against, investigate, detect and suppress fraud as it relates to the business of licensees and to protect consumers;
- (c)** to provide, or support the provision of, services and other things that facilitate the business of licensees, as provided for in the regulations;
- (d)** to administer this Act as provided in this Act, the regulations, the bylaws and the rules.

8 Section 6 is repealed and the following is substituted:

Composition of Board

6(1) The Board shall consist of 7 members appointed as follows:

- (a)** the Minister shall appoint 3 public members, who must not be licensees;

(c) a person who holds an authorization as a real estate broker and estimates value for the purposes of a trade in real estate, or

(5) This Act, as it relates to trading in real estate, does not apply in respect of any licence permitting the use of real estate for residential, commercial or other purposes.

6 Section 3 presently reads:

3 The Real Estate Council of Alberta is hereby established as a corporation.

7 Section 5 presently reads:

5 The purposes of the Council are

- (a) to set and enforce standards of conduct for the industry and the business of industry members as the Council determines necessary in order to promote the integrity of the industry, to protect against, investigate, detect and suppress mortgage fraud as it relates to the industry and to protect consumers affected by the industry;*
- (b) to provide services and other things that, in the opinion of the Council, enhance and improve the industry and the business of industry members;*
- (c) to administer this Act as provided in this Act, the regulations, the bylaws and the rules.*

8 Section 6 presently reads:

6(1) The Council shall consist of 12 members appointed as follows:

- (a) the Minister shall appoint one member, who must not be an industry member;*
- (b) the Alberta Mortgage Brokers' Association shall appoint one member, who must be a mortgage broker;*

- (b) each Industry Council established under section 7.1 shall appoint a member, who must be a member of the Industry Council elected to the Industry Council under section 7.1(2)(b).
- (2) Subject to section 9(11) and Part 6, the term of office of a member appointed under subsection (1) is 3 years.
- (3) A person may be reappointed to the Board, but no person may serve more than 2 consecutive terms as a member of the Board.
- (4) No person may serve as a Board member for more than 12 years of total service as a Board member.
- (5) The Minister shall appoint one of the public members appointed under subsection (1)(a) as the chair of the Board, for a term of up to 3 years, and the chair shall act as the meeting facilitator and spokesperson for the Board and otherwise provide leadership for the Board.
- (6) Despite subsection (5), the term of a person who is serving as the chair of the Board ends immediately if the person is no longer a member of the Board.
- (7) Where a vacancy occurs, the vacancy shall be filled by an appointment for the unexpired portion of the term, to be made in the same manner that the appointment of the member or chair who is being replaced was made.
- (8) If an Industry Council fails to appoint a member within the time prescribed by the regulations or the bylaws, the Board may appoint the member, and the member shall be considered to have been appointed by the Industry Council.
- (9) A vacancy in the membership of the Board does not invalidate the constitution of the Board nor impair the right of members of the Board to act if the number of remaining members is not less than a quorum.

- (c) *the Alberta Real Estate Association shall appoint 6 members as follows:*
- (i) *one member who must be a real estate broker trading in industrial, commercial and investment real estate and who may or may not be active in property management;*
 - (ii) *one member who must be a real estate broker trading in residential real estate;*
 - (iii) *from nominations received from the Calgary Real Estate Board, one member, who must be a real estate broker;*
 - (iv) *from nominations received from the Edmonton Real Estate Board, one member, who must be a real estate broker;*
 - (v) *from nominations received from other real estate boards in Alberta, 2 members, who must be real estate brokers;*
- (e) *the members appointed under clauses (b) and (c) shall jointly appoint 2 members as follows:*
- (i) *from nominations from industry members who are not members of the Alberta Real Estate Association, one member, who must be an industry member;*
 - (ii) *from nominations from the public at large, one member, who must not be an industry member;*
- (f) *the members appointed under clauses (a) to (e) shall jointly appoint 2 members as follows:*
- (i) *from nominations received in accordance with the regulations, one member, who must be a real estate appraiser;*
 - (ii) *from nominations received in accordance with the regulations, one member, who must be a property manager.*

(1.1) A member appointed under subsection (1), except under subsection (1)(a) or (e)(ii), must be an industry member.

(2) Subject to Part 6, the term of office of a member appointed under subsection (1) is 3 years.

9 Section 7 is repealed.

10 The following is added before section 8:

Industry Councils

7.1(1) Four Industry Councils are established to create and administer rules and licensing requirements for the following industries:

- (a) the residential real estate broker industry;
- (b) the commercial real estate broker and commercial property manager industry;
- (c) the residential property manager industry;
- (d) the mortgage broker industry.

(2) Each Industry Council shall be composed of

(5) Where a vacancy occurs, the vacancy shall be filled by an appointment for the unexpired portion of the term, to be made in the same manner that the appointment of the member who is being replaced was made.

(6) If an association fails to appoint a member under this section within the time prescribed by the bylaws, the Council may appoint the member, and the member shall be considered to have been appointed by the association.

(7) If the members appointed under subsection (1)(b) and (c) fail to appoint a member under subsection (1)(e) within the time prescribed by the regulations, the Minister may appoint the member, and the member shall be considered to have been appointed by those members.

(8) A vacancy in the membership of the Council does not invalidate the constitution of the Council nor impair the right of members of the Council to act if the number of remaining members is not less than a quorum.

9 Section 7 presently reads:

7 No person may serve more than 2 consecutive terms as a member of the Council.

10 Industry Councils; purposes and mandate of Industry Councils.

- (a) 2 public members appointed by the Minister, who must not be licensees, and
 - (b) 3 licensees from the industry to which the Industry Council relates, elected by the licensees of that industry.
- (3) Subject to section 9(11) and Part 6, the term of office of a member of an Industry Council is 3 years.
- (4) A person may be reappointed or re-elected to an Industry Council, but no person may serve more than 2 consecutive terms as a member of the Industry Council.
- (5) No person may serve as an Industry Council member for more than 12 years of total service as an Industry Council member.
- (6) Each Industry Council shall elect one of its members as the chair of the Industry Council, for a term of 2 years, and the chair shall act as the meeting facilitator and spokesperson for the Industry Council and otherwise provide leadership for the Industry Council.
- (7) Despite subsection (6), the term of a person who is serving as the chair of an Industry Council ends immediately if the person is no longer a member of the Industry Council.
- (8) Where a vacancy occurs, the vacancy shall be filled by an appointment or election for the unexpired portion of the term, to be made in the same manner that the appointment or election of the member or chair who is being replaced was made.
- (9) If the licensees of an industry fail to elect a member or members within the time prescribed by the regulations, the Minister may appoint the member or members, and the member or members shall be considered to have been appointed by the Industry Council.
- (10) A vacancy in the membership of the Industry Council does not invalidate the constitution of the Industry Council nor impair the right of members of the Industry Council to act if the number of remaining members is not less than a quorum.

Purposes and mandate of Industry Councils

7.2(1) The purposes of an Industry Council are

- (a) to set and enforce standards of conduct for licensees and the business of licensees in order to protect consumers and promote the integrity of the industry, and
- (b) to administer this Act as provided in this Act, the regulations, the bylaws and the rules.

(2) Each Industry Council may establish rules setting out the conditions for a person to become and remain a licensee of the industry to which the Industry Council relates, including minimum standards for conduct and education requirements.

11 Section 8 is repealed and the following is substituted:

Executive director

8(1) The Board shall appoint an executive director, who shall be the chief administrative officer of the Council.

(2) A licensee is not eligible to be or remain executive director.

(3) The executive director reports to and is accountable solely to the Board.

(4) The executive director shall perform only the duties imposed on the executive director by or under this Act, and in doing so may exercise all of the powers granted to the executive director by or under this Act.

(5) The Board shall conduct and prepare a performance review of the executive director every year, not later than 120 days after the last day of each fiscal year.

12 The following is added after section 8:

Registrar

8.1(1) The Board shall appoint a registrar, who shall not be the person appointed as the executive director under section 8.

(2) A licensee is not eligible to be or remain a registrar.

(3) The registrar reports to the executive director.

(4) The registrar is accountable to the Board for the performance of duties imposed on the registrar by or under this

11 Section 8 presently reads:

8(1) The Council shall appoint an executive director, who shall be the chief administrative officer of the Council.

(2) An industry member is not eligible to be or remain executive director.

12 Registrar.

Act and the exercise of powers granted to the registrar by or under this Act.

(5) The registrar shall perform only the duties imposed on the registrar by or under this Act, and in doing so may exercise all of the powers granted to the registrar by or under this Act.

(6) The executive director shall conduct and prepare a performance review of the registrar every year, and a copy of that review must be submitted to the Board not later than 120 days after the last day of each fiscal year.

13 Section 9 is repealed and the following is substituted:

Prohibitions

9(1) No person while a member of the Board or an Industry Council shall do any of the following:

- (a) if the person is a licensee, act in an official capacity for an association, be on the governing body of an association, be an employee of an association or otherwise act on behalf of an association in any manner other than as an ordinary member of the association;
- (b) engage directly or indirectly in any business transaction or private arrangement for a pecuniary benefit, knowledge of which is gained from or based on the person being a member of the Board or an Industry Council, or from confidential or non-public information gained by reason of the member's position or authority with the Board or an Industry Council;
- (c) act in a manner, whether or not prohibited by this Act, the regulations, the bylaws or the rules, that may result in, or create the appearance of,
 - (i) using the member's position for private gain,
 - (ii) giving preferential treatment to any person,
 - (iii) impeding the Board or an Industry Council from carrying out its purposes,
 - (iv) foregoing independence or impartiality, or

13 Section 9 presently reads:

9(1) No person while a member of the Council shall do any of the following:

- (a) act in an official capacity for an association, be on the governing body of an association, be an employee of an association or otherwise act on behalf of an association in any manner other than as an ordinary member of the association;*
- (b) engage directly or indirectly in any business transaction or private arrangement for a pecuniary benefit, knowledge of which is gained from or based on the person's being a member of the Council, or from confidential or non-public information gained by reason of the member's position or authority with the Council;*
- (c) act in a manner, whether or not prohibited by this Act, the regulations, the rules or the bylaws, that may result in, or create the appearance of,*
 - (i) using the member's position for private gain,*
 - (ii) giving preferential treatment to any person,*
 - (iii) impeding the Council from carrying out its purposes,*
 - (iv) foregoing independence or impartiality, or*
 - (v) adversely affecting the integrity of the Council;*
- (d) represent the Council, explicitly or impliedly, or act in an official capacity on any matter in which the member has a real or potential personal interest, direct or indirect, in a*

- (v) adversely affecting the integrity of the Board or an Industry Council;
- (d) represent the Board or an Industry Council, explicitly or impliedly, or act in an official capacity on any matter in which the member has a real or potential personal interest, direct or indirect, in a manner that is incompatible with the member's duties under this Act, the regulations, the bylaws or the rules;
- (e) contract with or otherwise accept the services of a licensee or applicant to become a licensee on terms that are more favourable than those generally available to the general public;
- (f) unless approved by the Board or an Industry Council, as the case may be, accept a fee or benefit from another person on account of an occasion at which the member appears or provides a speech, lecture or publication, if the occasion is part of the official duties of the member for which compensation is being paid by the Council;
- (g) contravene this Act, the regulations, the bylaws or the rules.

(2) The Board may, by bylaw, establish prohibitions that apply to a member of the Board or an Industry Council in addition to those in subsection (1).

(3) If the Board or an Industry Council becomes aware of a possible violation of

- (a) subsection (1), or
- (b) a bylaw made under subsection (2)

by one of its members, the dispute resolution process established under section 11.3(a) must be used.

(4) The Board or an Industry Council, as the case may be, may vote to suspend a member from all Board or Industry Council activities for the duration of the dispute resolution process.

manner that is incompatible with the member's duties under this Act, the rules or the bylaws;

(e) contract with or otherwise accept the services of an industry member or applicant to become an industry member on terms that are more favourable than those generally available to the general public;

(f) unless approved by the Council, accept a fee or benefit from another person on account of an occasion at which the member appears or provides a speech, lecture or publication, if the occasion is part of the official duties of the member for which compensation is being paid by the Council;

(g) contravene this Act, the regulations, the rules or the bylaws.

(2) Subject to subsection (3), a member who contravenes subsection (1) shall resign immediately on becoming aware of the contravention.

(3) Instead of accepting a resignation under subsection (2), the Council may suspend the member from all or any Council activities for any period of time and subject to any terms and conditions that the Council considers appropriate.

(4) If a member contravenes subsection (2) or any terms and conditions under subsection (3), the Council may apply by originating application to a judge of the Court for

(a) an order determining whether the member was never qualified to be or has ceased to be qualified to remain a member under this section, or

(b) an order declaring the member to be disqualified from membership on the Council.

(5) An application under this section may be made within 3 years of the date on which the contravention is alleged to have occurred, but not after that period.

(5) A vote to suspend a member taken under subsection (4) requires a majority of the other members to pass, plus one additional member.

(6) If, after the dispute resolution process has been used, the Board or an Industry Council, as the case may be, does not believe the member has committed a violation, a member who has been suspended under subsection (4) shall be automatically reinstated to the Board or Industry Council.

(7) If, after the dispute resolution process has been used, the Board or an Industry Council, as the case may be, believes that one of its members has violated subsection (1) or violated a bylaw made under subsection (2), the Board or Industry Council may

- (a) by majority vote, suspend the member from any or all Board or Industry Council activities, as the case may be, for any period of time and subject to any terms and conditions that the Board or Industry Council considers appropriate,
- (b) in the case of a Board member who was appointed to the Board by an Industry Council, dismiss the member from the Board if a majority plus one other Board member votes to dismiss the member,
- (c) in the case of an Industry Council member who is a licensee of that Industry Council, dismiss the member from the Industry Council if all or a majority plus one other member of the Industry Council votes to dismiss the member, or
- (d) in the case of a public member, make a recommendation that the Minister dismiss the member from the Board or Industry Council if a majority of the Board or Industry Council votes to do so.

(8) The person who is the subject of a vote taken under subsection (4) or (7) shall not cast a vote.

(9) If the majority of votes in a vote taken under subsection (7)(b) or (c) are to dismiss a member, but the required number of votes to dismiss the member has not been reached, the Board or Industry Council shall notify the Minister of the result and

shall recommend that the Minister dismiss the member from the Board or Industry Council.

(10) Nothing in this section prevents a member subject to the dispute resolution process from resigning at any time.

(11) If the licence of a member is withdrawn, expires or otherwise becomes invalid for any reason, the member shall be deemed to have immediately resigned from the Board or Industry Council.

(12) An Industry Council shall notify the Board immediately of the results of any vote taken under subsection (4) or (7) or a resignation.

14 Section 10(1) is amended

- (a)** by adding “to which an Industry Council relates” **after** “the industry”;
- (b)** by striking out “Council” **wherever it occurs and substituting** “Industry Council”;
- (c)** in clause (a)
 - (i)** by striking out “any industry member” and substituting “any licensee”;
 - (ii)** by striking out “an industry member” and substituting “a licensee”.

15 Section 11 is amended

- (a)** by renumbering section 11 as section 11(1);
- (b)** in subsection (1)
 - (i)** by striking out “The Council” and substituting “The Board”;
 - (ii)** in clause (a) by striking out “Council” and substituting “Board or an Industry Council”;
 - (iii)** by adding the following after clause (a):

14 Section 10(1) presently reads:

10(1) In matters pertaining to or arising within the industry, the Council may by notice in writing

- (a) direct any industry member or person who the Council determines is acting in the capacity of an industry member to do immediately or within or at a specified time and in any manner directed by the Council anything that that person is or may be required to do under this Act, the regulations, the rules or the bylaws, or*
- (b) forbid the doing or continuing of anything that is in contravention of this Act, the regulations, the rules or the bylaws.*

15 Section 11 presently reads:

11 The Council may make bylaws

- (a) respecting the appointment and election of officers of the Council;*
- (b) prescribing time periods for the purposes of section 6(6);*
- (c) respecting the duties of members and officers of the Council and their remuneration;*
- (d) respecting the procedure for making appointments under section 6(1)(e) and (6);*

- (a.1) respecting the appointment of an Executive Director;
- (a.2) respecting the conduct of elections under section 7.1(2)(b);
- (iv) in clause (b)**
 - (A) by adding** “subject to the regulations,” **before** “prescribing”;
 - (B) by striking out** “6(6)” **and substituting** “6(8)”;
- (v) in clause (c) by striking out** “Council” **and substituting** “Board or an Industry Council”;
- (vi) in clause (d) by striking out** “6(1)(e) and (6)” **and substituting** “6(8)”;
- (vii) in clause (e)**
 - (A) by adding** “subject to the regulations,” **before** “respecting”;
 - (B) by striking out** “Council” **and substituting** “Board”;
- (viii) in clause (f) by adding** “, the Board or an Industry Council” **after** “Council”;
- (ix) in clause (g) by adding** “, the Board or an Industry Council” **after** “Council”;
- (x) in clause (h) by striking out** “an industry member” **and substituting** “a licensee”;
- (xi) by repealing clause (l);**
- (xii) by repealing clause (m) and substituting the following:**
 - (m) respecting the appeal of a decision to refuse to issue, to cancel or to suspend a licence, or to refuse to reinstate a licence;
- (xiii) by adding the following after clause (m):**

- (e) respecting the services and other things provided by or on behalf of the Council;*
- (f) respecting the conduct of the business and affairs of the Council;*
- (g) respecting the receipt, management and investment of contributions, donations, bequests or any other sources of revenue received by the Council;*
- (h) respecting the investigation under section 38 of the conduct of an industry member;*
- (h.1) respecting the procedures for appointing Hearing Panels and Appeal Panels;*
- (i) subject to this Act, respecting the practice and procedure before a Hearing Panel and an Appeal Panel;*
- (j) respecting the costs that may be ordered under section 40(4) or 43(2) or (2.1), awarded under section 50(5) or 83.1(5) or payable under section 48(8) or 52(8) and the amount of those costs;*
- (k) prescribing the form and contents of notices of administrative penalties for the purposes of section 83;*
- (l) prescribing contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts of the administrative penalties that may be imposed, not to exceed the amount prescribed by the regulations for each contravention;*
- (m) prescribing limitation periods for the giving of notices of administrative penalties;*
- (n) respecting any other matter necessary for the administration of the system of administrative penalties.*

- (m.1) respecting the appeal of orders under section 73;
- (m.2) subject to regulations under section 84(2)(d), authorizing the Council to charge and collect from licensees fees, levies, premiums and other assessments authorized under this Act or otherwise required by the Council for its operations and for matters under its administration, and respecting the manner in which and times at which they must be paid and penalties or interest charges that are payable for late payment;
- (m.3) specifying the quorum for the Board or an Industry Council;
- (m.4) respecting the form and contents of statements of admission of conduct for the purposes of section 46 and the circumstances in which the Board may accept such a statement;
- (m.5) authorizing the Board to establish and administer an insurance or indemnity plan for licensees and respecting all matters necessarily related to the establishment and administration of a plan;
- (m.6) exempting persons or classes of persons from the bylaws;

(c) by adding the following after subsection (1):

(2) Subject to the regulations, except for a bylaw made under section 67, a bylaw or the amendment of a bylaw shall not have effect until it has been approved in writing by the Minister.

16 The following is added after section 11:

Conduct of the Board

11.1(1) The Board must, within one year of this section coming into force, make a bylaw governing

- (a) the conduct of its members and the members of the Industry Councils, and

16 Conduct of the Board; governance training; dispute resolution; fees.

- (b) the roles and responsibilities of
 - (i) the Board and its members,
 - (ii) the Industry Councils and their members,
 - (iii) the executive director, and
 - (iv) the registrar.

(2) A bylaw made under subsection (1) must be reviewed at least once every 3 years and must be repassed in its present or an amended form by 4 or more Board members following the review.

(3) A bylaw made under subsection (1) prevails over any other bylaw made under this Act to the extent of any inconsistency between them.

Governance training

11.2(1) The Board must, within one year of this section coming into force, make a bylaw that identifies mandatory governance training requirements for Board members and Industry Council members.

(2) Each member of the Board and each member of an Industry Council must complete the training required by the bylaw made under subsection (1) within one year of their appointment or election to the Board or Industry Council, as the case may be.

Dispute resolution

11.3 The Board must, within one year of this section coming into force, make a bylaw establishing a dispute resolution process that must

- (a) specify the process that will be used in a case where the Board or an Industry Council becomes aware of a possible violation of section 9(1) or a bylaw made under section 9(2),
- (b) specify the process that will be used in the case of a dispute over roles and responsibilities between the Board and an Industry Council or between 2 Industry Councils, and

- (c) identify other circumstances in which a dispute resolution process will be used, and specify the process that will be used in such circumstances.

Fees

11.4 Except as provided in section 57(5) and (10)(a), no licensee shall be required to pay a fee, levy, premium or other assessment unless the fee, levy, premium or assessment has been authorized by a bylaw made under section 11(1)(m.2).

17 Section 12 is amended

- (a) by renumbering section 12 as section 12(1);**
- (b) in subsection (1)**
 - (i) by striking out** “The Council may make rules” **and substituting** “Each Industry Council may, with respect to licensees in the industry to which the Industry Council relates, make rules”;
 - (ii) by repealing clause (a) and substituting the following:**
 - (a) prescribing or adopting standards of conduct and business standards for licensees, including skills, education, competency and experience standards;
 - (iii) in clauses (b) and (c) by striking out** “industry members” **and substituting** “licensees”;
 - (iv) in clause (e) by striking out** “an industry member” **and substituting** “a licensee”;
 - (v) in clause (f) by striking out** “industry members” **and substituting** “licensees”;
 - (vi) in clause (g)**
 - (A) by striking out** “industry members” **and substituting** “licensees”;
 - (B) by striking out** “an industry member” **and substituting** “a licensee”;

17 Section 12 presently reads:

12 The Council may make rules

- (a) prescribing or adopting standards of conduct and business standards for industry members;*
- (b) respecting the form and contents of advertising carried out by industry members;*
- (c) respecting the use of names by industry members;*
- (d) requiring the use of standard forms for matters related to the industry and prescribing or providing for the establishment of those forms;*
- (e) requiring that specified types of transactions in the business of an industry member be evidenced by an agreement in writing and that such an agreement contain specified provisions;*
- (f) regulating the operation of branch offices by industry members;*
- (g) respecting the disclosure of information by industry members to parties and potential parties to transactions in the business of an industry member;*
- (h) establishing different classes of industry members and different classes of business of industry members for the purposes of this Act, the regulations, the rules and the bylaws;*
- (i) regulating the manner in which industry members are to carry out the activities that form part of the business of an industry member;*

- (vii) in clause (h) by striking out “industry members” wherever it occurs and substituting “licensees”;**
- (viii) in clauses (i) and (j)**
 - (A) by striking out “industry members” and substituting “licensees”;**
 - (B) by striking out “an industry member” and substituting “a licensee”;**
- (ix) by repealing clause (j.1) and substituting the following:**
 - (j.1) regulating the business of a licensee acting on the licensee’s own behalf;
- (x) by repealing clause (j.2);**
- (xi) in clause (k)**
 - (A) by striking out “authorizations” wherever it occurs, except in subclause (vi), and substituting “licences”;**
 - (B) in subclauses (i) and (ii.1) by striking out “an authorization” and substituting “a licence”;**
 - (C) by adding “and” at the end of subclause (iv);**
 - (D) in subclause (v)**
 - (I) by striking out “an authorization” and substituting “a licence”;**
 - (II) by striking out “and” at the end of subclause (v);**
 - (E) by repealing subclause (vi);**
- (xii) by repealing clause (l);**
- (xiii) in clause (m)**
 - (A) by striking out “industry members” wherever it occurs and substituting “licensees”;**

- (j) *regulating the rights, duties, powers and obligations of industry members in the carrying on of the business of an industry member;*
- (j.1) *regulating trading in real estate by an industry member on the industry member's own behalf;*
- (j.2) *respecting the manner in which or the basis on which commissions and other remuneration are to be calculated;*
- (k) *respecting the issuing of authorizations for the purposes of section 17, including, without limitation, rules*
 - (i) *respecting eligibility requirements for a person to acquire and retain an authorization,*
 - (ii) *respecting the application for and issuing of authorizations,*
 - (ii.1) *respecting the requirement for a criminal record check to accompany an application for an authorization,*
 - (iii) *providing for the issuing of authorizations subject to terms and conditions and authorizing the imposition of terms and conditions on authorizations,*
 - (iv) *respecting the duration of authorizations,*
 - (v) *authorizing and respecting the cancellation and suspension of authorizations in circumstances in addition to the circumstances under which an authorization may be cancelled or suspended under Part 3, and*
 - (vi) *respecting the appeal of a decision to refuse to issue or to cancel or suspend an authorization and the reinstatement of authorizations;*
- (l) *providing for the appeal of orders under section 73;*
- (m) *requiring industry members and former industry members to keep records and books of account and respecting the contents of the records and books of account, the manner in which they must be kept and the time for which they must be kept which, in the case of a former industry member, may not exceed a period of 3 years after the person becomes a former industry member;*

- (B) by striking out “industry member” wherever it occurs and substituting “licensee”;**
- (xiv) in clause (n) by striking out “industry members” and substituting “licensees”;**
- (xv) in clause (o)**
 - (A) by striking out “industry members” wherever it occurs and substituting “licensees”;**
 - (B) by adding “, the Board, an Industry Council” after “Council”;**
- (xvi) in clause (p)**
 - (A) by striking out “industry members” wherever it occurs and substituting “licensees”;**
 - (B) by striking out “an industry member” and substituting “a licensee”;**
- (xvii) by repealing clause (q);**
- (xviii) in clause (r) by striking out “industry members” wherever it occurs and substituting “licensees”;**
- (xix) by repealing clauses (v) and (x);**
- (xx) in clause (y)**
 - (A) by striking out “from industry membership” and substituting “a licence”;**
 - (B) by adding “Industry” before “Council”;**
- (xxi) by repealing clause (z) and substituting the following:**
 - (z) prescribing contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts of the administrative penalties that may be imposed, not to exceed the amount prescribed by the regulations for each contravention;**

- (n) *respecting the keeping and operation of trust accounts by industry members;*
- (o) *requiring industry members and applicants to become industry members to provide information, reports and returns and other information to the Council or the Foundation, and respecting the manner in which and the circumstances under which information, reports and returns are to be provided;*
- (p) *requiring industry members to acquire, maintain or provide insurance against their liability for errors and omissions in the carrying on of the business of an industry member and respecting the amount and form of insurance and the terms and conditions under which insurance is to be provided, or requiring industry members to participate in an indemnity plan for that purpose;*
- (q) *authorizing the Council to establish and administer an insurance or indemnity plan for industry members and respecting all matters necessarily related to the establishment and administration of a plan;*
- (r) *requiring industry members to acquire, maintain or provide a bond or other form of security and respecting the amount and form of a bond or other security and the terms and conditions under which a bond or other security is to be provided, or requiring industry members to participate in an indemnity plan for that purpose;*
- (t) *respecting the forfeiture of security provided under clause (r) and the payment of claims against the security;*
- (v) *subject to regulations under section 84(2)(d), authorizing the Council to charge and collect from industry members fees, levies, premiums and other assessments authorized under this Act or otherwise required by the Council for its operations and for matters under its administration, and respecting the amounts of those fees, levies, premiums and assessments, the manner in which and times at which they must be paid and penalties or interest charges that are payable for late payment;*
- (x) *respecting the form and contents of statements of admission of conduct for the purposes of section 46 and the circumstances under which the executive director may accept such a statement;*

(xxii) in clause (aa) by striking out “the bylaws or”;

(c) by adding the following after subsection (1):

(2) An Industry Council that is proposing to create a rule or amend a rule shall submit the proposed rule or rule change to the Board, and the Board shall then transmit the proposed rule change to the Minister.

(3) Subject to the regulations, a rule or the amendment of a rule shall not have effect until it has been approved in writing by the Minister.

(4) In the event of an inconsistency between a rule made under this section and a bylaw made under this Act, the bylaw prevails to the extent of the inconsistency.

18 Section 13 is amended by adding “, 11.1, 11.2 or 11.3” after “section 11”.

19 Section 14 is repealed and the following is substituted:

Availability of bylaws and rules

14(1) The Board

- (a) shall
 - (i) make copies of its bylaws available to licensees and members of the public, and
 - (ii) make the agenda and minutes of all Board meetings available to licensees and members of the public,
 - (A) in the case of a meeting agenda, at least 7 days before the meeting takes place, and
 - (B) in the case of meeting minutes, no more than 7 days after they are finalized,

and

- (y) *respecting the form and contents of applications to withdraw from industry membership for the purposes of section 54, and the circumstances under which the Council may approve such an application;*
- (z) *respecting reviews for the purposes of section 76;*
- (aa) *exempting persons or classes of persons from the bylaws or the rules.*

18 Section 13 presently reads:

13 The Regulations Act does not apply to bylaws made under section 11 or rules made under section 12.

19 Section 14 presently reads:

14(1) The Council

(a) shall

(i) make copies of its bylaws and rules available to industry members, and

(ii) on request make copies of its rules available to members of the public,

and

(b) may make other information relating to matters under the jurisdiction of the Council available to members of the public.

(2) The Council may charge reasonable fees for the provision of information under this section.

- (b) may make other information relating to matters under the jurisdiction of the Board available to members of the public.

(2) Each Industry Council

- (a) shall
 - (i) make copies of its rules available to the Board, licensees in the industry to which the Industry Council relates and members of the public, and
 - (ii) make the agenda and minutes of all Industry Council meetings available to the Board, licensees in the industry to which the Industry Council relates and members of the public,
 - (A) in the case of a meeting agenda, at least 7 days before the meeting takes place, and
 - (B) in the case of meeting minutes, no more than 7 days after they are finalized,

and

- (b) may make other information relating to matters under the jurisdiction of the Industry Council available to members of the public.

20 Section 15 is repealed and the following is substituted:

Delegation of authority

15(1) The Board may delegate, by bylaw, to any officer or employee of the Council or any other person any or all of its powers, duties or responsibilities under this Act, except

- (a) its power to make bylaws, or
- (b) any power, duty or responsibility under Part 3.

(2) An Industry Council may delegate, by resolution, to any officer or employee of the Council or any other person any or all of its powers, duties or responsibilities under this Act, except

- (a) its power to make rules,

20 Section 15 presently reads:

15(1) The Council may delegate in writing to any officer or employee of the Council or any other person any or all of its powers, duties or responsibilities under this Act, except

(a) its power to make rules or bylaws, or

(b) any power, duty or responsibility under Part 3.

(2) The Council may, when delegating a matter, authorize the further delegation of the matter.

(3) A delegation may be made subject to any terms and conditions the Council considers appropriate.

- (b) its power to make appointments to the Board, or
- (c) any power, duty or responsibility under Part 3.

(3) An Industry Council that delegates a power, duty or responsibility must make copies of the resolution authorizing the delegation available to the Board, licensees in the industry to which the Industry Council relates and members of the public.

(4) The Board or an Industry Council may, when delegating a matter, authorize the further delegation of the matter.

(5) Any officer or employee who further delegates a matter that was delegated to the officer or employee by the Board or an Industry Council must do so in writing and provide a copy to the Board or Industry Council as soon as practicable.

(6) A delegation under subsection (1) or (2) may be made subject to any terms and conditions the Board or Industry Council considers appropriate, and any such terms and conditions shall be set out in the bylaw or resolution, as the case may be, in which the delegation is made.

(7) A delegation under subsection (5) may be made subject to any terms and conditions specified in writing.

(8) A person to whom a power, duty or responsibility has been delegated is subject to the same restrictions and responsibilities as the entity or person that delegated the authority to them.

21 Section 16 is amended

(a) in subsection (1)

(i) by striking out “the Council shall” and substituting “the Board shall”;

(ii) in clause (a)

(A) in subclause (ii)

(l) by striking out “industry members” and substituting “licensees”;

21 Section 16 presently reads:

16(1) Not later than 120 days after the last day of the Council's fiscal year, the Council shall

- (a) prepare an annual report for the previous fiscal year that must*
 - (i) contain an audited financial statement summarizing the income and expenditures of the Council,*
 - (ii) state the number of industry members in each class or category of authorization issued by the Council,*

- (II) **by striking out “authorization” and substituting “licence”;**
- (III) **by striking out “Council” and substituting “Industry Councils”;**
- (B) **in subclause (iii)**
 - (I) **by striking out “of authorization” and substituting “of licence”;**
 - (II) **in paragraph (A) by striking out “an authorization” and substituting “a licence”;**
 - (III) **in paragraph (B) by striking out “authorizations” and substituting “licences”;**
- (C) **in subclause (iv)**
 - (I) **by adding “, the Board and the Industry Councils” after “Council”;**
 - (II) **by striking out “and”;**
- (D) **by adding the following after subclause (iv):**
 - (iv.1) state all compensation paid to Board members, Industry Council members, the executive director and the registrar, and
- (E) **in subclause (v) by striking out “Council” and substituting “Board”;**
- (b) **by adding the following after subsection (1):**
 - (1.1) Not later than 60 days before the end of the Council’s fiscal year, the Board shall
 - (a) prepare a business and financial plan for the next 3 fiscal years, and
 - (b) deliver a copy of the business and financial plan to the Minister.
 - (1.2) The business and financial plan must include the following information:

- (iii) for each class or category of authorization state the number of persons*
 - (A) who were refused an authorization, or*
 - (B) whose authorizations were cancelled, suspended or made conditional,*
- (iv) contain a list of current members and officers of the Council, and*
- (v) contain any other information that the Council determines relevant or necessary, or that the Minister requires;*
- (b) cause a copy of the report to be delivered to the Minister.*
- (2) Not later than 120 days after the last day of the Fund's fiscal year, the Council shall*
 - (a) cause a report to be prepared as to the Fund and all dispositions made from it during the previous fiscal year, and*
 - (b) cause a copy of the report to be delivered to the Minister.*
- (3) In addition to the reports under this section, the Council shall provide the Minister with financial statements or other information concerning the Council or the Fund when required to do so by the Minister.*

- (a) goals;
- (b) annual performance objectives;
- (c) strategies for achieving the goals and performance objectives;
- (d) the performance measures that will be used to evaluate whether the goals and performance objectives are met.

(1.3) The Board must fulfil its mandate and conduct its activities in a manner that is generally consistent with the current business and financial plan.

(c) in subsection (2) by striking out “Council” and substituting “Board”;

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

(2.1) When a report or plan is delivered to the Minister under subsection (1), (1.1) or (2), the report or plan must also be made available to members of the public.

(e) by repealing subsection (3) and substituting the following:

(3) In addition to the reports under this section, the Board shall provide the Minister with financial statements or any other information concerning the Board, an Industry Council or the Fund when required to do so by the Minister, and the Industry Council and Fund shall supply the Board with any information required for the Board to comply with the Minister’s request.

22 The heading to Part 2 is amended by striking out “an Industry Member” and substituting “a Licensee”.

23 Section 17 is amended

(a) in clauses (c) and (d) by striking out “real estate appraiser” and substituting “property manager”;

22 The heading to Part 2 presently reads:

*Part 2
Regulation of Business of an
Industry Member*

23 Section 17 presently reads in part:

17 No person shall

(c) act as a real estate appraiser, or

(b) in the portion following clause (d)

- (i) by striking out “authorization” and substituting “licence”;**
- (ii) by striking out “Council” and substituting “Industry Council relating to that industry”.**

24 The following is added after section 17:

Real estate appraisers

17.1 No person shall act as a real estate appraiser or advertise himself or herself as, or in any way hold himself or herself out as, a real estate appraiser in Alberta unless the person is a member in good standing of the Appraisal Institute of Canada, the Alberta Assessors’ Association or the Canadian National Association of Real Estate Appraisers.

25 Section 18 is amended

(a) in subsection (1)

- (i) by striking out “No industry member” and substituting “No licensee”;**
- (ii) by striking out “an industry member” and substituting “a licensee”;**

(b) in subsection (2)

- (i) by striking out “No industry member” and substituting “No licensee”;**
- (ii) by striking out “an industry member” and substituting “a licensee”;**
- (iii) by striking out “the industry member” and substituting “the licensee”;**

(c) in subsection (3)

- (i) by striking out “an industry member” wherever it occurs and substituting “a licensee”;**
- (ii) by striking out “the industry member” wherever it occurs and substituting “the licensee”;**

(d) advertise himself or herself as, or in any way hold himself or herself out as, a mortgage broker, real estate broker or real estate appraiser

unless that person holds the appropriate authorization for that purpose issued by the Council.

24 Real estate appraisers.

25 Section 18 presently reads:

18(1) No industry member shall solicit, accept or receive from the public money or other consideration except in the usual course of carrying on the business of an industry member.

(2) No industry member shall receive money in the course of carrying on business as an industry member unless, before receiving the money, the industry member has entered into a service agreement with the person who provides the money or on whose behalf it is to be held that expressly acknowledges the trust arrangement between them and sets out the terms on which the money will be received, held and disbursed.

(3) Before accepting any money in connection with the carrying on of the business of an industry member, an industry member shall provide to the person on whose behalf the industry member is acting and any other person who is providing the money full particulars in writing of

(a) any direct or indirect interest that the industry member or any associate within the meaning of the Securities Act or any officer, director or manager of the industry member or associate or, where the industry member is a partnership, any partner in the partnership, has or may acquire in the transaction, and

- (iii) in clause (b) by striking out “industry member’s” and substituting “licensee’s”;**
- (d) in subsection (4) by striking out “an industry member” wherever it occurs and substituting “a licensee”.**

26 Section 19 is amended

- (a) by striking out “industry member” wherever it occurs and substituting “licensee”;**
- (b) by striking out “industry member’s” and substituting “licensee’s”.**

27 Section 20 is amended

- (a) in subsection (1) by striking out “an industry member” wherever it occurs and substituting “a licensee”;**
- (b) in subsection (2)**
 - (i) by striking out “An industry member” and substituting “A licensee”;**
 - (ii) by striking out “that industry member” and substituting “that licensee”;**
- (c) in subsection (3)**
 - (i) by striking out “an industry member” wherever it occurs and substituting “a licensee”;**
 - (ii) by striking out “that industry member” and substituting “that licensee”;**
- (d) in subsections (4)(c) and (7)(a) by striking out “industry member” and substituting “licensee”;**
- (e) in subsection (8)**

(b) any intention on the industry member's part to have the industry member or another person referred to in clause (a) named in any document that would tend to indicate that the industry member or that person had such an interest.

(4) This section does not apply to the soliciting, acceptance or receipt of money or other consideration that represents remuneration or expenses paid to an industry member for carrying on the business of an industry member or security provided for remuneration or expenses.

26 Section 19 presently reads:

19 Except in accordance with section 20, no industry member shall make a representation to a seller of real estate that the industry member or another person on the industry member's behalf will pay to the seller a fixed or determinable amount of money within a fixed or determinable period of time.

27 Section 20 presently reads in part:

20(1) In this section, "guaranteed sale agreement" means an agreement in writing under which an industry member or another person on behalf of or to the benefit of an industry member undertakes to pay to the seller of real estate within a fixed or determinable period of time a fixed or determinable amount of money in respect of that seller's real estate.

(2) An industry member who enters into a guaranteed sale agreement or has another person enter into a guaranteed sale agreement on behalf of or to the benefit of that industry member shall maintain a separate trust account in a bank, loan corporation, trust corporation, credit union or treasury branch in which money payable under this section must be deposited.

(3) When a guaranteed sale agreement is entered into by an industry member or other person on behalf of or to the benefit of an industry member, that industry member shall deposit into the trust account maintained under subsection (2) not less than 5% of the total amount that may be payable under the guaranteed sale agreement.

(4) When money is deposited under subsection (3), it must be held in trust for the seller and must be

- (i) **by striking out** “an industry member” **and substituting** “a licensee”;
- (ii) **by striking out** “that industry member” **and substituting** “that licensee”.

28 Section 21(1) is amended

- (a) **by striking out** “an industry member” **and substituting** “a licensee”;
- (b) **in clause (a)**
 - (i) **by striking out** “authorization” **and substituting** “licence”;
 - (ii) **by striking out** “Council” **and substituting** “relevant Industry Council”;
- (c) **in clause (b) by striking out** “authorization” **and substituting** “licence”.

29 Section 21.1(1) is amended

- (a) **by striking out** “an industry member” **and substituting** “a licensee”;
- (b) **in clause (a)**
 - (i) **by striking out** “authorization” **and substituting** “licence”;
 - (ii) **by striking out** “Council” **and substituting** “relevant Industry Council”;

(c) *returned to the industry member when, pursuant to the terms of the guaranteed sale agreement, there is no longer any money payable to the seller under that guaranteed sale agreement.*

(7) *When a deposit is forfeited under subsection (4)(b),*

(a) *the forfeiture does not prejudice any action that the seller may have against the industry member or other parties to the guaranteed sale agreement, and*

(8) *When an industry member or other person who enters into a guaranteed sale agreement with a seller purchases the seller's real estate pursuant to that sale agreement, no commission is payable to that industry member or other person by that seller in respect of that trade.*

28 Section 21(1) presently reads:

21(1) No action may be brought for a commission or for other remuneration for services rendered in connection with a transaction in the business of an industry member unless, at the time of rendering the services, the person bringing the action

(a) *was the holder of the appropriate authorization issued by the Council authorizing that person to render those services, or*

(b) *was exempt from the authorization requirements.*

29 Section 21.1(1) presently reads:

21.1(1) No person shall charge or collect a commission or other remuneration for services rendered in connection with a transaction in the business of an industry member unless, at the time of rendering the service, the person

(a) *was the holder of the appropriate authorization issued by the Council authorizing the person to render those services, or*

(b) *was exempt from the authorization requirements.*

- (c) **in clause (b) by striking out “authorization” and substituting “licence”.**

30 Section 22 is amended

- (a) **by striking out “an industry member” and substituting “a licensee”;**
- (b) **by repealing clause (d);**
- (c) **by adding the following at the end of the section:**
 - (e) in the case of a property manager engaging in a condominium management service, the person sought to be charged has, as a result of the services of the condominium manager employed by that person for the purpose, received the services of a condominium manager.

31 Section 23 is amended

- (a) **by striking out “industry members” and substituting “licensees”;**

30 Section 22 presently reads:

22 No action shall be brought to charge a person by commission or otherwise for services rendered in connection with a transaction in the business of an industry member unless

- (a) the service agreement on which recovery is sought in the action or some note or memorandum of it is in writing signed by the party to be charged or by that person's agent lawfully authorized in writing,*
- (b) in the case of a trade in real estate, the person sought to be charged*
 - (i) has as a result of the services of a real estate broker employed by that person for the purpose effected a sale or lease of land or an interest in it, and*
 - (ii) has either executed a transfer or lease signed by all other necessary parties and delivered it to the buyer or lessee, or has executed an agreement of sale of land, or an interest in it, signed by all necessary parties, entitling the buyer to possession of the land or any interest in it, as specified in the agreement, and has delivered the agreement to the buyer,*
- (c) in the case of a mortgage transaction, the person sought to be charged has as a result of the services of a mortgage broker employed by that person for the purpose obtained a mortgage loan or loaned funds secured by a mortgage, or*
- (d) in the case of a transaction involving the activities of a real estate appraiser described in section 1(1)(u.1), the person sought to be charged has as a result of the services of a real estate appraiser employed by that person for the purpose received an estimate of the value of an identified interest in real estate.*

31 Section 23 presently reads:

23 Where there is an agreement between 2 or more industry members providing for the sharing of a commission or remuneration

- (b) **by striking out** “an industry member” **and substituting** “a licensee”;
- (c) **by striking out** “the industry member” **and substituting** “the licensee”;
- (d) **by striking out** “that industry member” **wherever it occurs and substituting** “that licensee”.

32 Section 25 is amended

- (a) **in subsection (1)**
 - (i) **by striking out** “An industry member” **and substituting** “A licensee”;
 - (ii) **in clause (a)**
 - (A) **by striking out** “industry member” **wherever it occurs and substituting** “licensee”;
 - (B) **by adding** “property management service,” **before** “dealing”;
 - (iii) **in clause (b)**
 - (A) **by adding** “property management service,” **before** “dealing” **wherever it occurs**;
 - (B) **by striking out** “industry member” **wherever it occurs and substituting** “licensee”;
 - (iv) **in clause (c)**
 - (A) **by adding** “property management service,” **before** “dealing”;
 - (B) **by striking out** “industry member” **wherever it occurs and substituting** “licensee”;
 - (C) **by striking out** “industry members” **and substituting** “licensees”;
 - (v) **in clause (d)**

payable in respect of a transaction in the business of an industry member, only the industry member who, by virtue of a service agreement between that industry member and a party to the transaction, is entitled to the commission or remuneration, or an assignee of that industry member, may bring an action for recovery of the commission or remuneration against the person who is liable to pay it.

32 Section 25 presently reads in part:

25(1) An industry member who is required by the rules to keep and operate a trust account shall

- (a) keep complete and accurate financial records in which the industry member shall maintain a separate record for each person on whose behalf the industry member is acting of all
 - (i) money received in trust,*
 - (ii) money held in trust,*
 - (iii) interest earned on money held in trust, and*
 - (iv) disbursements made from money received or held in trust, in respect of a dealing or trade for that person,**
- (b) deposit money received in trust in respect of a dealing or trade in the business of the industry member within the time prescribed by the regulations, or within any period agreed to in writing by the parties to the dealing or trade, in an interest-bearing account that is
 - (i) maintained in a bank, loan corporation, trust corporation, credit union or treasury branch, and*
 - (ii) kept in the name of the industry member and designated as a trust account,**
- (c) keep money received or held in trust in respect of a dealing or trade in the business of the industry member separate from money that belongs to the industry member or any industry members the industry member employs, and*
- (d) disburse money received or held in trust in respect of a dealing or trade in the business of the industry member only*

- (A) **by adding** “property management service,” **before** “dealing”;
 - (B) **by striking out** “industry member” **and substituting** “licensee”;
- (b) **in subsection (2)**
 - (i) **by striking out** “an industry member” **and substituting** “a licensee”;
 - (ii) **by adding** “property management service,” **before** “dealing”;
 - (iii) **by striking out** “the industry member” **wherever it occurs and substituting** “the licensee”;
- (c) **in subsection (4) by striking out** “an industry member” **and substituting** “a licensee”;
- (d) **in subsection (5)**
 - (i) **by striking out** “an industry member” **and substituting** “a licensee”;
 - (ii) **by striking out** “the industry member” **and substituting** “the licensee”;
- (e) **in subsection (7) by striking out** “An industry member” **and substituting** “A licensee”;
- (f) **in subsection (9)**
 - (i) **by striking out** “An industry member” **and substituting** “A licensee”;
 - (ii) **by striking out** “industry member’s” **and substituting** “licensee’s”;
- (g) **in subsection (11) by striking out** “industry member” **and substituting** “licensee”.

in accordance with the rules and with the terms of the trust governing the use of that money.

(2) Where an industry member receives money in trust in respect of a dealing or trade in the business of the industry member, the industry member shall ensure that the terms of the trust governing the use of the money are in writing and agreed to by the industry member and all other parties.

(4) Where an industry member

- (a) maintains business premises in the City of Lloydminster,*
- (b) maintains an account designated as a trust account in a bank, loan corporation, trust corporation, credit union or treasury branch located in the City of Lloydminster, and*
- (c) otherwise complies with subsection (1),*

subsection (3) does not apply to deposits to the extent that they are made and kept in the account referred to in clause (b).

(5) Where an industry member of a class specified in the regulations holds money in trust for more than 2 years after the date on which the person for whom it is held becomes entitled to receive payment of it and, using reasonable efforts, is unable to locate the person, the industry member shall

- (a) pay the money to the Foundation, and*
- (b) provide the Foundation in writing with*
 - (i) the name of the person for whom the money was being held,*
 - (ii) the circumstances resulting in the money being unclaimed, and*
 - (iii) if the money represents more than one unclaimed amount, a breakdown of each amount.*

(7) An industry member is not liable to any person referred to in subsection (6) for money paid to the Foundation under subsection (5).

(9) An industry member shall, in accordance with the rules, keep in Alberta records and books of account of the industry member's

33 Section 36 is repealed and the following is substituted:

Panels

36(1) A Hearing Panel and an Appeal Panel must consist of at least 3 members appointed in accordance with the bylaws.

(2) A Hearing Panel and an Appeal Panel must consist of at least one licensee and at least one member of the public.

(3) The number of members of the public on a Hearing Panel or an Appeal Panel must not exceed the number of licensees on the Hearing Panel or Appeal Panel.

(4) No Board member or Industry Council member may sit on a Hearing Panel or an Appeal Panel.

(5) A person who was a member of a Hearing Panel that dealt with a subject-matter is not eligible to sit on the Appeal Panel that deals with the same subject-matter.

business and accounting records, and shall keep those records and books of account

(a) for a period of 3 years after they came into existence, or

(b) for any longer period that the executive director directs in a particular case for the purposes of an investigation or prosecution under this Act.

(11) Any waiver or release by a person on whose behalf the industry member is acting of the rights, benefits or protections provided to the person under this section is void.

33 Section 36 presently reads:

36(1) A Hearing Panel must consist of at least 3 members appointed in accordance with the bylaws.

(2) At least one member of a Hearing Panel must be a member of the Council and the other members of the Hearing Panel may be industry members or members of the public.

(3) Despite subsection (2), the number of members of the public on a Hearing Panel must not exceed the number of industry members on a Hearing Panel.

(4) An Appeal Panel must consist of at least 3 members appointed in accordance with the bylaws, all of whom must be members of the Council.

(5) Despite subsection (4), a member of The Law Society of Alberta or of the law society of any other province or territory may be appointed as a member of an Appeal Panel in accordance with the bylaws, in which case that Appeal Panel must consist of

(a) one member of The Law Society of Alberta or of the law society of any other province or territory, and

(b) at least 3 additional members, all of whom must be members of the Council.

(6) A person who was a member of the Hearing Panel that dealt with a subject-matter is not eligible to sit on the Appeal Panel that deals with the same subject-matter.

34 Section 37 is amended

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

Complaint

37(1) A person may make a complaint to the registrar about the conduct of a licensee.

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

(3) An Industry Council may request information from the registrar regarding complaints relating to licensees of that Industry Council, and the registrar shall provide the information requested.

(4) Despite subsection (3), an Industry Council shall not request information from the registrar about a specific investigation that is or has been conducted under this Act, and the registrar shall not provide any such information to an Industry Council.

35 Section 37.1 is amended

- (a) **by striking out “former industry member” wherever it occurs and substituting “former licensee”;**
- (b) **by striking out “an industry member” wherever it occurs and substituting “a licensee”.**

36 Section 38 is amended

- (a) **in subsection (1)**
- (i) **by striking out “executive director” wherever it occurs and substituting “registrar”;**
- (ii) **in clause (b) by striking out “an industry member” and substituting “a licensee”;**
- (b) **in subsection (3)**
- (i) **by striking out “industry member’s” and substituting “licensee’s”;**

34 Section 37 presently reads:

37(1) A person may make a complaint to the executive director about the conduct of an industry member.

(2) A complaint must be in writing and must include the name of the complainant and reasonable particulars of the complaint.

35 Section 37.1 presently reads:

37.1 Subject to section 54(3), conduct proceedings under this Part that relate to the conduct of a former industry member that took place while that person was an industry member may be commenced within 2 years following the date on which the person became a former industry member, but not after that date, and for that purpose the former industry member is considered to be an industry member.

36 Section 38 presently reads in part:

38(1) The executive director shall,

- (a) where a complaint is made under section 37, as soon as practicable after receipt of the complaint, and*
- (b) in a case where no complaint is made but the executive director believes that any conduct of an industry member constitutes or may constitute conduct that is deserving of sanction,*

commence or appoint a person to commence an investigation into the conduct.

(ii) **by striking out** “an industry member” **and substituting** “a licensee”;

(c) **by repealing subsection (4.2) and substituting the following:**

(4.2) An Industry Council may by notice in writing suspend the licence of a licensee who refuses to co-operate with a person conducting an investigation under subsection (2) until the registrar is satisfied that the licensee has co-operated.

(d) **in subsection (5) by striking out** “executive director” **wherever it occurs and substituting** “registrar”.

37 Section 38.1 is amended by striking out “executive director” **wherever it occurs and substituting** “registrar”.

38 Section 39 is amended

(a) **in subsection (1)**

(i) **by striking out** “executive director” **wherever it occurs and substituting** “registrar”;

(ii) **in clause (b)**

(A) **in subclause (i.1) by striking out** “industry member” **and substituting** “licensee”;

(B) **in subclause (ii)**

(3) A person conducting an investigation may investigate any other matter related to the industry member's carrying on of the business of an industry member that arises in the course of the investigation.

(4.2) The executive director may by notice in writing suspend the authorization of an industry member who refuses to co-operate with a person conducting an investigation under subsection (2) until the executive director is satisfied that the industry member has co-operated.

(5) Where a person other than the executive director conducts an investigation, that person shall, on concluding the investigation, report in writing to the executive director.

37 Section 38.1 presently reads:

38.1(1) The executive director may, in respect of a complaint made under section 37,

- (a) refuse to investigate the complaint,*
- (b) discontinue investigating the complaint, or*
- (c) direct a person appointed under section 38(1) to discontinue investigating the complaint*

under any circumstances provided for in the regulations.

(2) The executive director shall serve a notice of a decision under subsection (1) on the complainant.

38 Section 39 presently reads:

39(1) On completion of an investigation or on receipt of a report under section 38(5), as the case may be, the executive director shall

- (a) direct that no further action be taken, if the executive director is of the opinion that*
 - (i) the complaint is frivolous or vexatious, or*
 - (ii) there is insufficient evidence of conduct deserving of sanction,*

or

(I) by striking out “industry member” wherever it occurs and substituting “licensee”;

(II) by striking out “and the bylaws” and substituting “, the bylaws and the rules”;

(b) in subsection (2)

(i) by striking out “executive director” and substituting “registrar”;

(ii) by striking out “industry member” and substituting “licensee”.

39 Section 40 is amended

(a) in subsection (1) by striking out “executive director” and substituting “Board”;

(b) in subsection (2) by striking out “industry member” and substituting “licensee”.

40 Section 40.1 is amended

(a) by repealing subsections (1) and (2) and substituting the following:

- (b) *if the executive director determines that there is sufficient evidence of conduct deserving of sanction,*
 - (i) *refer the matter to a Hearing Panel,*
 - (i.1) *issue a letter reprimanding the industry member, or*
 - (ii) *impose an administrative penalty on the industry member in accordance with section 83 and the bylaws, where the matter involves a contravention by the industry member of a provision referred to in section 83(1).*
- (2) *The executive director shall cause notice of a decision under subsection (1) to be served on the industry member and the complainant, if any.*

39 Section 40 presently reads in part:

40(1) A complainant who is served with a notice of a decision

- (a) *under section 38.1(2) not to investigate a complaint or to discontinue investigating a complaint, or*
- (b) *under section 39(2) that no further action will be taken*

may, within 30 days after receipt of the notice, by notice in writing to the executive director, appeal the decision to a Hearing Panel.

(2) On an appeal under subsection (1), the Hearing Panel shall determine whether

- (a) *the complaint is frivolous or vexatious or there is insufficient evidence of conduct deserving of sanction, or*
- (b) *there is sufficient evidence of conduct deserving of sanction to warrant a hearing by the Hearing Panel*

and shall notify the complainant and the industry member in writing of its decision.

40 Section 40.1 presently reads:

40.1(1) An industry member whose authorization is suspended by the executive director under section 38(4.2) may, within 30 days after receipt of the notice, by notice in writing to the executive

Appeal by licensee

40.1(1) A licensee whose licence is suspended by an Industry Council under section 38(4.2) may, within 30 days after receipt of the notice, by notice in writing to the Board, appeal the Industry Council's decision to a Hearing Panel.

(2) A licensee who receives a letter of reprimand from the registrar under section 39(1)(b)(i.1) may, within 30 days after receipt of the letter of reprimand, by notice in writing to the Board, appeal the registrar's decision to a Hearing Panel.

(b) in subsection (3) by striking out "executive director" and substituting "Board".

41 Section 41 is amended

(a) in subsection (1) by adding "or 83.1(3)" after "section 39(1)(b)";

(b) in subsection (2) by striking out "Council" and substituting "Board";

(c) in subsection (3)

(i) by striking out "executive director" and substituting "Board";

(ii) by striking out "industry member" and substituting "licensee";

(d) in subsection (4)(b)(i) and (ii) by striking out "industry member" wherever it occurs and substituting "licensee".

director, appeal the executive director's decision to a Hearing Panel.

(2) An industry member who receives a letter of reprimand from the executive director under section 39(1)(b)(i.1) may, within 30 days after receipt of the letter of reprimand, by notice in writing to the executive director, appeal the executive director's decision to a Hearing Panel.

(3) On receipt of a notice under subsection (1) or (2), the executive director shall refer the matter to a Hearing Panel.

41 Section 41 presently reads in part:

41(1) A Hearing Panel shall hold a hearing

(a) on referral of a matter to it under section 39(1)(b);

(b) on deciding under section 40(2) that a hearing should be held;

(c) on referral of a matter to it under section 40.1.

(2) A hearing under subsection (1) must be commenced within 60 days after the date on which the matter is referred to the Hearing Panel or the Hearing Panel makes its decision under section 40, or within any other period prescribed by the Council.

(3) At least 15 days before the date set for a hearing, the executive director shall serve on the industry member and any other person who in the opinion of the Hearing Panel is directly affected by the subject-matter of the hearing a notice of the hearing stating the date, time and place at which the Hearing Panel will hold the hearing and giving reasonable particulars of the matter in respect of which the hearing will be held.

(4) A notice of hearing shall indicate

(b) that the Hearing Panel

(i) may proceed with the hearing in the absence of the industry member who is the subject of the hearing, or

42 Section 42 is amended

- (a) in clause (a) by striking out “industry member” and substituting “licensee”;**
- (b) in clause (b)**
 - (i) by striking out “an industry member” and substituting “a licensee”;**
 - (ii) by striking out “industry member’s” and substituting “licensee’s”;**
- (c) in clause (d) by striking out “industry member” and substituting “licensee”.**

- (ii) *if the industry member initiated the appeal, may dismiss or reschedule a hearing if the industry member does not attend the hearing.*

42 Section 42 presently reads in part:

42 The following applies in respect of a hearing:

- (a) *the Hearing Panel shall receive evidence that is relevant to the matter being heard, and the industry member who is the subject of the hearing shall*
 - (i) *be given a reasonable opportunity to provide relevant evidence,*
 - (ii) *be informed of the facts before the Hearing Panel or the allegations made to it respecting the conduct of that person in sufficient detail*
 - (A) *to permit a reasonable understanding of the facts or allegations, and*
 - (B) *to afford a reasonable opportunity to provide relevant evidence to contradict or explain the facts or allegations,*
- and*
- (iii) *be provided with copies of all documents, records or other evidence that were considered at the investigation and that relate to the same conduct that is or is to be the subject-matter of the hearing before the Hearing Panel;*
- (b) *an industry member whose conduct is the subject-matter of the hearing and who satisfies the Hearing Panel that any evidence given before the Hearing Panel may adversely affect that industry member's interests shall be given an opportunity during the hearing to give evidence on the matter and to call and examine or cross-examine witnesses personally or by legal counsel in respect of the matter;*
- (d) *the industry member whose conduct is the subject-matter of the hearing is a compellable witness at the hearing;*

43 Section 43 is amended

(a) in subsection (1)

(i) in the portion preceding clause (a) by striking out “an industry member” and substituting “a licensee”;

(ii) by repealing clause (a) and substituting the following:

(a) an order cancelling or suspending any licence issued to the licensee by an Industry Council;

(iii) in clause (b) by striking out “industry member” and substituting “licensee”;

(iv) by repealing clause (c) and substituting the following:

(c) an order imposing any conditions or restrictions on the licensee and on that licensee’s carrying on of the business of a licensee that the Hearing Panel, in its discretion, determines appropriate;

(v) in clause (d) by striking out “industry member” and substituting “licensee”;

(vi) in clause (d.1)

(A) by striking out “industry member” wherever it occurs and substituting “licensee”;

(B) by striking out “authorization” and substituting “licence”;

(b) in subsection (2)

(i) by striking out “an industry member” and substituting “a licensee”;

(ii) by striking out “the industry member” and substituting “the licensee”;

(c) in subsection (2.1)

(i) in clause (a)

43 Section 43 presently reads in part:

43(1) If a Hearing Panel finds that the conduct of an industry member was conduct deserving of sanction, the Hearing Panel may make any one or more of the following orders:

- (a) an order cancelling or suspending any authorization issued to the industry member by the Council;*
- (b) an order reprimanding the industry member;*
- (c) an order imposing any conditions or restrictions on the industry member and on that industry member's carrying on of the business of an industry member that the Hearing Panel, in its discretion, determines appropriate;*
- (d) an order requiring the industry member to pay to the Council a fine, not exceeding \$25 000, for each finding of conduct deserving of sanction;*
- (d.1) an order prohibiting the industry member from applying for a new authorization for a specified period of time or until one or more conditions are fulfilled by the industry member;*

(2) The Hearing Panel may, in addition to or instead of dealing with the conduct of an industry member under subsection (1), order the industry member to pay all or part of the costs associated with the investigation and hearing determined in accordance with the bylaws.

(2.1) In the case of a hearing in respect of an appeal under section 40.1, the Hearing Panel may

- (a) quash, confirm or vary the decision of the executive director that is the subject of the appeal, and*
- (b) order the industry member to pay all or part of the costs associated with the investigation and hearing determined in accordance with the bylaws.*

(A) **by striking out** “of the executive director”;

(B) **by striking out** “and”;

(ii) **in clause (b)**

(A) **by striking out** “industry member” **and substituting** “licensee”;

(B) **by adding** “and” **after** “bylaws”;

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

(c) order the Council to pay the licensee all or part of the costs associated with the investigation and hearing determined in accordance with the bylaws.

44 Section 44 is repealed and the following is substituted:

Notice of decision

44(1) The Hearing Panel shall forward the decision of the Hearing Panel to the Board, the relevant Industry Council, the registrar, the licensee and the complainant, if any.

(2) The Hearing Panel shall forward the record of the hearing to the Board.

45 Section 45 is amended

(a) **in subsection (1) by striking out** “an industry member” **and substituting** “a licensee”;

(b) **in subsection (2) by striking out** “executive director” **and substituting** “registrar”;

(c) **in subsection (3) by striking out** “Council” **and substituting** “relevant Industry Council”.

44 Section 44 presently reads:

44(1) The Hearing Panel shall forward to the executive director

(a) the decision of the Hearing Panel, and

(b) the record of the hearing.

(2) The executive director shall, on receiving the decision of the Hearing Panel and the record of the hearing referred to in subsection (1), serve

(a) a copy of the decision on the industry member and on the Council, and

(b) a notice of the decision on the complainant, if any.

45 Section 45 presently reads:

45(1) If a Hearing Panel has commenced proceedings in respect of the conduct of an industry member and is satisfied that the circumstances of the conduct do not justify the continuation of its proceedings respecting that conduct, the Hearing Panel may discontinue its proceedings in respect of that conduct, setting out its reasons for its decision.

(2) If the proceedings discontinued under subsection (1) in respect of any conduct were commenced as a result of a complaint, the executive director shall notify the complainant of the discontinuance

46 Section 46 is repealed and the following is substituted:

Admission of conduct

46(1) A licensee may, at any time after the commencement of proceedings under this Part and before a Hearing Panel makes its findings in respect of the licensee's conduct, submit to the Board a statement of admission of conduct deserving of sanction in respect of all or any of the matters that are the subject-matter of the proceedings.

(2) A statement of admission of conduct may not be acted on unless it is in a form acceptable to the Board and meets any additional requirements set out in the bylaws.

47 Section 47 is amended

(a) in subsection (1) by striking out "executive director" and substituting "Board";

(b) in subsection (2)

(i) by striking out "industry member's" and substituting "licensee's";

(ii) by striking out "industry member" and substituting "licensee".

48 Section 48 is amended

(a) in subsection (1)

(i) by striking out "An industry member" and substituting "A licensee";

and shall give the complainant a copy of the decision of the Hearing Panel.

(3) If proceedings are discontinued under subsection (1), no new or further proceedings shall be taken under this Part in respect of the same conduct that was the subject-matter of the discontinued proceedings without the approval of the Council.

46 Section 46 presently reads:

46(1) An industry member may, at any time after the commencement of proceedings under this Part and before a Hearing Panel makes its findings in respect of the industry member's conduct, submit to the executive director a statement of admission of conduct deserving of sanction in respect of all or any of the matters that are the subject-matter of the proceedings.

(2) A statement of admission of conduct may not be acted on unless it is in a form acceptable to the executive director and meets any additional requirements set out in the rules.

47 Section 47 presently reads:

47(1) If a statement of admission of conduct is accepted, the executive director shall immediately refer the matter to a Hearing Panel, and in that case the Hearing Panel shall deal with the matter as if it had been referred to it under section 39(1)(b).

(2) If a statement of admission of conduct is accepted, each admission of conduct in the statement in respect of any act or matter regarding the industry member's conduct is deemed for all purposes to be a finding of the Hearing Panel that the conduct of the industry member is conduct deserving of sanction.

48 Section 48 presently reads in part:

48(1) An industry member in respect of whom a Hearing Panel has made a finding or order under section 43 or the executive director may appeal the finding or order to an Appeal Panel.

(2) The executive director may commence an appeal under subsection (1) only if the executive director determines that it is in the best interests of the public to do so.

- (ii) **by striking out “executive director” and substituting “registrar”;**
- (b) **in subsection (2) by striking out “executive director” wherever it occurs and substituting “registrar”;**
- (c) **in subsections (4) and (5)**
 - (i) **by striking out “industry member” wherever it occurs and substituting “licensee”;**
 - (ii) **by striking out “executive director” and substituting “registrar”;**
- (d) **in subsection (6)(a) and (b) by striking out “industry member” wherever it occurs and substituting “licensee”;**
- (e) **in subsection (7) by striking out “executive director” and substituting “registrar”;**
- (f) **in subsection (10)**
 - (i) **by striking out “An industry member” and substituting “A licensee”;**
 - (ii) **by striking out “executive director” and substituting “Board”;**
- (g) **in subsection (11) by striking out “executive director” and substituting “registrar”;**
- (h) **by repealing subsection (12) and substituting the following:**

(12) The Hearing Panel shall serve a copy of the Hearing Panel’s decision under subsection (11) on the licensee and the registrar.

 - (i) **in subsection (13)**
 - (i) **by striking out “industry member” and substituting “licensee”;**
 - (ii) **by striking out “executive director” and substituting “Board”;**

(4) A notice of appeal by the industry member must be served on the executive director within 30 days after the date on which the decision of the Hearing Panel is served on the industry member.

(5) A notice of appeal by the executive director must be served on the industry member within 30 days after the date on which the decision of the Hearing Panel is served on the industry member.

(6) A notice of appeal shall indicate that the Appeal Panel

(a) may proceed with the hearing of the appeal in the absence of the industry member who is the subject of the hearing, or

(b) if the industry member initiated the appeal, may dismiss or reschedule a hearing if the industry member does not attend the hearing.

(7) The executive director,

(a) on receiving a notice of appeal under subsection (4), or

(b) on serving a notice of appeal under subsection (5),

shall give to each member of an Appeal Panel a copy of the notice of appeal and make the record of the hearing available to each member of the Appeal Panel.

(10) An industry member who is appealing a finding or order of a Hearing Panel to an Appeal Panel under this section may, within 7 days of receiving a copy of the Hearing Panel's decision under section 44, by notice served on the executive director, apply to the Hearing Panel for a stay of the finding or order until the Appeal Panel renders its decision on the appeal.

(11) On application under subsection (10) and after allowing the executive director to make representations, the Hearing Panel may, if the Hearing Panel considers it appropriate to do so, grant the stay.

(12) The executive director shall serve a copy of the Hearing Panel's decision under subsection (11) on the industry member.

(13) If the Hearing Panel refuses to grant a stay, the industry member may, within 7 days of receiving a copy of the Hearing Panel's decision under subsection (12), by notice served on the executive director, apply to the Appeal Panel for a stay of the

(j) in subsection (14) by striking out “executive director” and substituting “registrar”;

(k) in subsection (15)

(i) by striking out “executive director” and substituting “Appeal Panel”;

(ii) by striking out “industry member” and substituting “licensee and the registrar”.

49 Section 49 is amended

(a) in subsection (1)

(i) by striking out “executive director” and substituting “Appeal Panel”;

(ii) by striking out “industry member” and substituting “licensee and the registrar”;

(b) in subsection (2)

(i) by striking out “executive director” and substituting “registrar”;

(ii) by striking out “industry member” and substituting “licensee”.

50 Section 50 is amended

(a) in subsection (7) by striking out “An industry member” and substituting “A licensee”;

(b) in subsection (7.1) by striking out “executive director” and substituting “Board”;

(c) in subsection (8) by striking out “executive director” and substituting “registrar”;

(d) in subsection (9)

(i) by striking out “executive director” and substituting “Appeal Panel”;

finding or order until the Appeal Panel renders its decision on the appeal.

(14) On application under subsection (13) and after allowing the executive director to make representations, the Appeal Panel may, if the Appeal Panel considers it appropriate to do so, grant the stay.

(15) The executive director shall serve a copy of the Appeal Panel's decision under subsection (14) on the industry member.

49 Section 49 presently reads:

49(1) The executive director shall serve on the industry member a notice of hearing of the appeal stating the date, time and place at which the Appeal Panel will hear the appeal.

(2) The Appeal Panel shall commence to hear an appeal within a reasonable period after the date of service of the notice of appeal on the executive director or on the industry member, as the case may be.

50 Section 50 presently reads in part:

(7) An industry member who is appealing a decision of an Appeal Panel to the Court under section 52 may, within 7 days of receiving a copy of the Appeal Panel's decision under section 51, apply to the Appeal Panel for a stay of the decision pending the determination of the appeal to the Court under section 52.

(7.1) An application under subsection (7) must be served on the executive director.

(8) On application under subsection (7) and after allowing the executive director to make representations, the Appeal Panel may, if the Appeal Panel considers it appropriate to do so, grant the stay.

(9) The executive director shall serve a copy of the Appeal Panel's decision under subsection (8) on the industry member.

- (ii) **by striking out “industry member” and substituting “licensee and the registrar”;**
- (e) **in subsection (10) by striking out “industry member” and substituting “licensee”;**
- (f) **in subsection (11) by striking out “executive director” and substituting “Board”.**

51 Section 51 is amended

- (a) **by striking out “executive director” and substituting “Appeal Panel”;**
- (b) **by striking out “industry member” and substituting “licensee and the registrar”.**

52 Section 52 is amended

- (a) **by repealing subsections (1) and (2) and substituting the following:**

Appeals to Court

52(1) A licensee in respect of whom an Appeal Panel has made a decision or the registrar may appeal the decision to the Court.

(2) The registrar may commence an appeal under subsection (1) only with the approval of the relevant Industry Council.

- (b) **in subsection (3)**
 - (i) **in clause (a) by striking out “industry member” wherever it occurs and substituting “licensee”;**
 - (ii) **in clause (b) by striking out “executive director” wherever it occurs and substituting “registrar”;**
- (c) **in subsections (4) and (5)**
 - (i) **by striking out “industry member” wherever it occurs and substituting “licensee”;**

(10) If the Appeal Panel refuses to grant a stay, the industry member may, within 7 days of receiving a copy of the Appeal Panel's decision under subsection (9), apply to the Court for an order staying the decision of the Appeal Panel pending the determination of the appeal to the Court under section 52.

(11) An application under subsection (10) must be served on the executive director.

51 Section 51 presently reads:

51 The executive director shall serve a copy of the Appeal Panel's decision on the industry member.

52 Section 52 presently reads in part:

52(1) An industry member in respect of whom an Appeal Panel has made a decision or the executive director may appeal the decision to the Court.

(2) The executive director may commence an appeal under subsection (1) only if the executive director determines that it is in the best interests of the public to do so.

(3) An appeal under subsection (1) must be commenced by application, which must describe the decision appealed and state the reasons for the appeal and be filed with the clerk of the Court

(a) in the case of an appeal by the industry member, within 30 days after the industry member receives a copy of the decision of the Appeal Panel, and

(b) in the case of an appeal by the executive director, within 30 days after the executive director receives a copy of the decision of the Appeal Panel.

(4) If the industry member commences the appeal, the industry member shall serve on the executive director a copy of the application and the supporting documents not less than 15 days before the date set for the hearing.

- (ii) **by striking out “executive director” wherever it occurs and substituting “registrar”.**

53 Sections 53 and 54 are repealed and the following is substituted:

Temporary order

53(1) Notwithstanding anything in this Act, the chair of an Industry Council may make an order

- (a) temporarily suspending the licence of a licensee issued by an Industry Council, or
- (b) temporarily imposing conditions or restrictions on a licensee and the licensee’s carrying on the business of a licensee

pending the outcome of proceedings under this Part.

(2) The licensee may, by application served on the Industry Council, apply to the Court for an order staying the order of the chair pending the outcome of the proceedings.

Withdrawal from membership

54(1) Subject to the rules, a licensee may apply to their Industry Council to have their licence withdrawn if the licensee’s conduct is the subject-matter of proceedings under this Part or the licensee suspects that the licensee’s conduct may become the subject-matter of proceedings under this Part.

(2) The Industry Council may approve or reject the application and may make its approval subject to any terms and conditions the Industry Council considers appropriate.

(3) Where the Industry Council approves the application, then, subject to any terms and conditions imposed under subsection (2), all proceedings under this Part in respect of the licensee are discontinued and no proceedings in respect of that conduct may be commenced under this Part.

(4) An Industry Council must reject an application under subsection (1) if, in the opinion of the Industry Council,

(5) If the executive director commences the appeal, the executive director shall serve on the industry member a copy of the application and the supporting documents not less than 15 days before the date set for the hearing.

53 Sections 53 and 54 presently read:

53(1) Notwithstanding anything in this Act, the executive director may recommend to the chair of the Council that the chair make an order

- (a) temporarily suspending the authorization of the industry member issued by the Council, or*
- (b) temporarily imposing conditions or restrictions on the industry member and the industry member's carrying on of the business of an industry member*

pending the outcome of proceedings under this Part, and the chair may make the order accordingly.

(2) The industry member may, by application served on the executive director, apply to the Court for an order staying the decision of the chair pending the outcome of the proceedings.

54(1) Subject to the rules, an industry member may apply to the Council to withdraw from industry membership if the industry member's conduct is the subject-matter of proceedings under this Part or the industry member suspects that the industry member's conduct may become the subject-matter of proceedings under this Part.

(2) The Council may approve or reject the application and may make its approval subject to any terms and conditions the Council considers appropriate.

(3) Where the Council approves an application, then, subject to any terms and conditions imposed under subsection (2), all proceedings under this Part in respect of the industry member are discontinued and no proceedings in respect of the conduct may be commenced under this Part.

allegations of fraud or criminal activity have been made against the licensee, and those allegations warrant an investigation.

54 Section 55 is amended

(a) in subsection (1)

- (i) by striking out “executive director” and substituting “Board, an Industry Council or the registrar”;**
- (ii) in clause (a) by striking out “an authorization issued by the Council” and substituting “a licence issued by an Industry Council”;**
- (iii) in clause (a.1) by striking out “authorization of industry members” and substituting “licence of licensees”;**
- (iv) in clause (b) by striking out “from industry membership” and substituting “of a licence”;**

(b) in subsection (2)

- (i) by striking out “The executive director” and substituting “The Board, an Industry Council or the registrar”;**
- (ii) by repealing clause (a) and substituting the following:**
 - (a) to an organization that regulates activities in another province or territory similar to those regulated by the Council if the Board, the Industry Council or the registrar reasonably believes that the information about the licensee may result in a suspension or cancellation of the licensee’s authorization or licence in that province or territory, and**

(c) in subsection (3) by striking out “industry member” wherever it occurs and substituting “licensee”.

55 Section 56 is amended by striking out “(2.1)” and substituting “(2.1)(b)”.

54 Section 55 presently reads in part:

55(1) The executive director may publish information respecting

- (a) the refusal, cancellation or suspension of an authorization issued by the Council under this Act,*
- (a.1) the name, business contact information and category of authorization of industry members,*
- (b) a person's withdrawal from industry membership, or*

and those publications have qualified privilege.

(2) The executive director may send a notice of any of the information published under subsection (1)

- (a) to an organization that regulates activities in another province or territory similar to those regulated by the Council if the executive director reasonably believes that the information about the industry member may result in a suspension or cancellation of the industry member's authorization or licence in that province or territory, and*
- (b) to a law enforcement agency in Alberta or in another jurisdiction in Canada where the notice of that information may be of interest to that law enforcement agency.*

(3) The information that may be published under subsection (1) or contained in a notice under subsection (2) may include personal information about the industry member that is related to the business of the industry member.

55 Section 56 presently reads:

56 A fine ordered under section 43(1)(d) and costs ordered, awarded or payable under section 40(4), 43(2) or (2.1), 48(8),

56 Section 57 is amended

- (a) in subsection (2) by striking out “Council” and substituting “Board”;**
- (b) in subsection (3)**
 - (i) by striking out “industry members” and substituting “licensees”;**
 - (ii) in clauses (a) and (b) by striking out “an industry member” wherever it occurs and substituting “a licensee”;**
- (c) in subsection (4) by striking out “Council” and substituting “Board”;**
- (d) in subsection (5)**
 - (i) by striking out “Council” and substituting “Board”;**
 - (ii) by striking out “industry members” wherever it occurs and substituting “licensees”;**
- (e) in subsections (7), (8), (9) and (10) by striking out “Council” wherever it occurs and substituting “Board”.**

50(5), 52(8) or 83.1(5) are a debt due to the Council and may be recovered by the Council in an action in debt.

56 Section 57 presently reads in part:

(2) The Council shall administer the Fund.

(3) The purpose of the Fund is to pay, in whole or in part, judgments obtained or claims made against industry members of the classes provided for in the regulations when

(a) in the case of a judgment, the judgment is based on fraud or breach of trust in respect of a transaction in the business of an industry member, or

(b) in the case of a claim, the claim is for losses or damages caused where an industry member fails to disburse or account for money held in trust in accordance with section 25 in respect of a transaction in the business of an industry member.

(4) The Council may with the prior written approval of the Minister use any or all of the money in the Fund that is in excess of the amount prescribed in the regulations for any other purpose authorized in the regulations.

(5) The Council may from time to time collect money by the levy of assessments on applicants to become industry members and on the classes of industry members provided for in the regulations.

(7) The Council is deemed to hold in trust all money credited to the Fund and shall immediately deposit that money in a trust account in a bank, loan corporation, trust corporation, credit union or treasury branch in Alberta, separate and apart from any other money of the Council.

(8) The Council shall create separate trust accounts for money to which subsection (3) applies and for money to which subsection (4) applies.

(9) Notwithstanding subsections (6) and (7), the Council may, from the income from the investment of the money in the Fund, pay the administrative costs associated with the Fund.

57 Section 59 is amended

(a) in subsection (1)

(i) by striking out “an industry member” and substituting “a licensee”;

(ii) by striking out “Council” and substituting “Board”;

(b) in subsections (2), (3), (4), (5) and (6) by striking out “Council” wherever it occurs and substituting “Board”.

(10) If the income from the investment of the money in the Fund is insufficient to pay the administrative costs associated with the Fund, the Council may

- (a) from time to time collect money to pay those costs by the levy of assessments on any of the persons referred to in subsection (5),*
- (b) use money referred to in subsection (4) to pay those costs, or*
- (c) use money from a combination of sources referred to in clauses (a) and (b) to pay those costs.*

57 Section 59 presently reads:

59(1) A person who commences an action against an industry member that may result in a claim against the Fund shall immediately give notice of the commencement of the action to the Council.

(2) Where the Council is served with a notice under subsection (1) or where the Council otherwise learns of the commencement of such an action, it may, on application to the Court, be added as a party in the action and afterwards may take any steps on behalf of and in the name of the defendant that the defendant could have taken in respect of the action.

(3) The Council may disclose in any pleading by which it is taking steps under this section that it is appearing on behalf of and in the name of the defendant pursuant to this section.

(4) All acts of the Council under subsection (2) are deemed to be the acts of the defendant, and the Council may not be named as a defendant in the action and no judgment may be given against the Council.

(5) The defendant is deemed to have consented to and agreed with any action or steps taken by the Council pursuant to this section and performed by the lawyer acting on instructions from the Council.

(6) Nothing in this section and no steps taken under this section may be construed to the effect that a lawyer acting on the instructions of the Council is actually acting on behalf of the defendant.

58 Section 60 is amended

(a) in subsection (1)

(i) by striking out “an industry member” and substituting “a licensee”;

(ii) by striking out “Council” and substituting “Board”;

(b) in subsection (2) by striking out “Council” wherever it occurs and substituting “Board”;

(c) in subsections (3) and (4)

(i) by striking out “Council” wherever it occurs and substituting “Board”;

(ii) by striking out “industry member” wherever it occurs and substituting “licensee”;

(d) in subsection (5)

(i) by striking out “Council” and substituting “Board”;

(ii) in clause (a) by striking out “industry member” wherever it occurs and substituting “licensee”;

(iii) in clause (b) by striking out “industry members” and substituting “licensees”.

58 Section 60 presently reads in part:

60(1) A person who obtains a judgment against an industry member of a class provided for in the regulations may apply to the Council for compensation from the Fund if the judgment has become final and is not satisfied within 30 days after the date that it became final.

(2) Where an application is made under subsection (1) and no notice of the action was given to the Council under section 59, the Council may, within 30 days after receipt of the application, apply to the Court for an order under subsection (3).

(3) The Court on an application may

(a) relieve the Council from liability to make any payment under subsection (4) where it is of the opinion that, based on the merits of the action, the judgment is not based on a finding of fraud or breach of trust in respect of a transaction in the business of the industry member, or

(b) direct the Council to make a payment under subsection (4) where it is of the opinion that the judgment is based on a finding of fraud or breach of trust in respect of a transaction in the business of the industry member,

and may make any other order it considers appropriate in the circumstances.

(4) Subject to any order under subsection (3), the Council shall pay to the applicant under subsection (1) the amount of compensation determined in accordance with the regulations where

(a) the judgment is based on a finding of fraud or breach of trust in respect of a transaction in the business of the industry member, or

(b) the judgment is not based on a finding of fraud or breach of trust in respect of a transaction in the business of the industry member but, in the opinion of the Council, the claim for which the judgment was granted is based on fraud or a breach of trust in respect of a transaction in the business of the industry member.

(5) When a payment is made from the Fund under this section, the Council has a cause of action in debt for the recovery of the amount paid

59 Section 60.1 is amended

- (a) by striking out “Council” and substituting “Board”;**
- (b) in clause (b)**
 - (i) by striking out “Council’s” and substituting “Board’s”;**
 - (ii) by striking out “industry member” wherever it occurs and substituting “licensee”.**

60 Section 60.2 is amended

- (a) in subsection (1) by striking out “Council” and substituting “Board”;**
- (b) in subsection (2)**
 - (i) by striking out “Council” wherever it occurs and substituting “Board”;**
 - (ii) in clauses (d.1) and (e) by striking out “industry member” wherever it occurs and substituting “licensee”.**

- (a) *from the industry member, where the judgment is against the industry member alone, or*
- (b) *jointly and severally from all or any of those industry members against whom the judgment is made.*

59 Section 60.1 presently reads:

60.1 Despite sections 60(1), 60.2 and 60.3(1), the following persons are not eligible to apply to the Council for compensation from the Fund:

- (a) *a bank, loan corporation, trust corporation, credit union or treasury branch, or any other financial institution, whose business includes the lending of money by way of mortgage security or otherwise, or a subsidiary, within the meaning of section 2 of the Business Corporations Act, of any of them;*
- (b) *any person who in the Council's opinion knowingly participated in or was wilfully blind to the fraud or breach of trust of the industry member that gave rise to the judgment against the industry member;*
- (c) *any corporation or other entity carrying on any business or activity specified or described in the regulations.*

60 Section 60.2 presently reads in part:

60.2(1) No payment from the Fund shall be made under section 60 unless an application in writing for compensation from the Fund is received by the Council within one year from the date on which a judgment referred to in section 60 becomes final.

(2) In addition to the application referred to in subsection (1), an applicant shall provide the Council with the following:

- (a) *the judgment with respect to which the application is made;*
- (b) *the statement of claim or other document that initiated the action to which the judgment relates;*
- (c) *evidence satisfactory to the Council that the judgment has become final;*

61 Section 60.3 is amended

(a) in subsection (1)

- (i) by striking out “Council” and substituting “Board”;**
- (ii) by striking out “an industry member” wherever it occurs and substituting “a licensee”;**
- (iii) by striking out “the industry member” and substituting “the licensee”;**

(b) in subsections (3) and (4)

- (i) by striking out “Council” wherever it occurs and substituting “Board”;**
- (ii) by striking out “industry member” wherever it occurs and substituting “licensee”;**

(c) in subsection (5) by striking out “Council” and substituting “Board”.

- (d) *an irrevocable assignment of all or part of the judgment from the applicant to the Council, in a form acceptable to the Council;*
- (d.1) *if the judgment is not based on a finding of fraud or breach of trust in respect of a transaction in the business of the industry member, a statutory declaration that contains the particulars of the basis of the claim;*
- (e) *a statutory declaration stating that the applicant did not participate in and was not wilfully blind to the fraud or breach of trust of the industry member that gave rise to the judgment against the industry member;*
- (f) *any other information and documents prescribed by the regulations.*

61 Section 60.3 presently reads in part:

60.3(1) A person may apply to the Council for compensation from the Fund in respect of a claim against an industry member of a class provided for in the regulations for losses or damages caused where an industry member fails to disburse or account for money held in trust in accordance with section 25 in respect of a transaction in the business of the industry member.

(3) In addition to the application referred to in subsection (1), the applicant shall provide the Council with the following:

- (a) *a statutory declaration that contains*
 - (i) *particulars of the basis of the claim, and*
 - (ii) *a statement that the applicant did not participate in and was not wilfully blind to the actions of the industry member in respect of which the claim is made;*
- (b) *any other information and documents prescribed by the regulations.*

(4) If in the opinion of the Council the claim is based on a failure by the industry member to disburse or account for money held in trust in accordance with section 25 in respect of a transaction in the business of the industry member, the Council shall pay to the

62 Section 61 is amended

- (a) by striking out “Council” wherever it occurs and substituting “Board”;**
- (b) by striking out “industry member” wherever it occurs and substituting “licensee”.**

63 Section 62 is amended

- (a) in subsection (1) by striking out “Council” and substituting “Board”;**
- (b) by repealing subsection (3) and substituting the following:**
 - (3) When the Minister makes an order under subsection (2), every applicant to be a licensee and every licensee who is subject to the Fund shall provide the Board with a bond subject to any terms and conditions set out in the order.**

64 Section 69 is amended

- (a) in subsection (1)**
 - (i) by striking out “An industry member” and substituting “A licensee”;**

applicant the amount of compensation determined in accordance with the regulations.

(5) The decision of the Council in respect of compensation under this section is final.

62 Section 61 presently reads:

61(1) When a payment has been made from the Fund under section 60 or 60.3, the Council is subrogated to the rights, remedies and securities, including any amounts held in trust, to which the person receiving the payment was entitled as against the industry member whose conduct gave rise to the payment, and those rights, remedies and securities may be enforced or realized, as the case may be, in the name of the Council to the extent of the amount paid from the Fund.

(2) The Council may by an action in debt recover from the industry member whose conduct gave rise to a payment from the Fund under section 60 the amounts of any costs and expenses incurred by the Council in connection with audits, reviews, examinations, investigations and hearings relating to claims against the Fund arising from the conduct of the industry member.

63 Section 62 presently reads in part:

62(1) If the amount of the Fund at any time falls below the amount prescribed in the regulations, the Council shall immediately advise the Minister.

(3) When the Minister makes an order under subsection (2), every applicant to be an industry member and industry member who is subject to the Fund shall provide the Council with a bond in accordance with the rules.

64 Section 69 presently reads in part:

69(1) An industry member who

(a) maintains a trust account under section 25,

- (ii) **in clause (c) by striking out “an industry member” and substituting “a licensee”;**
- (b) **in subsection (2) by striking out “An industry member” and substituting “A licensee”;**
- (c) **in subsection (4)(a) by adding “property management service,” before “dealing”.**

65 Section 73 is amended

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

Order to cease carrying on business

73(1) Where under the authority of this Act a licensee’s licence is cancelled or suspended, the person or body ordering the cancellation or suspension may also by order prohibit any other licensee who was acting as an employee or agent of the licensee and

- (a) committed the act or omission that resulted in the cancellation or suspension, or
- (b) directed, authorized, assented to, participated in or acquiesced in the act or omission

from carrying on the business of a licensee, subject to any terms and conditions set out in the order.

- (b) **in subsection (3)**
 - (i) **by striking out “Council” and substituting “Board”;**
 - (ii) **by striking out “rules” and substituting “bylaws”.**

- (b) is credited with interest on money in the account by the bank, loan corporation, trust corporation, credit union or treasury branch in which the account is maintained, and*
- (c) is an industry member of a class specified in the regulations for the purposes of this section*

holds the interest in trust for the Foundation.

(2) An industry member referred to in subsection (1) shall, in accordance with the regulations, instruct the bank, loan corporation, trust corporation, credit union or treasury branch to pay the interest credited to the account to the Foundation.

(4) This section does not apply to

- (a) money deposited in a separate account for a party in respect of a dealing or trade, or*

65 Section 73 presently reads in part:

73(1) Where under the authority of this Act an industry member's authorization is cancelled or suspended, the person or body ordering the cancellation or suspension may also by order prohibit any other industry member who was acting as an employee or agent of the industry member and

- (a) committed the act or omission that resulted in the cancellation or suspension, or*
- (b) directed, authorized, assented to, participated in or acquiesced in the act or omission*

from carrying on the business of an industry member, subject to any terms and conditions set out in the order.

(3) A person against whom an order is made under subsection (1) may appeal the order to the Council in accordance with the rules.

66 Section 74 is amended

(a) in subsection (1)

- (i) by striking out “executive director” wherever it occurs and substituting “registrar”;**
- (ii) by striking out “an industry member” and substituting “a licensee”;**
- (iii) in clauses (a) and (b) by striking out “industry member” wherever it occurs and substituting “licensee”;**

(b) in subsection (2) by striking out “executive director” wherever it occurs and substituting “registrar”.

67 Section 75 is amended

(a) in subsection (1)

- (i) by striking out “The executive director” and substituting “The registrar”;**
- (ii) in clause (a)**

66 Section 74 presently reads:

74(1) The executive director or a person authorized by the executive director for the purpose may conduct periodic inspections of the business of an industry member, and for that purpose

- (a) may examine and inquire into*
 - (i) books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of, in relation to or connected with the industry member, and*
 - (ii) property, assets or things owned, acquired or alienated in whole or in part by the industry member or by a person acting on behalf of or as agent for that industry member,*
 - (b) may at reasonable times demand the production of and inspect*
 - (i) all or any of the things mentioned in clause (a)(i), and*
 - (ii) all or any documents relating to a transaction in the business of the industry member,*
- and*
- (c) may copy by electronic or other means, and keep copies of, anything produced under clause (b).*

(2) A person who has the custody, possession or control of the things referred to in subsection (1) shall produce and permit the inspection and copying of them by the executive director or the person authorized by the executive director.

67 Section 75 presently reads:

75(1) The executive director,

- (a) where the executive director is about to commence an investigation of an industry member under section 38, or during or after such an investigation,*
- (b) where*

(A) by striking out “executive director” and substituting “registrar”;

(B) by striking out “an industry member” and substituting “a licensee”;

(iii) in clause (b)

(A) by striking out “executive director” and substituting “registrar”;

(B) by striking out “an industry member” and substituting “a licensee”;

(C) by striking out “any industry member” and substituting “any licensee”;

(iv) in clause (c)

(A) by striking out “executive director” and substituting “registrar”;

(B) by striking out “an industry member’s” and substituting “a licensee’s”;

(C) by striking out “industry member” and substituting “licensee”;

(b) in subsection (2)

(i) by striking out “the executive director may” and substituting “the registrar may”;

(ii) in clause (a)

(A) in subclauses (i) and (ii) by striking out “industry member” and substituting “licensee”;

(B) in the portion following subclause (ii) by striking out “executive director” and substituting “registrar”;

(iii) in clause (b) by striking out “industry member” and substituting “licensee”;

- (i) *criminal proceedings, or*
- (ii) *proceedings in respect of non-compliance with this Act, the regulations, the bylaws or the rules*

that, in the opinion of the executive director, are connected with or arise out of a transaction in the business of an industry member, are about to be or have been instituted against any industry member, or

- (c) *where the executive director has reason to believe that the trust funds in an industry member's trust account are less than the amount for which the industry member is accountable,*

may do any or all of the things referred to in subsection (2).

(2) If subsection (1) applies, the executive director may do one or more of the following:

- (a) *in writing*
 - (i) *direct any person having on deposit or under that person's control or for safekeeping any funds or securities of the industry member to hold those funds or securities, or*
 - (ii) *direct the industry member to refrain from withdrawing funds or securities referred to in subclause (i) from any person who has them on deposit, under control or for safekeeping,*

until the executive director in writing revokes the direction or consents to release any particular fund or security from the direction;

- (b) *in writing direct any person having on deposit or under that person's control or for safekeeping any funds or securities of the industry member to pay those funds or securities into or deposit those funds or securities with the Court;*
- (c) *where subsection (1)(a) applies, publish in a form and manner that the executive director considers appropriate information about the subject-matter of the investigation.*

(3) Where under subsection (2)(a) the executive director directs a person to hold funds or securities, the executive director may send to

- (iv) **in clause (c) by striking out “executive director” and substituting “registrar”;**
- (c) **in subsections (3) and (4) by striking out “executive director” wherever it occurs and substituting “registrar”;**
- (d) **in subsection (5) by striking out “industry member” and substituting “licensee”.**

68 Section 76 is amended

- (a) **in subsection (1)(a) by adding “the Board or an Industry Council,” after “Council,”;**
- (b) **by adding the following after subsection (1):**
 - (1.1) The Minister may direct that the cost of a review is to be paid by the Council or the Foundation, as the case may be.
- (c) **in subsection (2)(a) by adding “, the Board, an Industry Council” after “Council”;**
- (d) **by repealing subsection (5) and substituting the following:**
 - (5) On conducting a review or receiving a report under subsection (4), the Minister may, by order, do all or any of the following:
 - (a) direct the Board, an Industry Council, the Foundation or any member, officer or employee of the Council, the Board, an Industry Council or the Foundation to take any action that the Minister considers appropriate in the circumstances;

those persons whom the executive director is readily able to identify as having an interest in those funds or securities a notice stating that the funds or securities are being held.

(4) Where under subsection (2)(b) the executive director directs a person to pay funds or securities into or deposit funds or securities with the Court, the executive director shall send to those persons whom the executive director is readily able to identify as having an interest in those funds or securities a notice stating that

(a) the funds or securities have been paid into or deposited with the Court, and

(b) a person may apply to the Court for an order directing payment or distribution of all or part of the funds or securities to one or more persons.

(5) An application under subsection (4)(b) must be served on the industry member.

68 Section 76 presently reads in part:

76(1) The Minister may, whenever the Minister considers it necessary, review or appoint a person to review

(a) the conduct of the Council,

(2) The Minister or other person conducting the review under subsection (1)

(a) may require the attendance of any member, officer or employee of the Council or the board of governors of the Foundation or of any other person whose presence is considered necessary during the course of the review, and

(5) On conducting a review or receiving a report under subsection (4), the Minister may by order direct that the Council, the Foundation or any member, officer or employee of the Council or of the board of governors of the Foundation take any action that the Minister considers appropriate in the circumstances.

(6) If an order under subsection (5) is not carried out to the satisfaction of the Minister, the Minister may by order do either or both of the following:

- (b) appoint a comptroller to oversee the management of the affairs of the Board, an Industry Council or the Foundation or the administration of the Fund, as the case may be, and attach terms and conditions to the continued operation of the Board, Industry Council, Foundation or Fund;
- (c) dismiss all or any of the members of the Board or an Industry Council, the board of governors of the Foundation or any member, officer or employee of the Council, the Board, an Industry Council or the Foundation.

(e) by adding the following after subsection (5):

(5.1) If the Minister is of the opinion that it is in the public interest to do so, the Minister may, by order, do anything that may be done by an order under subsection (5)(a) without conducting a review or receiving a report under subsection (4).

(f) by repealing subsection (6) and substituting the following:

(6) If an order under subsection (5)(a) or (5.1) is not carried out to the satisfaction of the Minister, the Minister may, by order, do either or both actions set out in subsection (5)(b) and (c).

(g) in subsection (7)

(i) by striking out “dismisses the Council” **and substituting** “dismisses the Board, an Industry Council”;

(ii) in clause (a)

(A) by striking out “the Council” **and substituting** “the Board, the Industry Council”;

(B) by striking out “new Council” **and substituting** “new Board, Industry Council”;

(iii) in clause (b) by striking out “Council” **and substituting** “Board, Industry Council”;

- (a) appoint a comptroller to oversee the management of the affairs of the Council or the Foundation or the administration of the Fund, as the case may be, and attach terms and conditions to the continued operation of the Council, the Foundation or the Fund, as the case may be;*
 - (b) dismiss all or any of the members of the Council or the board of governors of the Foundation or the member, officer or employee who failed to carry out the order.*
- (7) If the Minister dismisses the Council or the board of governors of the Foundation, the Minister may in the same or a subsequent order do either or both of the following:*
- (a) appoint an official administrator to manage the affairs of the Council or the Foundation, as the case may be, until a new Council or board of governors is appointed;*
 - (b) direct that a new Council or board of governors be appointed under this Act.*
- (9) An official administrator has all the powers, duties and functions and is subject to all the obligations of the Council or the Foundation, as the case may be, under this Act.*
- (10) An order or direction under subsection (5), (6) or (7) takes effect on the service of a copy of it on the person to whom it is directed.*

(h) in subsection (9) by striking out “Council” and substituting “Board, the Industry Council”;

(i) by repealing subsection (10) and substituting the following:

(10) An official administrator appointed under subsection (7)(a), or a comptroller appointed under subsection (5)(b) or (6), may be appointed for a term of up to one year, which may be renewed for further terms of up to one year each.

(j) by adding the following after subsection (10):

(11) An order or direction under subsection (5), (6) or (7) takes effect on the service of a copy of the order or direction on the person to whom it is directed.

(12) No action or other legal proceeding for damages lies or may be commenced or maintained against the Government of Alberta, the Council, the Board or another person as a result of a Board member, Industry Council member, member of the board of governors of the Foundation or any member, officer or employee of the Council or Foundation being dismissed or ceasing to hold office as a result of this section.

69 Section 76.1(6) is amended by adding “, the Board” after “the Government of Alberta, the Council”.

70 Section 76.2 is repealed and the following is substituted:

Appointment of new Board or Industry Council

76.2(1) If the entire Board is dismissed under section 76(5) or (6), the Minister may, by order, establish rules or procedures relating to the appointment of a new Board, including respecting

- (a) when the Industry Councils must appoint members to the new Board,

69 Section 76.1(6) presently reads:

(6) No action or other legal proceeding for damages lies or may be commenced or maintained against the Government of Alberta, the Council or another person as a result of a Council member being dismissed and ceasing to hold office as a result of this section.

70 Section 76.2 presently reads:

76.2(1) If the entire Council is dismissed under section 76(6)(b) or 76.1(2), the Minister may, by order, establish rules or procedures relating to the appointment of a new Council, including respecting

- (a) when the Alberta Mortgage Brokers' Association and Alberta Real Estate Association must appoint members to the new Council,*
- (b) when appointed members must make joint appointments pursuant to section 6(1)(e) and (f),*

- (b) any conditions with respect to any appointments to the new Board, including any conditions that may disqualify an individual from serving on the Board,
- (c) when an official administrator's powers, duties and functions will cease,
- (d) when the new members of the Board will take office and assume the powers, duties and functions of the Board, and
- (e) any other matters that the Minister considers necessary for remedying any transitional difficulties encountered in dismissing the Board, appointing an official administrator or appointing a new Board.

(2) The Minister may exercise the powers granted by subsection (1) in relation to the appointment of a Board in the place of the Council that was dismissed under section 76.1(2).

(3) Despite section 6(1)(b), (7) and (8), if an Industry Council fails to appoint a member within the time prescribed by the Minister under subsection (1)(a), the Minister may, by order, appoint the member or members, as the case may be, and the member or members shall be considered to have been appointed by the Industry Council.

(4) Despite section 6(2), (5) and (7), in the case of the entire Board being dismissed under section 76(5) or (6), the Minister shall, by order, determine the term of office of the members appointed to fill the vacancy.

(5) If an entire Industry Council is dismissed under section 76(5) or (6), the Minister may, by order, establish rules or procedures relating to the appointment or election of new Industry Council members, including respecting

- (a) when licensees from the industry to which the Industry Council relates must be elected,
- (b) any conditions with respect to any licensees elected to the new Industry Council, including any conditions that may disqualify an individual from serving on the Industry Council,

- (c) any conditions with respect to any appointments to the new Council, including any conditions that may disqualify an individual from serving on the Council,*
 - (d) when an official administrator's powers, duties and functions will cease,*
 - (e) when the new members of Council will take office and assume the powers, duties and functions of the Council, and*
 - (f) any other matters that the Minister considers necessary for remedying any transitional difficulties encountered in dismissing the Council, appointing an official administrator or appointing a new Council.*
- (2) Despite section 6(6) and (7), if an association fails to appoint a member within the time prescribed by the Minister under subsection (1)(a), or if the appointed members fail to make joint appointments within the time prescribed by the Minister under subsection (1)(b), the Minister may, by order, appoint the member or members, as the case may be, and the member or members shall be considered to have been appointed by the association or appointed members, as the case may be.*
- (3) Section 6(5) does not apply to a vacancy that is the result of the entire Council being dismissed under section 76(6)(b) or 76.1(2) and, despite section 6(2), in the case of such a vacancy, the Minister shall, by order, determine the term of office of the members appointed to fill the vacancy.*
- (4) Rules or procedures established under subsection (1) apply despite any contrary rules or procedures in the Act, the regulations or the bylaws.*
- (5) Rules or procedures established under subsection (1) cease to apply when the new members of Council have all taken office and the powers, duties and functions of an official administrator cease.*

- (c) when an official administrator's powers, duties and functions will cease,
- (d) when the new members of the Industry Council will take office and assume the powers, duties and functions of the Industry Council, and
- (e) any other matters that the Minister considers necessary for remedying any transitional difficulties encountered in dismissing the Industry Council, appointing an official administrator or appointing a new Industry Council.

(6) Despite section 7.1(2)(b) and (8), if the licensees of an industry fail to elect a member or members to an Industry Council within the time prescribed by the Minister under subsection (5)(a), the Minister may, by order, appoint the member or members, as the case may be, and the member or members shall be considered to have been elected under section 7.1(2)(b).

(7) Despite section 7.1(3) and (8), in the case of the entire Industry Council being dismissed under section 76(5) or (6), the Minister shall, by order, determine the term of office of the members appointed or elected to fill the vacancy.

(8) If the entire board of governors of the Foundation is dismissed under section 76(5) or (6), the Minister may, by order, establish rules or procedures relating to the appointment of a new board of governors, including respecting

- (a) any conditions with respect to any appointments to the new board of governors, including any conditions that may disqualify an individual from serving on the board of governors,
- (b) when an official administrator's powers, duties and functions will cease,
- (c) when the new members of the board of governors will take office and assume the powers, duties and functions of the board of governors, and
- (d) any other matters that the Minister considers necessary for remedying any transitional difficulties encountered in

dismissing the board of governors, appointing an official administrator or appointing a new board of governors.

(9) Rules or procedures established under subsection (1), (5) or (8) apply despite any contrary rules or procedures in this Act, the regulations or the bylaws.

(10) Rules or procedures established under subsection (1), (5) or (8) cease to apply when the new members of the Board, Industry Council or board of governors of the Foundation, as the case may be, have all taken office and the powers, duties and functions of an official administrator cease.

71 Section 76.4 is amended

- (a) in subsection (1) by striking out “Council” wherever it occurs and substituting “Board”;**
- (b) by repealing subsection (2).**

72 The following is added after section 76.4:

Policies

76.5(1) The Minister may make policies that must be followed by the Council, the Board, an Industry Council, the Foundation or an officer or employee of the Council, the Board, an Industry Council or the Foundation in carrying out their powers and duties under this Act.

(2) The *Regulations Act* does not apply to policies made under subsection (1).

73 Section 77(2) is amended

71 Section 76.4 presently reads in part:

76.4(1) Despite section 36 and the bylaws, if an entire Council is dismissed, an official administrator may appoint a Hearing Panel or an Appeal Panel, and, subject to an order under section 76.2(1), the Panel shall not include a member of the Council.

(2) Despite section 36 and the bylaws, a Hearing Panel or an Appeal Panel established by an official administrator under subsection (1)

(a) must consist of at least 3 members, and

(b) may consist of industry members or members of the public, but the number of members of the public on a Hearing Panel or an Appeal Panel must not exceed the number of industry members on that Panel.

72 Policies.

73 Section 77(2) presently reads in part:

- (a) in clause (a)
 - (i) **by striking out “Council” wherever it occurs and substituting “Board or an Industry Council”;**
 - (ii) **in subclauses (i) and (iii) by striking out “Council’s” and substituting “Board’s or Industry Council’s”;**
- (b) in clause (b)
 - (i) **by striking out “an industry member” and substituting “a licensee”;**
 - (ii) in subclauses (ii) and (iii)
 - (A) **by striking out “the industry member” wherever it occurs and substituting “the licensee”;**
 - (B) **by striking out “Council” and substituting “Board or Industry Council, as the case may be”;**
- (c) in clause (c)
 - (i) **by striking out “Council” and substituting “Board, an Industry Council”;**
 - (ii) **by striking out “an industry member” and substituting “a licensee”.**

74 Section 78 is amended

- (a) **by adding “the Board or an Industry Council,” after “76.1(3), the Council,”;**
- (b) **by striking out “or employee of the Council” and substituting “, officer or employee of the Council, the Board or an Industry Council”;**
- (c) **by adding “the Board or an Industry Council, a person exercising powers, duties or responsibilities delegated to the**

(2) Service of any document required to be sent, communicated, given or served under this Act, the rules or the bylaws may be effected

(a) on the Council,

(i) by leaving the document at the Council's office,

(ii) by sending the document by recorded mail to the Council at its mailing address, or

(iii) by sending the document by a telecopier or electronic device to be received and printed by a receiving telecopier or electronic device that is situated at the Council's office;

(b) on an industry member,

(i) by personal service,

(ii) by sending the document by recorded mail addressed to the industry member at the last business or residential address provided by the industry member to the Council, or

(iii) by sending the document by a telecopier or electronic device to be received and printed by a receiving telecopier or electronic device that is situated at the last business or residential address provided by the industry member to the Council;

(c) on a person other than the Council or an industry member in a manner or by a method provided for in the regulations.

74 Section 78 presently reads:

78 No action or other proceeding for damages may be commenced against the Minister, an official administrator appointed under section 76(7)(a) or 76.1(3), the Council, a member or employee of the Council, a person appointed or engaged under the bylaws or rules to exercise a power or perform a duty for the Council, or a member of a Hearing Panel or an Appeal Panel

(a) for any act done in good faith in the performance or intended performance of any duty or the exercise or intended exercise

person by the Board or an Industry Council or sub-delegated to the person,” **after** “for the Council,”.

75 Section 79 is repealed and the following is substituted:

Extension of time

79(1) The Board may on application extend the time within which anything is required to be done by any person under this Act, the regulations, the bylaws or a direction or decision of the Board, the registrar, the executive director or a Panel under this Act.

(2) The relevant Industry Council may on application extend the time within which anything is required to be done by any person under a rule made by the Industry Council.

76 Section 80 is amended

(a) in clause (a) by striking out “Council” and substituting “Board, an Industry Council”;

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

- (a.1) the chair of the Board,
- (a.2) the chair of an Industry Council,
- (a.3) the registrar,

77 Section 81(1) is amended by adding “17.1,” after “17,”.

78 Section 82 is amended

of any power under this Act, the regulations, the bylaws or the rules, or

- (b) for any neglect or default in the performance or exercise in good faith of the duty or power.*

75 Section 79 presently reads:

79 The Council may on application extend the time within which anything is required to be done by any person under this Act, the regulations, the bylaws, the rules or a direction or decision of the Council, the executive director or a Panel under this Act.

76 Section 80 presently reads:

80 A certificate or other document purporting to be signed by

- (a) a member of the Council or of the board of governors of the Foundation,*
- (b) the chair of a Hearing Panel or Appeal Panel, or*
- (c) the executive director*

is admissible in evidence as proof, in the absence of evidence to the contrary, of its contents without proof of the appointment or the signature of the person signing it.

77 Section 81(1) presently reads:

81(1) A person who contravenes section 10(2), 17, 18(1), (2) or (3), 19, 20(2), (3), (4) or (5), 24(1)(a), 25(1), (2), (3), (5) or (9), 38(4)(a) or (4.1), 69(2), 73(2), 74(2) or 83.2(7) is guilty of an offence and liable to a fine of not more than \$25 000.

78 Section 82 presently reads:

- (a) **by striking out** “authorized” **and substituting** “licensed”;
- (b) **by striking out** “the Council” **and substituting** “an Industry Council”;
- (c) **by striking out** “an industry member” **and substituting** “a licensee”.

79 Section 83(1) is amended

- (a) **by striking out** “executive director” **wherever it appears and substituting** “registrar”;
- (b) **by striking out** “specified in the bylaws” **and substituting** “specified in the rules”;
- (c) **by adding** “and the rules” **after** “subject to the bylaws”.

80 Section 83.1 is amended

- (a) **in subsections (1) and (3) by striking out** “executive director” **and substituting** “Board”;
- (b) **in subsection (4) by adding** “, 41.1” **after** “Sections 41”;
- (c) **in subsection (7)**
 - (i) **by striking out** “executive director” **and substituting** “Hearing Panel”;
 - (ii) **by adding** “and the registrar” **after** “appellant”.

82 When, in an investigation, hearing, appeal or prosecution under this Act, a person pleads that at the time of the conduct at issue the person was lawfully authorized by the Council to act as an industry member, the burden of proving that is on that person.

79 Section 83(1) presently reads:

83(1) Where the executive director is of the opinion that a person has contravened a provision of

- (a) this Act,*
- (b) the regulations,*
- (c) the bylaws, or*
- (d) the rules*

that is specified in the bylaws, the executive director may, subject to the bylaws, by notice in writing given to that person, require that person to pay to the Council an administrative penalty in the amount set out in the notice for each day that the contravention continues.

80 Section 83.1 presently reads in part:

83.1(1) A person to whom a notice to pay an administrative penalty is given under section 83(1) may, within 30 days after receipt of the notice, by notice of appeal in writing to the executive director, appeal the decision to a Hearing Panel.

(3) On receipt of a notice of appeal and security for costs, the executive director shall refer the matter to a Hearing Panel, which shall hold a hearing.

(4) Sections 41 and 42, but not sections 43 to 47, apply to the hearing of an appeal under this section.

(7) The executive director shall serve a copy of the Hearing Panel's decision on the appellant.

81 Section 83.2 is amended in subsections (1), (2), (3), (4), (5) and (8) by striking out “executive director” wherever it occurs and substituting “registrar”.

81 Section 83.2 presently reads in part:

83.2(1) For the purpose of enabling

- (a) a person to conduct an investigation under section 38, or*
- (b) the executive director to determine whether a person has contravened a provision of this Act, the regulations, the bylaws or the rules referred to in section 83,*

the executive director may, subject to subsection (4), by an order that is applicable to one or more persons, require a person to do the things set out in subsection (3) within the time prescribed in the order.

(2) The executive director must serve a copy of an order made under subsection (1) on

- (a) the person or persons to whom the order is directed, and*
- (b) the person under investigation who is named in the order.*

(3) An order under subsection (1) may require the person to whom the order is directed

- (a) to produce for inspection by a person conducting an investigation or the executive director the books, documents, records and other things in the person's possession or under that person's control, as set out in the order, and*
- (b) to answer any questions asked by the person conducting the investigation or the executive director.*

(4) The executive director may make an order for the purposes of subsection (1)(b) only if the executive director has information that the requested books, documents, records and other things relate to a possible contravention of this Act, the regulations, the bylaws or the rules.

(5) A person conducting an investigation or the executive director may

- (a) copy by electronic or other means, and keep copies of, anything produced under subsection (3)(a), and*
- (b) record by audio or video or by other means any answers provided under subsection (3)(b).*

82 Section 83.3 is amended by striking out “executive director” and substituting “registrar”.

83 Section 84 is amended

(a) in subsection (1)(a) by striking out “an industry member” and substituting “a licensee”;

(b) in subsection (2)

(i) by repealing clause (a) and substituting the following:

(a) regarding the provision of services and other things by the Board that facilitate the business of licensees;

(ii) in clause (a.1) by striking out “section 6(7)” and substituting “sections 6(8) and 7.1(9)”;

(iii) by adding the following after clause (a.1):

(a.11) respecting the approval of a bylaw or the amendment of a bylaw by the Minister for the purposes of section 11(2), including the circumstances in which the Minister’s approval is not required;

(iv) in clause (a.2) by striking out “11(1)” and substituting “12(1)(z), and prescribing limitation periods for the giving of notices of administrative penalties”;

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

(a.21) respecting the approval of a rule or the amendment of a rule by the Minister for the purposes of section

(8) The executive director may in an order under subsection (1) request verification by affidavit that the person has produced to the person conducting the investigation or the executive director all of the books, documents, records and other things required pursuant to the order.

82 Section 83.3 presently reads:

83.3 The executive director may appoint persons to conduct investigations for the purposes of this Act.

83 Section 84 presently reads in part:

84(1) The Lieutenant Governor in Council may make regulations

- (a) exempting persons or classes of persons or transactions in the business of an industry member or classes of such transactions from the application of any of the provisions of this Act;*
- (2) The Minister may make regulations*
 - (a) respecting the nomination of persons from whom members of the Council are to be appointed under section 6(1)(f);*
 - (a.1) prescribing time periods for the purposes of section 6(7);*
 - (a.2) prescribing the maximum amount of an administrative penalty for the purposes of section 11(l);*
 - (a.4) prescribing or otherwise describing, for the purposes of section 38.1, the circumstances under which an executive director may refuse to investigate or may discontinue investigating or direct a person appointed under section 38(1) to discontinue investigating a complaint;*
 - (b) respecting the classes of industry members in respect of whom judgments may be paid from the Fund under section 57(3);*
 - (c) prescribing, for the purposes of section 57(5), the classes of applicants and industry members who are subject to assessments for the purposes of the Fund;*

12(3), including the circumstances in which the Minister's approval is not required;

- (vi) **in clause (a.4) by striking out “an executive director” and substituting “the registrar”;**
- (vii) **in clauses (b), (c) and (d) by striking out “industry members” wherever it occurs and substituting “licensees”;**
- (viii) **in clause (f) by striking out “an industry member” and substituting “a licensee”;**
- (ix) **in clause (l) by striking out “industry members” and substituting “licensees”.**

84 The following provisions are amended by striking out “industry member” wherever it occurs and substituting “licensee”:

section 41.1;
section 49.1.

85 The following provisions are amended by striking out “Council” wherever it occurs and substituting “Board”:

section 58;
section 63;
section 71.

Consequential Amendments and Coming into Force

Amends SA 2014 c10

86(1) The *Condominium Property Amendment Act, 2014* is amended by this section.

(2) Section 60 is repealed.

- (d) respecting the classes of applicants to become industry members and the classes of industry members who are liable for assessments for the purposes of the Fund;*
- (f) respecting the payment of compensation from the Fund including, without limitation, regulations respecting the maximum payments that may be paid from the Fund based on any one or more factual circumstances relating to an applicant or an industry member or on any other consideration set out in the regulations;*
- (l) specifying the classes of industry members to whom sections 25(5) and 69 apply;*

84 Terminology change.

85 Terminology change.

Consequential Amendments and Coming into Force

86(1) Amends chapter 10 of the Statutes of Alberta, 2014.

(2) Section 60 presently reads:

60(1) The Real Estate Act is amended by this section.

(2) Section 1(1) is amended

(a) by repealing clause (d) and substituting the following:

(d) “business of an industry member” means the trades of a real estate broker, the activities of a real estate appraiser referred to in clause (u.1), the dealings of a mortgage broker or the activities of a condominium manager undertaken by an industry member;

(b) by adding the following after clause (e):

(e.1) “condominium board” means a board as defined in the Condominium Property Act;

(e.2) “condominium corporation” means a corporation as defined in the Condominium Property Act;

(e.3) “condominium management service” means the exercising of a power or the performing of a duty of a condominium corporation on behalf of the condominium corporation, including but not limited to

(i) collecting, holding or disbursing or attempting to collect, hold or disburse contributions levied by the condominium corporation or other amounts levied by or due to the corporation under the Condominium Property Act,

(ii) enforcing the bylaws or rules of the corporation,

(iii) negotiating or entering into contracts on behalf of the condominium corporation, and

(iv) supervising employees or contractors hired or engaged by the condominium corporation,

but does not include any activity excluded by the regulations;

(e.4) “condominium manager” means

(i) a person who, for consideration or other compensation, either alone or through one or more persons, provides a condominium management service to a condominium corporation, or

(ii) a person who holds out that the person is a person referred to in subclause (i);

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

(n) *“industry” means the real estate broker industry, the real estate appraiser industry, the mortgage broker industry and the condominium manager industry;*

(d) *by repealing clause (o) and substituting the following:*

(o) *“industry member” means any person who holds an authorization as a real estate broker, a real estate appraiser, a mortgage broker or a condominium manager, or as any category or class of real estate broker, real estate appraiser, mortgage broker or condominium manager, issued by the Council;*

(e) *by repealing clause (s.1) and substituting the following:*

(s.1) *“property management” includes any of the following:*

(i) *leasing or offering to lease real estate or negotiating or approving, or offering to negotiate or approve, a lease or rental of real estate;*

(ii) *holding money received in connection with an activity referred to in subclause (i);*

(iii) *collecting, or offering or attempting to collect, on behalf of the owner or other person in charge of real estate, money payable as rent for the use of real estate;*

(iv) *advertising, negotiating or carrying out any other activity, directly or indirectly, for the purpose of furthering an activity referred to in subclauses (i) to (iii);*

(f) *in clause (x)*

(i) *by repealing subclause (vii);*

(ii) *in subclause (viii) by striking out “(vii)” and substituting “(vi)”.*

(3) *Section 2 is amended*

(a) *by repealing subsection (1)(c.1);*

(b) *by adding the following after subsection (5):*

(6) This Act, as it relates to carrying out a condominium management service, does not apply to a condominium corporation in respect of managing its own affairs.

(4) Section 12 is amended

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

(a) prescribing or adopting standards of conduct and business standards for industry members, including skills, education, competencies and experience;

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

(j.1) regulating the business of an industry member on the industry member's own behalf;

(5) Section 17 is amended

(a) by striking out "or" at the end of clause (c) and adding the following after clause (c):

(c.1) act as a condominium manager, or

(b) in clause (d) by adding ", condominium manager" after "real estate broker".

(6) Section 22 is amended by striking out "or" at the end of clause (c), adding "or" at the end of clause (d) and adding the following after clause (d):

(e) in the case of a condominium management service, the person sought to be charged has as a result of the services of the condominium manager employed by that person for the purpose received the services of a condominium manager.

(7) Section 25 is amended

(a) in subsection (1)

(i) in clause (a) by striking out "in respect of a dealing or trade for that person," and substituting "in respect of a dealing, trade or condominium management service for that person,";

(ii) in clause (b)

Amends RSA 2000 cC-26.3

87(1) The *Consumer Protection Act* is amended by this section.

(2) Section 54(2)(a) is amended by striking out “authorized” and substituting “licensed”.

(3) Section 110(1)(c) is amended by striking out “an industry member” wherever it occurs and substituting “a licensee”.

Coming into force

88 This Act comes into force on Proclamation.

- (A) *by striking out “of a dealing or trade” and substituting “of a dealing, trade or condominium management service”;*
- (B) *by striking out “the dealing or trade” and substituting “the dealing, trade or condominium management service”;*
- (iii) *in clause (c) by striking out “of a dealing or trade” and substituting “of a dealing, trade or condominium management service”;*
- (iv) *in clause (d) by striking out “of a dealing or trade” and substituting “of a dealing, trade or condominium management service”;*
- (b) *in subsection (2) by striking out “of a dealing or trade” and substituting “of a dealing, trade or condominium management service”.*

87(1) Amends chapter C-26.3 of the Revised Statutes of Alberta 2000.

(2) Section 54(2) presently reads in part:

(2) This section does not apply to fees charged by

- (a) a loan broker who is authorized to deal as a mortgage broker under the Real Estate Act if the loan is part of a mortgage as defined in the Real Estate Act,*

(3) Section 110(1) presently reads in part:

110(1) This Part, except section 117, does not apply

- (c) to an industry member within the meaning of the Real Estate Act or to the employees of an industry member acting in the regular course of their employment.*

88 Coming into force.

