

Legislative Summary

28th Legislature
Second Session
Spring 2014



THE CANADIAN
BAR ASSOCIATION
Alberta Branch



Alberta **LAW**
FOUNDATION

LEGISLATIVE REVIEW SUMMARY

Spring 2014 - 28th Legislature - 2nd Session

HIGHLIGHTS

The 2014 Spring Session resulted in the passage of the following acts:

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ACTS PASSED WERE:

1. *Savings Management Act*, S.A. 2014, c. S-2.5
2. *Appropriation (Supplementary Supply) Act*, S.A. 2014, c. 2
3. *Securities Amendment Act*, S.A. 2014, c. 3
4. *Estate Administration Act*, S.A. 2014, c. E-12.5
5. *Appropriation (Interim Supply) Act*, S.A. 2014, c. 1
6. *New Home Buyer Protection Amendment Act*, S.A. 2014, c. 5
7. *Tax Statutes Amendment Act*, S.A. 2014, c. 6
8. *Appropriation Act*, S.A. 2014, c. 4
9. *Child, Youth and Family Enhancement Amendment Act*, S.A. 2014, c. 7
10. *Statutes Amendment Act*, S.A. 2014, c. 8

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AMENDED LEGISLATION

- *Access to the Future Act*, 2005, S.A. 2005, c. A-1.5
- *Adult Interdependent Relationships Act*, 2002, S.A. 2002, c. A-4.5
- *Alberta Corporate Tax Act*, R.S.A. 2000, c. A-15
- *Alberta Heritage Scholarship Act*, R.S.A. 2000, c. A-24
- *Alberta Personal Income Tax*, R.S.A. 2000, c. A-30
- *Charitable Fund-raising Act*, R.S.A. 2000, c. C-9
- *Child and Youth Advocate Act*, S.A. 2011, c. C-11.5
- *Child, Youth and Family Enhancement Act*, R.S.A. 2000, c. C-12
- *Children First Act*, S.A. 2013, c. C-12.5
- *Condominium Property Act*, R.S.A. 2000, c. C-22
- *Dower Act*, R.S.A. 2000, c. D-15
- *Employment Pension Plans Act*, R.S.A. 2000, c. E-8
- *Energy Statutes Amendment Act*, 2009, S.A. 2009, c. 20
- *Fatality Inquiries Act*, R.S.A. 2000, c. F-9
- *Financial Administration Act*, R.S.A. 2000, c. F-12
- *Freehold Mineral Rights Tax Act*, R.S.A. 2000, c. F-26
- *Government Organization Act*, R.S.A. 2000, c. G-10
- *Health Information Act*, R.S.A. 2000, c. H-5
- *Interpretation Act*, R.S.A. 2000, c. I-8
- *Interpretation Act*, R.S.A. 2000, c. I-8
- *Law of Property Act*, R.S.A. 2000, c. L-7
- *Marriage Act*, R.S.A. 2000, c. M-5
- *Metis Settlements Act*, R.S.A. 2000, c. M-14
- *Mines and Minerals Act*, R.S.A. 2000, c. M-17

- *Minors' Property Act*, S.A. 2004, c. M-18.1
- *New Home Buyer Protection Act*, S.A. 2012, c. N-3.2
- *Public Sector Pension Plans Act*, R.S.A. 2000, c. P-41
- *Public Trustee Act*, S.A. 2004, c. P-44.1
- *Queen's Counsel Act*, R.S.A. 2000, c. Q-1
- *Real Estate Act*, R.S.A. 2000, c. R-5
- *Regional Health Authorities Act*, R.S.A. 2000, c. R-10
- *Securities Act*, R.S.A. 2000, c. S-4
- *Societies Act*, R.S.A. 2000, c. S-14
- *Vital Statistics Act*, S.A. 2007, c. V-4.1
- *Wills and Succession Act*, S.A. 2010, c. W-12.2

REPEALED LEGISLATION

- *Administration of Estates Act*, R.S.A. 2000, c. A-2
- *Devolution of Real Property Act*, R.S.A. 2000, c. D-12

DETAILED LISTING OF BILLS

Bill 1 - *Savings Management Act*, S.A. 2014, c. S-2.5

- Amends:**
- *Access to the Future Act, 2005*, S.A. 2005, c. A-1.5
 - *Alberta Heritage Scholarship Act*, R.S.A. 2000, c. A-24

Summary: The *Savings Management Act* established two notional endowment accounts (Social Innovation Endowment Account, and Agriculture and Food Innovation Endowment Account) as well as a Future Fund within the Alberta Heritage Savings Trust Fund. As a result, a portion of the existing assets of the Alberta Heritage Savings Trust Fund will be reallocated to the new innovation endowment accounts, the Alberta Heritage Scholarship Fund and the new Alberta Future Fund. The new endowments and the Alberta Future Fund will exist as accounts within the Heritage Fund and will be managed according to the Heritage Fund's investment policy.

In Force: April 1, 2014

Bill 2 - *Appropriation (Supplementary Supply) Act*, S.A. 2014, c. 2

Summary: The *Appropriation (Supplementary Supply) Act* addresses charges and expenses of the Public Service (not otherwise provided) for the fiscal year ending March 31, 2014.

In Force: March 13, 2014

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Bill 3 - *Securities Amendment Act*, S.A. 2014, c. 3

Amends: • *Securities Act*, R.S.A. 2000, c. S-4

Summary: The *Securities Amendment Act*, 2014 was originally introduced as Bill 42 during the last fall session, but did not pass before the session was concluded.

The Act focuses on over-the-counter derivatives and the harmonization of derivatives regulation in Canada. It creates a statutory framework for the regulation of over-the-counter derivatives, providing the Alberta Securities Commission with the authority to make rules, including those mandating central clearing, trade reporting, electronic trading, solvency, and other conduct requirements for those trading in derivatives.

In Force: On Proclamation

Bill 4 - *Estate Administration Act*, S.A. 2014, c. E-12.5

Amends: • *Metis Settlements Act*, R.S.A. 2000, c. M-14
• *Minors' Property Act*, S.A. 2004, c. M-18.1
• *Public Trustee Act*, S.A. 2004, c. P-44.1
• *Wills and Succession Act*, S.A. 2010, c. W-12.2

Repeals: • *Administration of Estates Act*, R.S.A. 2000, c. A-2
• *Devolution of Real Property Act*, R.S.A. 2000, c. D-12

Summary: Amongst other things, the *Estate Administration Act* sets out the duties and responsibilities of personal representatives of estates. It codifies four core tasks of the administrator of an estate: identify estate assets and liabilities, administer and manage the estate, satisfy debts and obligations, and distribute and account for the estate.

The *Estate Administration Act* recognizes that a personal representative may choose to administer an estate without obtaining a grant. Such personal representatives are subject to the same rules and responsibilities as those that apply when a grant is issued.

Applications under the Act may only be heard by a judge and not a master in chambers.

The Act provides that if a personal representative refuses or fails to perform a duty or core task or to provide notice, the Court may impose conditions, revoke the grant, direct the personal representative to comply with his or her duties or have the personal representative removed.

The Act allows the Court to issue a grant in special circumstances if the Court thinks a grant is necessary. The Act also directs the personal representative and others to the *Funeral Services Act* and the *Cemeteries Act*.

The *Estate Administration Act* holds professional personal representatives to a higher skill standard if they administer an estate as their professional occupation or business.

The Act sets out how gifts are distributed to the beneficiaries if the estate does not have enough money to pay all the debts. Beneficiaries may have their gifts reduced by payment of funeral and administration expenses as well as unsecured debts and liabilities, depending on the class of asset gifted to them.

In Force: On Proclamation

Bill 5 - Appropriation (Interim Supply) Act, S.A. 2014, c. 1

Summary: The *Appropriation (Interim Supply) Act* allows the Alberta Government to pay its bills for the period of April 1, 2014, to May 15, 2014, inclusive.

In Force: March 13, 2014

Bill 6 - New Home Buyer Protection Amendment Act, S.A. 2014, c. 5

Amends: • *New Home Buyer Protection Act*, R.S.A. 2012, c. N-3.2

Summary: The *New Home Buyer Protection Amendment Act* redefines the 10 year period that a new home is protected by the Act as the “protection period” (previously the “purchase period”).

The Act outlines how the protection period for new homes is calculated.

The Act provides in the case of condominiums, that each protection period is deemed to have begun on the date of the unit’s first rental occupancy. The *New Home Buyer Protection Amendment Act* also clarifies that administrative penalties may be issued on a per-unit basis. It provides that when an administrative penalty is appealed, the penalty recipient must pay it or post an irrevocable letter of credit.

The *New Home Buyer Protection Amendment Act* provides that builders and owners of multiple family dwelling buildings will be required to register caveats in respect of rental use designations on a building’s land title to get an exemption from home warranty insurance requirements. The Act provides how the caveat will be registered, maintained on title, and discharged.

The term “common facilities” is defined to cover parts of the condominium buildings that are not common property as the term is conventionally defined under section 1 of the *Condominium Property Act*.

Sections 3 and 4 of the *New Home Buyer Protection Act* have been amended to refer to the protection period instead of separately setting up 10 year terms.

The Act contains the Registrar’s powers to clarify which buildings qualify as a new home and his power to delegate responsibilities to staff.

There are several board related amendments.

In Force: On Proclamation

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Bill 7 - *Tax Statutes Amendment Act*, S.A. 2014, c. 6

- Amends:**
- *Alberta Corporate Act*, R.S.A. 2000, c. A-15
 - *Alberta Personal Income Tax*, R.S.A. 2000, c. A-30

Summary: The *Tax Statutes Amendment Act* introduces mostly technical and administrative amendments to the personal and corporate income tax legislation. The amendments parallel federal tax changes and maintain consistency between federal and Alberta legislation. The amendments implement policy to introduce a tax regime for qualifying environmental trusts, or QETs, in Alberta. This new tax regime for QETs shifts the tax burden on QET earnings from corporations to the QETs.

The changes to the *Alberta Personal Income Tax Act* prevent unintended tax increases on dividends paid out of small-business income.

In Force: On various dates

Bill 8 - *Appropriation Act*, S.A. 2014, c. 4

Summary: The Act provides funding authority to the offices of the Legislative Assembly and the Government for the fiscal year ending March 31, 2015.

In Force: April 24, 2014

Bill 11 - *Child, Youth and Family Enhancement Act*, S.A. 2014 c. 7

- Amends:**
- *Child and Youth Advocate Act*, S.A. 2011, c. C-11.5
 - *Child, Youth and Family Enhancement Act*, R.S.A. 2000, c. C-12
 - *Children First Act*, S.A. 2013, c. C-12.5

Summary: The *Child, Youth and Family Enhancement Amendment Act* lifts the publication ban regarding a child who received intervention services and who has died. The Act also expands the Child and Youth Advocate's investigative powers to include young persons whose intervention files have been closed for up to two years.

In Force: May 14, 2014, with exceptions

Bill 12 - *Statutes Amendment Act*, S.A. 2014, c. 8

- Amends:**
- *Adult Interdependent Relationships Act*, R.S.A. 2002, c. A-4.5
 - *Charitable Fund-raising Act*, R.S.A. 2000, c. C-9
 - *Dower Act*, R.S.A. 2000, c. D-15
 - *Energy Statutes Amendment Act*, S.A. 2009, c. 20
 - *Fatality Inquiries Act*, R.S.A. 2000, c. F-9
 - *Freehold Mineral Rights Tax Act*, R.S.A. 2000, c. F-26
 - *Government Organization Act*, R.S.A. 2000, c. G-10
 - *Health Information Act*, R.S.A. 2000, c. H-5
 - *Interpretation Act*, R.S.A. 2000, c. I-8
 - *Law of Property Act*, R.S.A. 2000, c. L-7
 - *Marriage Act*, RSA 2000, c. M-5
 - *Metis Settlements Act*, R.S.A. 2000, c. M-14
 - *Mines and Minerals Act*, R.S.A. 2000, c. M-17

- *Queen's Counsel Act*, R.S.A. 2000, c. Q-1
- *Regional Health Authorities Act*, R.S.A. 2000, c. R-10
- *Societies Act*, R.S.A. 2000, c. S-14
- *Vital Statistics Act*, S.A. 2007, c. V-4.1

Summary: The *Statutes Amendment Act* contains amendments to a number of Acts. A sample portion of those amendments are outlined below.

Amendments to the *Charitable Fundraising Act* will remove requirements for all charitable organizations to prepare audited financial statements. These charitable organizations will now be required to prepare financial information returns signed by two directors.

Amendments to the *Societies Act* will allow non-profit organizations incorporated outside of Alberta to apply for continuance into Alberta. Alberta non-profits will be permitted to apply for continuance to other jurisdictions and the Act permits such continuances.

The *Statutes Amendment Act* amends the *Mines and Minerals Act* and updates some sections of the *Freehold Mineral Rights Tax Act* to be consistent with the amendments. The bulk of the amendments to the *Mines and Minerals Act* relates to the audit and assurance processes.

The *Statutes Amendment Act* amends schedule 9 of the *Government Organization Act* to clarify roles at Alberta Justice and Solicitor General. These amendments are then reflected in the *Queen's Counsel Act*.

The *Statutes Amendment Act* amends the *Health Information Act*. The Act makes it mandatory, as soon as practicable, to notify the Information and Privacy Commissioner, the Minister, and any affected individual when a breach creates a risk of harm to an individual as a result of the breach. An exception would be established to the notification to the individual requirement, if providing notice to an affected individual would be expected to compromise that person's physical or mental health. In that case, the custodian of the health information must inform the Information and Privacy Commissioner of the reasons why notice is not being provided. The Commissioner may then, by order, confirm the decision of the custodian or require the custodian to provide a notice that contains the information specified in the order, in the form, manner, and within the time specified in the order.

The *Health Information Act* is also amended to authorize the Information and Privacy Commissioner to disclose any information that is necessary to enable the Minister of Health to exercise the powers of his office. The *Health Information Act* was also amended to authorize the Commissioner to disclose information to any person where disclosure is in the public interest or required to protect the privacy, health, or safety of an individual.

The offence provisions under the *Health Information Act* have been expanded. The two-year limitation period for prosecuting offences will start to count from when the offence came to the notice of the Commissioner and not from when the offence was committed.

The repeal of section 5 of the *Energy Statutes Amendment Act* is necessitated by the amendment of the *Mines and Minerals Act*.

The *Statutes Amendment Act* amends the *Regional Health Authorities Act* by authorizing the Minister of Health to issue a directive to a regional health authority to disestablish and

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wind up the affairs of the community health councils. If the minister chooses to exercise his discretion, the amendment requires the minister to establish a replacement body to act in an advisory capacity to the Minister as to the provision of health services in the province or part of it.

Another amendment to the *Regional Health Authorities Act* requires a regional health authority to submit its annual budget to the Minister of Health for approval. The Minister may give directions to a regional health authority with respect to the form and content of the budget, the time by which the budget must be submitted and any other information that must be submitted.

Amendments to the *Adult Interdependent Relationships Act* and the *Dower Act* updates Alberta legislation to be in line with federal legislation by replacing or deleting language in Alberta legislation which no longer reflect the current law.

Amendments to the *Vital Statistics Act* allows changes to the requirement for individuals to amend their sex indicator on birth records and birth certificates in a manner consistent with the regulations.

In Force: On various dates

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