

2022 Bill 19

Third Session, 30th Legislature, 71 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 19

CONDOMINIUM PROPERTY AMENDMENT ACT, 2022

THE MINISTER OF SERVICE ALBERTA

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 19

2022

CONDOMINIUM PROPERTY AMENDMENT ACT, 2022

(Assented to _____, 2022)

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

Amends RSA 2000 cC-22

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

2 Section 1(1) is amended

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

- (i) passed at a properly convened meeting of a corporation by a majority of the eligible votes cast by persons entitled to exercise the powers of voting conferred by this Act or the bylaws, or

(b) by repealing clause (z) and substituting the following:

- (z) “unit factor” means the unit factor for a unit as specified or apportioned in accordance with section 8(1)(j), 20(6) or 26(1)(b), as the case may be.

3 Section 9 is amended

(a) in subsection (2) by striking out “subsection (1)” and substituting “subsection (1) and subject to subsection (2.1)”;

Explanatory Notes

1 Amends chapter C-22 of the Revised Statutes of Alberta 2000.

2 Section 1(1) presently reads in part:

1(1) In this Act,

(r) “ordinary resolution” means a resolution

(i) passed at a properly convened meeting of a corporation by a majority of all the persons present or represented by proxy at the meeting entitled to exercise the powers of voting conferred by this Act or the bylaws, or

(z) “unit factor” means the unit factor for a unit as specified or apportioned in accordance with section 8(1)(j) or 20(6), as the case may be.

3 Section 9 presently reads in part:

(2) Notwithstanding subsection (1),

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

(2.1) If

- (a) immediately prior to September 1, 2000, the doors and windows of a unit that are located on the exterior walls of the unit were part of the unit,
- (b) by virtue of subsection (2), on September 1, 2000, the doors and windows referred to in clause (a) became part of the common property, and
- (c) the corporation, by a special resolution, amended the condominium plan before September 1, 2002, so that doors and windows referred to in clause (b) ceased being part of the common property and became a part of the unit,

the doors and windows referred to in clause (b) remain part of the unit.

(c) in subsection (3) by striking out “subsection (2)” and substituting “subsections (2) and (2.1)”;

(d) in subsection (4) by striking out “subsections (1) and (2)” and substituting “subsections (1), (2) and (2.1)”.

4 Section 12 is amended

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

- (j) if the unit is a conversion unit,
 - (i) the building assessment report
 - (A) under the *New Home Buyer Protection Act* or this Act as it read immediately before July 1, 2021, or
 - (B) under this Act as it read immediately before the coming into force of section 6 of the *Condominium Property Amendment Act, 2022*,

or

- (a) *all doors and windows of a unit that are located on interior walls of the unit are part of the unit unless otherwise stipulated in the condominium plan, and*
 - (b) *all doors and windows of a unit that are located on exterior walls of the unit are part of the common property unless otherwise stipulated in the condominium plan.*
- (3) *For the purposes of subsection (2), a reference*
- (a) *to a door includes the door, the door frame and the door assembly components, if any, but does not include the door casing, trim or mouldings, and*
 - (b) *to a window includes the glazing, the window frame and the window assembly components, if any, but does not include the window casing, trim or mouldings.*
- (4) *Notwithstanding subsections (1) and (2), if a condominium plan was registered prior to January 1, 1979, the common boundary of any unit described in the condominium plan with another unit or with common property is, unless otherwise stipulated in the condominium plan, the centre of the floor, wall or ceiling, as the case may be.*

4 Section 12 presently reads in part:

12(1) A developer shall not sell or agree to sell a unit or a proposed unit unless the developer has delivered to the purchaser a copy of

- (j) *if the unit is a conversion unit,*
 - (i) *a summary, in the prescribed form, of the deficiencies identified in the building assessment report prepared under section 21.1 or under the New Home Buyer Protection Act, as the case may be, and*
 - (ii) *the reserve fund report required by the regulations;*
- (3) *A purchaser of a unit may, within 10 days of receiving a summary of the deficiencies identified in the building assessment report referred to in subsection (1)(j)(i), request in writing a copy of the building assessment report prepared under section 21.1 or under the New Home Buyer Protection Act, as the case may be, and the*

(ii) the converted property study prepared under section 21.1 on or after the coming into force of section 6 of the *Condominium Property Amendment Act, 2022*;

(j.1) if the unit is a conversion unit, the reserve fund report required by the regulations;

(b) by repealing subsection (3).

5 Section 16.1(1)(f) is repealed and the following is substituted:

(f) in the case of a conversion,

(i) any building assessment report

(A) under the *New Home Buyer Protection Act* or this Act as it read immediately before July 1, 2021, or

(B) under this Act as it read immediately before the coming into force of section 6 of the *Condominium Property Amendment Act, 2022*,

or

(ii) any converted property study prepared under section 21.1 on or after the coming into force of section 6 of the *Condominium Property Amendment Act, 2022*;

6 Section 21.1 is repealed and the following is substituted:

Preparation of converted property study

21.1(1) Subject to the regulations, a developer shall, in respect of a conversion, arrange for the preparation of a converted property study by a professional engineer or registered architect for real property of the corporation, the common property and managed property.

(2) A converted property study referred to in subsection (1) must be prepared in accordance with the regulations.

7 Section 26(1) is repealed and the following is substituted:

developer shall provide a copy of the report to the purchaser within 10 days of receiving the request.

5 Section 16.1(1)(f) presently reads:

16.1(1) The developer shall, at the meeting of the corporation convened under section 29, provide to the corporation without charge the original or a copy of the following documents:

- (f) any building assessment report required under the New Home Buyer Protection Act or, in the case of a conversion, required under section 21.1;*

6 Section 21.1 presently reads:

21.1(1) This section applies to a conversion in respect of a building that is not subject to the New Home Buyer Protection Act.

(2) A developer shall, in respect of a conversion, arrange for the preparation of a building assessment report by a professional engineer, professional technologist or registered architect for real property of the corporation, the common property and managed property.

(3) A building assessment report must be prepared in accordance with the regulations.

7 Section 26(1) presently reads:

Voting rights

26(1) In this section,

- (a) “owner vote” means a vote on the basis of one vote per owner;
- (b) “unit factor vote” means a vote on the basis of the unit factors for an owner’s unit.

(1.1) Subject to subsections (1.2), (1.3) and (1.4), voting on an ordinary resolution at a general meeting shall be conducted as

- (a) an owner vote or, if provided for in the bylaws, on a basis other than an owner vote, or
- (b) a unit factor vote.

(1.2) In the case of an owner vote, where

- (a) a unit is owned by more than one person, each owner is entitled to one vote, and
- (b) a person owns more than one unit, that person is entitled to one vote and may not assign proxies to multiple persons.

(1.3) In the case of a unit factor vote, where a unit is owned by more than one person,

- (a) each owner represents the portion of the unit factors for the unit equal to the portion of the unit owned by that co-owner, or
- (b) if a co-owner does not attend a general meeting at which the unit factor vote is conducted, that co-owner’s unit factors shall not be counted unless the co-owner assigns the co-owner’s right to vote by proxy to another person attending the general meeting.

(1.4) If, at any time before the results of a vote conducted under subsection (1.1)(a) are announced, a person entitled to vote demands that the vote be conducted as a unit factor vote, a new vote shall be conducted under subsection (1.1)(b).

26(1) The voting rights of the owner of a unit are determined by the unit factor for the owner's unit.

(1.5) A corporation shall not exercise the right to vote for any unit owned by the corporation except in the case of a special resolution, in which case the corporation's vote shall be cast in accordance with the majority of the other owners' votes.

8 Section 34.1(2) and (3) are repealed.

9 Section 38.1 is amended by striking out "section 39(1)(a) or (b)" **and substituting** "section 39(1)(a) or (d)".

10 Section 39 is repealed and the following is substituted:

Contributions

39(1) A board may, by resolution, determine from time to time the following to be levied as contributions:

- (a) for the purposes of the operating account and the reserve fund, amounts levied on the owners at regular intervals
 - (i) in proportion to the unit factors of the owners' respective units, or
 - (ii) subject to the regulations, and if provided for in the bylaws, on a basis other than in proportion to the unit factors of the owners' respective units;
- (b) amounts levied against owners as damage chargebacks under subsection (2);

8 Section 34.1(2) and (3) presently read:

(2) Notwithstanding section 32(3), in order to bring the bylaws in conformity with this Act and the regulations, a corporation, no later than one year after the coming into force of this section, may by ordinary resolution amend any of its bylaws to ensure that its bylaws do not conflict with this Act or the regulations.

(3) Subsection (2) does not apply to amending an existing bylaw that is not in conflict with this Act or the regulations nor to adding any new bylaws.

9 Section 38.1 presently reads in part:

38.1 Subject to the regulations, a corporation shall, from funds levied under section 39(1)(a) or (b), establish and maintain an operating account to be used to provide sufficient funds for

10 Section 39 presently reads:

39(1) A board may by resolution

- (a) determine from time to time the amounts to be raised for the purposes of the operating account and the reserve fund and may raise those amounts by levying contributions on the owners at regular intervals*
 - (i) in proportion to the unit factors of the owners' respective units, or*
 - (ii) subject to the regulations, and if provided for in the bylaws, on a basis other than in proportion to the unit factors of the owners' respective units;*
- (b) determine from time to time amounts to be raised by special levy and raise those amounts in accordance with section 39.1.*

(c) subject to the regulations, amounts levied against an owner for the amount of an insurance deductible under subsection (4);

(d) a special levy in accordance with section 39.1.

(2) Subject to subsection (3), the regulations and if provided for in the bylaws, a damage chargeback may be levied on an owner or an occupant of the owner's unit if the owner or occupant, or a person for whom the owner or occupant is responsible according to the regulations, as the case may be, causes damage to

(a) a unit,

(b) the real and personal property of the corporation, or

(c) the common property.

(3) The amount of a damage chargeback levied under subsection (2) shall not exceed the actual costs incurred by the corporation to repair the damage but may include costs incurred by the corporation for goods or services required as a result of the damage to the unit, real and personal property of the corporation or common property, as the case may be.

(4) For the purpose of subsection (1)(c), and if provided for in the bylaws, the amount levied shall be the lesser of

(a) the costs the corporation incurs for repairing the damage to any unit, real and personal property of the corporation or common property, as the case may be, and

(b) subject to the regulations, the deductible limit of the insurance policy obtained by the corporation, regardless of whether or not an insurance claim is made in respect of the damage.

(5) An owner may dispute a damage chargeback levied under subsection (2) in accordance with the regulations.

(6) Subject to the regulations, a contribution may include relevant reasonable administrative costs and reasonable legal fees, including expenses and interest, incurred by the corporation.

(2) A contribution shall not include any amount for the purpose of collecting from an individual owner

(a) a monetary sanction under a bylaw made under section 35(1).

(7) A contribution shall not include

- (a) any amount for the purpose of collecting from an individual owner a monetary sanction under a bylaw made under section 35(1), or
- (b) any other prescribed amount.

11 Section 39.1(1) is amended by striking out “section 39(1)(b)” and substituting “section 39(1)(d)”.

12 Section 39.2(1) is repealed and the following is substituted:

Payment and enforcement of contributions

39.2(1) A contribution is due and payable on the passing of a resolution by the board under section 39 and in accordance with the terms of the resolution.

13 Section 42 is repealed and the following is substituted:

Recovery of costs and fees relating to contributions

42(1) Where a corporation takes any steps to collect any amount of a contribution owing under section 39, the corporation may, subject to the regulations, recover from the person against whom the steps were taken

- (a) all reasonable administrative costs, and
- (b) all reasonable legal fees,

including expenses and interest, incurred by the corporation in collecting the amount of the contribution owing.

(2) The costs and fees referred to in subsection (1) shall be in addition to the costs and fees referred to in section 39(6).

14 Section 81 is amended

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

11 Section 39.1(1) presently reads in part:

39.1(1) A resolution of the board under section 39(1)(b) to approve a special levy must set out the following:

12 Section 39.2(1) presently reads:

39.2(1) A contribution levied as provided in section 39(1)(a) is due and payable on the passing of a resolution by the board to that effect and in accordance with the terms of the resolution, and a contribution levied under section 39(1)(b) is due and payable in accordance with a resolution of the board passed under section 39(1).

13 Section 42 presently reads:

42 Where a corporation takes any steps to collect any amount owing under section 39, the corporation may

- (a) recover from the person against whom the steps were taken all reasonable costs, including legal expenses and interest, incurred by the corporation in collecting the amount owing, and*
- (b) if a caveat is registered against the title to the unit, recover from the owner all reasonable prescribed expenses incurred by the corporation with respect to the preparation, registration, enforcement and discharge of the caveat.*

14 Section 81 presently reads in part:

81 The Lieutenant Governor in Council may make regulations

(c.21) respecting a reserve fund report under this Act;

(b) in clause (c.91)

(i) by striking out “building assessment report” wherever it occurs and substituting “converted property study”;

(ii) by repealing subclause (iv) and substituting the following:

(iv) persons who must not enter a contract for or prepare a converted property study, and

(c) by adding the following after clause (f.93):

(f.931) respecting the procedures for

(i) levying damage chargebacks under section 39(2), and

(ii) disputing damage chargebacks under section 39(5);

(f.932) respecting persons for whom the owner or occupant is responsible for the purpose of section 39(2);

(d) by repealing clause (f.94) and substituting the following:

(f.94) respecting reasonable administrative costs and reasonable legal fees under section 39(6);

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

(g.1) respecting reasonable administrative costs and reasonable legal fees for the purpose of section 42(1);

(f) by repealing clause (h.2) and substituting the following:

(h.2) for the purpose of section 53(4), respecting the deposit a corporation may require and the manner in which

(i) the deposit is held, and

(ii) the deposit, including any interest earned, is repaid;

15 This Act comes into force on Proclamation.

- (c.2) respecting the form and the manner of delivering the information and documents described in section 12;*
- (c.91) respecting the preparation of a building assessment report required by section 21.1, including but not limited to
 - (iv) the qualifications of the person preparing the building assessment report, and**
- (f.93) respecting other basis for levying contributions for the purpose of section 39(1)(a)(ii);*
- (f.94) respecting amounts for the purpose of section 39(2)(d);*
- (g.1) prescribing reasonable expenses for the purpose of section 42(b);*
- (h.2) respecting the deposit a corporation may require under section 53 and the manner in which it is held and in which the deposit and interest earned, if any, are repaid;*

15 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To