



BILL NO. 106

Government Bill

*1st Session, 64th General Assembly
Nova Scotia
71 Elizabeth II, 2022*

An Act to Amend Chapter 85 of the Revised Statutes, 1989, the Condominium Act

CHAPTER 10
ACTS OF 2022

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
APRIL 22, 2022**

The Honourable Colton LeBlanc
Minister of Service Nova Scotia and Internal Services

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 85
of the Revised Statutes, 1989,
the Condominium Act**

Be it enacted by the Governor and Assembly as follows:

1 Subsection 3(1) of Chapter 85 of the Revised Statutes, 1989, the *Condominium Act*, as amended by Chapter 28 of the Acts of 1998, Chapter 6 of the Acts of 2001 and Chapter 10 of the Acts of 2009, is further amended by adding immediately after clause (p) the following clause:

(pa) “Minister” means the Minister of Service Nova Scotia and Internal Services;

2 (1) Subsections 4(1) to (3) of Chapter 85 are repealed and the following subsections substituted:

(1) The Minister shall appoint a Registrar of Condominiums who has the functions and duties set out in this Act and the regulations and such other functions and duties pursuant to this Act and the regulations as the Minister may determine.

(2) The Minister may, in the absence or incapacity of the Registrar or when the office of the Registrar is vacant, authorize another person to act in the Registrar’s stead.

(3) The Minister may appoint one or more deputy registrars as required to assist the Registrar in the performance of the Registrar’s duties.

(3A) A deputy registrar may perform any of the duties and exercise any of the powers of the Registrar as directed by the Registrar.

(2) Subsection 4(4) of Chapter 85 is amended by striking out “in accordance with the *Civil Service Act*” in the second and third lines.

(3) Section 4 of Chapter 85, as amended by Chapter 10 of the Acts of 2009, is further amended by adding immediately after subsection (4) the following subsection:

(4A) A person appointed or authorized to act pursuant to subsections (1) to (4) must be employed pursuant to the *Civil Service Act* and that Act applies to that person.

3 (1) Subsection 7(1) of Chapter 85, as amended by Chapter 28 of the Acts of 1998, Chapter 16 of the Acts of 2006 and Chapter 10 of the Acts of 2009, is further amended by

(a) adding “and” at the end of clause (b); and

(b) striking out clause (c).

(2) Subsection 7(2) of Chapter 85 is repealed and the following subsection substituted:

(2) Notwithstanding subsection (1), the copy of the documents delivered to the Registrar of Joint Stock Companies must not include plans and diagrams.

4 Subsection 11(1) of Chapter 85, as amended by Chapter 10 of the Acts of 2009 and Chapter 46 of the Acts of 2010, is further amended by

(a) striking out “and” at the end of clause (d);

(b) striking out the period at the end of clause (e) and substituting a semicolon;
and

(c) adding immediately after clause (e) the following clauses:

(f) a clear explanation of the methodology or formula used to allocate to the units the percentages referred to in clauses (c), (d) and (e); and

(g) a clear explanation of how contributions to the common expenses related to exclusive-use common elements have been allocated to the units.

5 (1) Subsection 14(1C) of Chapter 85, as enacted by Chapter 10 of the Acts of 2009, is amended by striking out “a vote” in the first line and substituting “an affirmative vote”.

(2) Clause 14(3)(d) of Chapter 85, as enacted by Chapter 10 of the Acts of 2009, is amended by adding “subject to Section 32,” immediately before “make” in the first line.

6 Subsection 14B(2) of Chapter 85, as enacted by Chapter 10 of the Acts of 2009, is amended by adding “the earlier of one year after the date on which the declarant sells the first unit or” immediately after “within” in the third line.

7 Section 14C of Chapter 85 is repealed and the following Section substituted:

14C (1) Notwithstanding Section 14, a corporation may not acquire an interest or a right in a unit, other real property or personal property, except for no consideration, until a board of directors has been elected in accordance with this Act.

(2) Where a purchase and sale agreement for an interest or a right in a unit, other real property or personal property was executed before the coming into force of subsection (1), subsection (1) does not apply.

8 Subsection 23(1) of Chapter 85, as amended by Chapter 28 of the Acts of 1998, is further amended by striking out “a vote” in the first line and substituting “an affirmative vote”.

9 Section 24B of Chapter 85, as enacted by Chapter 10 of the Acts of 2009, is amended by adding “, however the unaudited annual financial statements must be approved by the board and the approval must be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign” immediately after “audited” in the fourth line.

10 (1) Subsection 26(8) of Chapter 85 is amended by striking out “and shall file with the Registrar” in the fourth and fifth lines.

(2) Section 26 of Chapter 85 is further amended by adding immediately after subsection (9) the following subsection:

(10) The corporation shall file with the Registrar a copy of the financial statement and a copy of the auditor’s report within ninety days after the annual general meeting.

11 (1) Subsection 31(1) of Chapter 85, as amended by Chapter 28 of the Acts of 1998 and Chapter 10 of the Acts of 2009, is further amended by

- (a) adding “and” at the end of clause (d);**
- (b) striking out the semicolon at the end of subclause (e)(iii) and substituting a period; and**
- (c) striking out clauses (f) and (g).**

(2) Subsection 31(1F) of Chapter 85, as enacted by Chapter 28 of the Acts of 1998, is amended by striking out “ten-year” in the third line and substituting “five-year”.

12 Chapter 85 is further amended by adding immediately after Section 31 the following Section:

31A (1) On the application of an owner or a purchaser of a unit and common interest, the corporation shall issue an estoppel certificate to which is attached copies of the declaration and by-laws of the corporation that certifies

- (a) the amount of any assessments and accounts owing by the owner to the corporation, and for which the corporation has a lien or right of lien against the unit and common interest of the owner;
- (b) the manner in which the assessment and accounts are payable;
- (c) the extent to which the assessment and accounts have been paid by the owner;
- (d) the unit identified by unit number, level number, condominium corporation number and any applicable civic and suite numbers;
- (e) the name, address and telephone number of the condominium management company or manager;
- (f) the names and addresses of the officers of the corporation;
- (g) the current amount of common expenses, and whether they are prepaid or collected in default;
- (h) how the reserve fund is collected and, where collected as a percentage of common expenses, what the percentage is;
- (i) the balance of the reserve fund;

(j) whether the reserve fund is managed in accordance with the most recent reserve-fund study, if the corporation is required by this Act to file a reserve-fund study;

(k) any special assessments that are forthcoming or contemplated by the corporation within twelve months of the date of the estoppel certificate;

(l) copies of the minutes of all meetings of the board of directors and meetings of the members of the corporation held within the previous twenty-four months;

(m) any major capital expenditures that are planned by the corporation;

(n) any lawsuits that have been instituted or are pending by the corporation or against the corporation;

(o) the debt carried by the corporation from previous expenditures;

(p) fire insurance, public liability and directors' liability insurance coverage and the amount or value of each policy;

(q) the content of any proposed by-laws, proposed amendments to existing by-laws or proposed amendments to the declaration;

(r) the name of each person who owns ten per cent or more of the common elements; and

(s) any other prescribed matter,

and in favour of any person dealing with that owner, the certificate is conclusive proof of the matters certified therein.

(2) In the case of a phased-development condominium, in addition to the items mentioned in subsection (1), the corporation shall attach to the estoppel certificate a copy of any information relating to the phases provided by the declarant to the owners.

13 Subsection 32(1) of Chapter 85 is amended by

(a) striking out “a vote” in the first line and substituting “an affirmative vote”;
and

(b) striking out “a vote of a majority of the members” in the seventh line and substituting “an affirmative vote of members who own at least sixty-six and two-thirds per cent of the common elements”.

14 Section 37 of Chapter 85, as amended by Chapter 28 of the Acts of 1998 and Chapter 4 of the Acts of 2017, is further amended by adding immediately after subsection (1) the following subsection:

(1A) Where permitted by the declaration or by-laws of the corporation, owners may submit ballots by facsimile or electronic mail in accordance with the declaration or by-laws.

15 (1) Subsection 40(1) of Chapter 85, as enacted by Chapter 10 of the Acts of 2009, is amended by striking out “a vote” in the second line and substituting “an affirmative vote”.

(2) Subsection 40(4) of Chapter 85 is repealed and the following subsections substituted:

- (4) The proceeds of a sale must be
 - (a) paid into the reserve fund;
 - (b) paid into the contingency fund; or
 - (c) applied against future common expenses,

but may not, other than on termination or as permitted by subsection (4A), be distributed to the owners.

(4A) Notwithstanding subsection (4) and subject to subsection (5), on the affirmative vote of owners who own at least eighty per cent of the common elements, the owners share the proceeds of a sale in the same proportions as their common interests.

(3) Subsection 40(5) of Chapter 85, as amended by Chapter 10 of the Acts of 2009, is further amended by

- (a) adding “and there has been an affirmative vote under subsection (4A)” immediately after “Section” in the second line; and**
- (b) adding “to the sale” immediately after “dissented” in the second line.**

16 Clause 41(1)(a) of Chapter 85, as enacted by Chapter 28 of the Acts of 1998, is amended by striking out “a vote” in the first line and substituting “an affirmative vote”.

17 Chapter 85 is further amended by renumbering Section 44A as Section 44AA and adding immediately before that Section the following Section:

44A All advertisements and promotional materials respecting units or proposed units to be sold by a declarant must indicate that the property is a condominium.

18 Chapter 85 is further amended by adding immediately after Section 44B the following Section:

44BA Where an owner is renting a unit to another individual and the *Residential Tenancies Act* applies to the rental agreement or tenancy, the owner shall provide to the corporation the names and addresses of all tenants.

19 Subsection 45A(3) of Chapter 85, as enacted by Chapter 28 of the Acts of 1998, is amended by adding “and Treasury Board” immediately after “Finance” in the second and in the third lines.

20 Clause 46(1)(k) of Chapter 85 is amended by striking out “clause (f) of subsection (1) of Section 31” in the second and third lines and substituting “subsection (1) of Section 31A”.

21 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
