

BILL 8 – 2021

FINANCE STATUTES AMENDMENT ACT, 2021

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

Financial Institutions Act

1 Section 21 of the Financial Institutions Act, R.S.B.C. 1996, c. 141, is amended

(a) by adding the following subsection:

(2.1) The superintendent must not consent to an acquisition referred to in subsection (2) if the superintendent believes on reasonable grounds that it is not in the public interest to consent. , **and**

(b) in subsection (5) by striking out “an arrangement, acquisition or disposition by reinsurance” **and substituting** “an arrangement referred to in subsection (1) or a disposition by reinsurance referred to in subsection (3)”.

2 Section 23 is amended by striking out “or the minister considers necessary in determining” **and substituting** “considers necessary for determining”.

3 Section 33.1 (1) is amended by striking out “the Authority may appoint the superintendent” **and substituting** “the superintendent may appoint an employee of the Authority”.

4 Section 67 is amended

(a) in subsection (2) by striking out “the Authority considers” **and substituting** “the superintendent considers” **and by striking out** “the Authority may order” **and substituting** “the superintendent may order”, **and**

(b) in subsection (3) by striking out “consent of the Authority” **and substituting** “consent of the superintendent”.

5 Section 96 (3) (c) is amended by striking out “recovered by the Authority” **and substituting** “recovered by the superintendent”.

6 Section 124 is amended

- (a) in subsection (1) by striking out “or Authority” wherever it appears, and**
- (b) in subsection (2) by striking out “directed by the Authority” and substituting “directed by the superintendent” and by striking out “Authority or”.**

7 Section 127 is amended

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

- (3) At intervals specified by the superintendent, a financial institution must file with the superintendent one or more of the following reports as specified, and in the form established, by the superintendent:
 - (a) a financial affairs report;
 - (b) a market conduct practices report;
 - (c) a risk management practices report;
 - (d) a corporate governance report. , **and**

(b) by adding the following subsection:

- (5) The superintendent may require an insurance company to file with the administrator of a national database of market conduct, with whom the Authority has entered into an agreement under section 219.01, a market conduct practices report
 - (a) instead of filing such a report with the superintendent under subsection (3), or
 - (b) if so directed by the superintendent, in addition to filing such a report with the superintendent under subsection (3).

8 Section 160 is amended

- (a) in subsection (1) (a) and (b) by striking out “or extraprovincial credit union”,**
- (b) by repealing subsection (2),**
- (c) in subsection (3) by adding “and” at the end of paragraph (e) and by repealing paragraph (f), and**
- (d) by repealing subsection (4) and substituting the following:**
 - (4) The superintendent must not issue a business authorization under subsection (3) if the superintendent believes on reasonable grounds that it is not in the public interest to issue the business authorization.

9 *The following sections are added:*

Business authorization for extraprovincial credit union

- 160.1** (1) The following extraprovincial credit unions may file with the Authority an application for a business authorization, in the form established by the superintendent, in accordance with this section:
- (a) an extraprovincial credit union whose primary jurisdiction is not Canada;
 - (b) an extraprovincial credit union whose primary jurisdiction is Canada.
- (2) The Authority may issue a business authorization to an extraprovincial credit union referred to in subsection (1) (a) if
- (a) the credit union meets the requirements of section 160 (3) (a) to (d) and (g), with all references to “superintendent” in that section to be read as references to “Authority”, and
 - (b) the Authority is satisfied that, in the credit union’s primary jurisdiction, a credit union from British Columbia could be authorized to carry on business as an extraprovincial corporation.
- (3) The Authority must not issue a business authorization under subsection (2) if
- (a) the Authority believes on reasonable grounds that it is not in the public interest to issue the business authorization, or
 - (b) the Authority has not received the consent of the deposit insurance corporation.
- (4) Section 160 (5) applies to the issuance of a business authorization under subsection (2) of this section, with all references to “superintendent” in section 160 (5) to be read as references to “Authority”.
- (5) Before issuing a business authorization to an extraprovincial credit union under subsection (2), the Authority must consider the prescribed criteria.
- (6) The Authority must issue a business authorization to an extraprovincial credit union referred to in subsection (1) (b) if the corporation provides information in support of its application that is satisfactory to the Authority.

Amended business authorization

- 160.2** (1) An extraprovincial corporation that has a business authorization may at any time file with the superintendent an application, in the form established by the superintendent, for an amended business authorization.
- (2) If an extraprovincial corporation provides information in support of its application under subsection (1) that is satisfactory to the superintendent, the superintendent

- (a) may issue an amended business authorization to an extraprovincial corporation referred to in section 160 (1) (a) or (c) or 160.1 (1) (a), and
- (b) must issue an amended business authorization to an extraprovincial corporation referred to in section 160 (1) (b) or (d) or 160.1 (1) (b).

10 Section 160.1 (3), as enacted by section 9 of this Act, is amended by striking out “or” at the end of paragraph (a) and by repealing paragraph (b) and substituting the following:

- (b) the deposit insurance corporation has not, after considering the prescribed criteria, provided the Authority with consent, or
- (c) the deposits, within the meaning of section 260, of the credit union’s depositors are not guaranteed in accordance with the prescribed requirements.

11 Section 161 is amended by striking out “Authority’s power” and substituting “power of the Authority or the superintendent”.

12 Section 163 is amended

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

- (3) At intervals specified by the superintendent, an extraprovincial corporation must file with the superintendent one or more of the following reports as specified, and in the form established, by the superintendent:
 - (a) a financial affairs report;
 - (b) a market conduct practices report;
 - (c) a risk management practices report;
 - (d) a corporate governance report. , **and**

(b) by adding the following subsection:

- (5) The superintendent may require an extraprovincial insurance corporation to file with the administrator of a national database of market conduct, with whom the Authority has entered into an agreement under section 219.01, a market conduct practices report
 - (a) instead of filing such a report with the superintendent under subsection (3), or
 - (b) if so directed by the superintendent, in addition to filing such a report with the superintendent under subsection (3).

13 Section 187 (3) is amended by striking out “that the Authority considers necessary for the evaluation of the application.”

14 Section 201 (3) (c) is amended

(a) in subparagraph (vi) by striking out “section 26” and substituting “section 28.2”, and

(b) in subparagraph (vii) by striking out “section 38” and substituting “section 29.1”.

15 Section 201 (2) to (8) is repealed and the following substituted:

- (2) Subject to subsections (3) and (3.1), the minister may make regulations
 - (a) transferring to the superintendent appointed under section 207 a power or duty given to the Authority under this Act or the *Credit Union Incorporation Act*, and
 - (b) reversing a transfer of a power or duty made under paragraph (a).
- (3) A regulation made under this section must not transfer the following:
 - (a) the power to establish and amend, under section 94.1 (1), a code of market conduct for an insurance company;
 - (b) the powers, under section 94.2 (4),
 - (i) to establish and amend a code of market conduct for a credit union, and
 - (ii) to require the board of directors of a credit union to adopt that code;
 - (c) the power to make rules under section 201.1;
 - (d) the power to require the council to establish written administrative policies and procedures under section 226 (1) and the power to give consent to their implementation under section 226 (3);
 - (e) a power or duty under Part 9, other than a power or duty under section 277, 277.1 or 277.2.
- (3.1) A regulation made under this section must be effective on a date specified in the regulation that is at least 3 months after the date of deposit of the regulation under the *Regulations Act*.
- (3.2) Subsection (3.1) does not apply to the first regulation made under this section.
- (4) A regulation made under this section may
 - (a) impose terms and conditions that the minister considers advisable, including limits on delegation by the superintendent under section 207 (2) of a transferred power or duty, and
 - (b) establish transitional rules in relation to the transfer of a power or duty under subsection (2) (a) or (b) of this section.

16 Section 201 (3.2), as enacted by section 15 of this Act, is repealed.

17 Section 201.2 (a) is amended by adding “unless the regulations provide otherwise” after “in accordance with the regulations”.

18 Section 207 is amended

(a) in subsection (2) by repealing paragraph (b) and substituting the following:

(b) subject to a limit under section 201 (4), may, in writing and with or without terms and conditions, delegate to an officer, employee or agent of the Authority a power or duty that is transferred to the superintendent by a regulation made under section 201. ,

(b) in subsection (2) by striking out everything after paragraph (b), and

(c) by adding the following subsections:

(2.1) A delegation under this section is revocable and does not prevent the superintendent from exercising a delegated power.

(2.2) A person purporting to exercise a power of the superintendent by virtue of a delegation under this section must, when requested to do so, produce evidence of the person’s authority to exercise the power.

19 Sections 208 and 218.1 (1) (a) and (f) are amended by striking out “the Authority or” wherever it appears.

20 Section 218.2 (1) is amended

(a) in the definition of “self-evaluative compliance audit” by striking out “the Authority or”, and

(b) in the definition of “self-evaluative compliance audit document” by striking out “, the Authority”.

21 Sections 219 and 219.01 are amended by striking out “may enter” and substituting “and the superintendent may each enter”.

22 Section 235 is amended

(a) by repealing subsections (1) to (2.1) and substituting the following:

(1) The following orders must be in writing:

(a) an order of the Authority under any of the following provisions:

(i) section 26 (1) or (2) [liquidation and dissolution];

(ii) section 31 (b) [filing quarterly statements and producing records];

(iii) section 241.1 [assessment of costs];

(iv) section 248 (2) [supervision of central credit union];

- (v) section 249 (1) or (7) *[revocation of business authorization]*;
- (vi) section 277 (2) *[orders in relation to credit union that is subject to supervision]*;
- (b) an order of the superintendent under any of the following provisions:
 - (i) section 48 (2) *[designation of connected party]*;
 - (ii) section 58 *[requiring declaration of share ownership]*;
 - (iii) section 61 (2) *[extension to apply for business authorization]*;
 - (iv) section 67 (2) *[capital and liquidity of financial institutions]*;
 - (v) section 93 *[prohibition against unfair, misleading or deceptive documents]*;
 - (vi) section 99 (2) *[removal of directors and officers]*;
 - (vii) section 107 (1) *[requiring meeting of directors]*;
 - (viii) section 109 (2) *[circulation of director's statement]*;
 - (ix) section 117 (2) *[appointment of auditor]*;
 - (x) section 124 *[additional reporting by auditor]*;
 - (xi) section 125 (1) *[appointment of additional auditor]*;
 - (xii) section 137 *[requiring review of investment and lending policy]*;
 - (xiii) section 142 (2) *[other authorized investments]*;
 - (xiv) section 143 *[disposal of investments]*;
 - (xv) section 144 (3) *[designation of related parties]*;
 - (xvi) section 193 (2) *[requiring existing societies to apply for business authorization]*;
 - (xvii) section 197 *[amendment of charter]*;
 - (xviii) section 206 *[requirement to insure]*;
 - (xix) section 211 *[requirement to provide information]*;
 - (xx) section 214 *[special examination]*;
 - (xxi) section 215 *[investigation]*;
 - (xxii) section 241.1 *[assessment of costs]*;
 - (xxiii) section 244 (2) or (5) *[order to cease or remedy]*;
 - (xxiv) section 245 *[order to freeze property]*;
 - (xxv) section 247 *[valuation of assets and insurance contracts]*;
 - (xxvi) section 248 (1) *[requiring central credit union to hold special general meeting]*;
 - (xxvii) section 249 (1.01) or (7.1) *[revocation of business authorization]*;
 - (xxviii) section 253.1 (8) *[administrative penalties]*;
 - (xxix) section 275 *[supervision of credit union]*;
 - (xxx) section 276 (e) *[duration of supervision]*;

- (xxxix) section 277 (1) [*orders in relation to credit union that is subject to supervision*];
 - (xxxii) section 285 (1) [*delegation to stabilization authority*];
 - (c) an order of the council under any of the following provisions:
 - (i) section 231 (1) [*council's powers in relation to licences*];
 - (ii) section 241.1 [*assessment of costs*].
- (2) A consent or a refusal of a consent of the Authority under any of the following provisions must be in writing:
- (a) section 13 (1) [*incorporation*];
 - (b) section 18 (1) [*continuation of extraprovincial trust corporation or extraprovincial insurance corporation into British Columbia*];
 - (c) section 19 (1) (b) [*continuation of trust company or insurance company out of British Columbia*];
 - (d) section 20 (3) [*amalgamation of trust company or insurance company*];
 - (e) section 21 (1) or (3) [*arrangement or disposition by reinsurance*];
 - (f) section 226 (3) [*administrative policies*].
- (2.1) A consent or a refusal of a consent of the superintendent under any of the following provisions must be in writing:
- (a) section 10.1 (2) (a) or (b) [*Business Corporations Act application to extraprovincial corporations*];
 - (b) section 12 (3) [*names for trust companies and insurance companies*];
 - (c) section 15 [*alteration of memorandum, notice of articles or articles*];
 - (d) section 16 [*conversion of special Act insurance company*];
 - (e) section 21 (2) [*acquisition of assets*];
 - (f) section 33 [*restoration of trust company or insurance company*];
 - (g) section 50 (4) [*major share acquisition*];
 - (h) section 67 (2.1) or (3) [*capital and liquidity of financial institutions*];
 - (i) section 69 (1) [*appointment of receiver*];
 - (j) section 99 (3) [*removed directors and officers*];
 - (k) section 141 (2) (c) [*investment in a corporation*];
 - (l) section 142 (1) (a), (b) or (c) [*other authorized investments*];
 - (m) section 147 [*related party transactions*];
 - (n) section 197.1 (3) or (4) [*alteration to constitution or bylaws or amalgamation of authorized society*];
 - (o) section 276 (c) [*duration of supervision*].
- (2.2) A refusal of the Authority to issue a business authorization must be in writing. ,

- (b) in subsection (5) (b) by striking out “249 (7) (b)” and substituting “249 (7)”*,
- (c) in subsection (5) (c) by adding “or (2.1)” after “subsection (2)”, and*
- (d) in subsection (5) (d) (iii) by striking out “issued”.*

23 Section 235, as amended by section 22 of this Act, is amended

- (a) in subsection (1) (b) by repealing subparagraph (xvii), and*
- (b) in subsection (2.1) by adding the following paragraph:*

(j.1) section 139.1 (1) [credit union entering into prescribed transaction]; .

24 Section 236 is amended

- (a) in subsection (1) (a) (ii) by adding “or (2.1)” after “section 235 (2)”*,
- (b) in subsection (2) by striking out “conclusively deemed to be”, and*
- (c) in subsection (3) (b) by striking out “249 (1)” and substituting “249 (1.01)”.*

25 Section 237 is amended

- (a) in subsection (2) (a) by striking out “277 (d) to (g)” and substituting “277 (1) (d) or (2) (a), (c) or (d)”*,
- (b) in subsection (2) (c), (e) and (f) by adding “or (2.1)” after “section 235 (2)”, and*
- (c) in subsection (3) (a) by striking out “the minister or”.*

26 Section 238 (1) is amended

- (a) by striking out “acting in accordance with a delegation by the Authority”, and*
- (b) by repealing paragraph (a) and substituting the following:*
 - (a) intends to make an order under section 93 (1) or (2) [prohibition against unfair, misleading or deceptive documents] or 231 (1) (g), (h), (i) or (j) [council may suspend, cancel or restrict licences], and .*

27 Section 238.1 is amended

- (a) in subsection (1) by striking out “If the Authority” and substituting “If the superintendent, or the Authority, depending on which of them has the power to make the order,”*
- (b) in subsection (1) (a) by striking out “93 (1) or (2),” and by striking out “277 (d) to (f)” and substituting “277 (1) (d) or (2) (a) or (c)”*,

(c) in subsection (1) by striking out “the Authority may” and substituting “the superintendent or Authority, as applicable, may” and by striking out “but the Authority” and substituting “but the superintendent or Authority”,

(d) by repealing subsection (2) (a) and substituting the following:

(a) require a hearing before the superintendent or Authority, as applicable, by delivering written notice to the superintendent or Authority, or , **and**

(e) in subsection (3) by striking out “the Authority” and substituting “the superintendent or Authority, as applicable,”.

28 Section 240 (1) (g) is amended by striking out “his” and substituting “the person’s”.

29 Section 242 is amended

(a) by adding the following subsection:

(0.1) In this section, “**consent**” means consent under any of the following provisions:

(a) section 10.1 (2) (b) [*Business Corporations Act application to extraprovincial corporations*];

(b) section 21 (2) [*acquisition of assets*];

(c) section 67 (2.1) [*capital and liquidity of financial institutions*];

(d) section 141 (2) (c) [*investment in a corporation*];

(e) section 142 (1) (a) [*other authorized investments*]. ,

(b) in subsection (1) by striking out “, the superintendent acting in accordance with a delegation by the Authority,”,

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

(a) an order under any of the following provisions:

(i) section 93 [*prohibition against unfair, misleading or deceptive documents*];

(ii) section 109 (2) [*circulation of director’s statement*];

(iii) section 125 (1) [*appointment of additional auditor*];

(iv) section 137 [*requiring review of investment and lending policy*];

(v) section 143 [*disposal of investments*];

(vi) section 231 (1) [*council may suspend, cancel or restrict licences and impose fines*];

(vii) section 247 (2) or (4) [*valuation of assets and insurance contracts*];

(viii) section 253.1 (8) [*administrative penalties*];

(a.1) an order under section 241.1 *[assessment of costs]* that is not related to a decision that may be appealed to the Supreme Court under section 242.4 (1); ,

(d) in subsection (1) (b) to (d) by striking out “referred to in section 235 (2)”,

(e) by repealing subsection (1) (e) and substituting the following:

(e) the issuance subject to conditions of a licence under Division 2 of Part 6; , **and**

(f) by repealing subsection (1) (g) and (h).

30 Section 242.4 is amended

(a) by adding the following subsection:

(0.1) In this section, “**consent**” means consent under any of the following provisions:

(a) section 13 (1) *[incorporation]*;

(b) section 15 *[alteration of memorandum, notice of articles or articles]*;

(c) section 16 *[conversion of special Act insurance company]*;

(d) section 18 (1) *[continuation of extraprovincial trust corporation or extraprovincial insurance corporation into British Columbia]*;

(e) section 19 (1) (b) *[continuation of trust company or insurance company out of British Columbia]*;

(f) section 20 (3) *[amalgamation of trust company or insurance company]*;

(g) section 21 (1) or (3) *[arrangement or disposition by reinsurance]*;

(h) section 33 *[restoration of trust company or insurance company]*;

(i) section 50 (4) *[major share acquisition]*;

(j) section 67 (3) *[capital and liquidity of financial institutions]*;

(k) section 69 (1) *[appointment of receiver]*;

(l) section 99 (3) *[removed directors and officers]*;

(m) section 142 (1) (b) or (c) *[other authorized investments]*;

(n) section 147 *[related party transactions]*;

(o) section 197.1 (3) or (4) *[alteration to constitution or bylaws or amalgamation of authorized society]*;

(p) section 276 (c) *[duration of supervision]*. ,

(b) in subsection (1) by adding “or the superintendent, depending on which of them has the power to make the decision,” **after** “the Authority”,

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

- (a) an order under any of the following provisions:
 - (i) section 48 (2) [*designation of connected party*];
 - (ii) section 67 (2) [*capital and liquidity of financial institutions*];
 - (iii) section 99 (2) [*removal of directors and officers*];
 - (iv) section 144 (3) [*designation of related parties*];
 - (v) section 193 (2) [*requiring existing societies to apply for business authorization*];
 - (vi) section 197 [*amendment of charter*];
 - (vii) section 244 (2) or (5) [*order to cease or remedy*];
 - (viii) section 245 (1) [*order to freeze property*];
 - (ix) section 275 [*supervision of credit union*];
 - (x) section 277 (1) (d) or (2) (a), (c) or (d) [*orders in relation to credit union that is subject to supervision*];
- (a.1) an order under section 241.1 [*assessment of costs*] that is related to a decision that may be appealed to the Supreme Court under this subsection;
- (a.2) any other order of the Authority under section 241.1; ,

(d) in subsection (1) (b) to (d) by striking out “referred to in section 235 (2)”,

(e) by adding the following subsection:

- (2.1) The superintendent is a party to an appeal of a decision of the superintendent to the Supreme Court. ,

(f) in subsection (4) (a) to (c) by adding “or superintendent, as the case may be” after “the Authority”,

(g) by repealing subsection (4) (d) and substituting the following:

- (d) the decision of the Authority or superintendent, as the case may be; , **and**

(h) in subsection (5) (a) by adding “or superintendent, as the case may be,” after “the Authority”.

31 Section 242.4 (1) (a) (vi), as enacted by section 30 of this Act, is repealed.

32 Sections 243 (1) (c) and 248 (5) (a) are amended by striking out “277 (e)” and substituting “277 (2) (a)”.

33 Section 244 (2) is amended by striking out “in the opinion of the Authority” and substituting “in the opinion of the superintendent” and by striking out “, the Authority may” and substituting “the superintendent may”.

34 Section 245 (1) is amended

(a) in paragraph (b) by striking out “Authority or”, and

(b) by striking out “the Authority may” and substituting “the superintendent may”.

35 Section 249 is amended

(a) in subsection (1) (a) by adding “superintendent,” after “Authority,”,

(b) by repealing subsection (1) (h),

(c) by adding the following subsection:

(1.01) If the superintendent has reasonable grounds to believe any of the things set out in subsection (1) (a) to (g), the superintendent by order may impose conditions in respect of the financial institution’s permit or business authorization. ,

(d) in subsection (1.1) by striking out “subsection (1) (h), (i) or (j)” and substituting “subsection (1) (i) or (j) or the superintendent may make an order under subsection (1.01)”,

(e) in subsection (2) by striking out “subsection (1) (h) or (j)” and substituting “subsection (1) (j) or the superintendent may make an order under subsection (1.01)”, and

(f) by repealing subsection (7) and substituting the following:

(7) The Authority may by order reinstate a permit or business authorization that has been revoked under subsection (1) (j), either unconditionally or subject to conditions the Authority considers appropriate.

(7.1) The superintendent may by order cancel a condition imposed under subsection (1.01) in respect of a permit or business authorization.

36 Section 253.1 (1) is amended

(a) by striking out “the opinion of the Authority” and substituting “the opinion of the superintendent”,

(b) in paragraph (e) by striking out “the Authority or”, and

(c) by striking out “the Authority may give written notice” and substituting “the superintendent may give written notice”.

37 Section 275 is amended by striking out “the Authority by order” and substituting “the superintendent by order” and by striking out “the supervision of the Authority” and substituting “the supervision of the superintendent”.

38 Section 277 is amended

- (a) by renumbering the section as section 277 (1),**
- (b) in subsection (1) by striking out “supervision of the Authority, the Authority may” and substituting “supervision of the superintendent, the superintendent may”,**
- (c) in subsection (1) (a) by striking out “Authority’s” and substituting “superintendent’s”,**
- (d) in subsection (1) by adding “and” at the end of paragraph (c),**
- (e) in subsection (1) (d) by striking out “Authority” and substituting “superintendent”,**
- (f) in subsection (1) by repealing paragraphs (e) to (g), and**
- (g) by adding the following subsection:**
 - (2) If a credit union is subject to the supervision of the superintendent, the Authority may make orders
 - (a) appointing an individual, who may be an employee of the Authority, as the administrator of the credit union if the Authority considers that the credit union
 - (i) is not otherwise likely to be released from supervision within a reasonable period of time, or
 - (ii) has breached a term or condition imposed or a requirement of an order made by the superintendent while supervising the credit union,
 - (b) terminating the appointment of the administrator appointed under paragraph (a),
 - (c) if an administrator has been appointed under paragraph (a), terminating the appointment of and removing any or all of the directors and officers of the credit union and appointing directors and officers to fill any vacancy, and
 - (d) if an administrator has been appointed under paragraph (a) and the capital base of the credit union is less than the amount prescribed for the purposes of this paragraph, requiring
 - (i) the credit union to amalgamate with another credit union,
 - (ii) the credit union to dispose of all or substantially all of its assets and liabilities to another credit union, or
 - (iii) the credit union to be wound up.

39 Section 277.1 is repealed and the following substituted:

Additional circumstances in which section 277 (2) orders may be made

- 277.1** (1) Subject to subsection (2), when a credit union is not subject to the supervision of the superintendent, the Authority may make an order under section 277 (2) with respect to the credit union as though that credit union were subject to the supervision of the superintendent.
- (2) An order referred to in subsection (1) may be made if the Authority considers that
- (a) one or more of the circumstances referred to in section 275 apply to the credit union, and
 - (b) supervision would not be adequate to ensure that a guarantee under section 266 would not need to be invoked.

40 Section 277.2 is amended by striking out “section 277” and substituting “section 277 (2)”.

41 Section 285 (1) is amended by striking out “section 277 (a) to (d)” and substituting “section 277 (1) (a) to (d)”.

42 Section 286 is repealed.

43 Section 287 is amended by striking out “powers of the Authority” and substituting “powers of the superintendent”.

44 Section 290 is repealed and the following substituted:

Transfer of disciplinary powers

- 290** (1) The Lieutenant Governor in Council may make regulations
- (a) transferring from the council to the superintendent all of the powers granted to the council under sections 231 to 232.1 and 232.6,
 - (b) reversing a transfer of powers made under paragraph (a), and
 - (c) establishing transitional rules in relation to the transfer of powers under paragraph (a) or (b).
- (2) A regulation made under this section must be effective on a date specified in the regulation that is at least 3 months after the date of deposit of the regulation under the *Regulations Act*.

Real Estate Services Act

45 Section 1 of the Real Estate Services Act, S.B.C. 2004, c. 42, is amended

(a) by adding the following definition:

“**Authority**” means the BC Financial Services Authority established under section 2 of the *Financial Services Authority Act*; ,

(b) by repealing the definitions of “bylaw”, “compensation committee”, “council member”, “discipline committee” and “hearing committee”,

(c) by adding the following definition:

“**prescribed**” means prescribed by regulation of the Lieutenant Governor in Council; ,

(d) by repealing the definition of “real estate council”,

(e) by repealing the definition of “rules” and substituting the following:

“**rules**” means rules made by the Authority under section 89.2; ,

(f) by repealing the definition of “superintendent” and substituting the following:

“**superintendent**” means the Superintendent of Real Estate appointed under section 2.1 (1); , **and**

(g) by adding the following definition:

“**temporary licence**” means a licence, of any level or category, described in section 14 [*temporary licences*]; .

46 The following section is added to Part 1:

Superintendent of Real Estate

- 2.1** (1) The Authority’s board of directors must appoint a Superintendent of Real Estate in accordance with section 10 [*statutory decision makers*] of the *Financial Services Authority Act*.
- (2) The superintendent may exercise the powers and must perform the duties vested in or imposed on the superintendent under this Act, the *Real Estate Development Marketing Act* and the *Strata Property Act*.
- (3) The superintendent may, in writing, delegate any of the superintendent’s powers or duties under this Act.
- (4) The superintendent may impose conditions or restrictions on any delegation made under subsection (3).

47 Section 5 is amended

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

- (1) The following levels of licences are established for the purposes of this Act:
 - (a) a brokerage licence, which authorizes a brokerage to provide real estate services through a managing broker, associate broker or representative;
 - (b) a managing brokerage licence, which authorizes a managing broker to act for a brokerage for all purposes under this Act and to carry out the responsibilities referred to in section 6 (2) [*brokerage must have a managing broker*];
 - (c) an associate broker licence, which authorizes an associate broker to provide real estate services under the supervision of a managing broker;
 - (d) a representative licence, which authorizes a representative to provide real estate services under the supervision of a managing broker. , **and**

(b) by adding the following subsection:

- (2.1) A person may not be licensed as an associate broker unless the person meets the educational and experience requirements to be licensed as a managing broker.

48 Section 9 is repealed and the following substituted:

How to make an application

- 9** (1) A person may apply for a new licence, or for the renewal, amendment or reinstatement of a licence, by submitting to the superintendent an application
 - (a) in the form and manner required by the superintendent, and
 - (b) containing the information required by the superintendent.
- (2) The application must be accompanied by the following, as applicable:
 - (a) any other information or records required by the superintendent;
 - (b) any prescribed fee in relation to the application;
 - (c) any prescribed fee in relation to a licence;
 - (d) any prescribed assessment in relation to the expenses of the Authority;
 - (e) any assessment levied under section 104 (1) [*insurance fund assessments and deductibles*] by the insurance corporation and required to be paid before a licence is issued, amended or reinstated;
 - (f) any assessment levied under section 113 (1) [*compensation fund assessments*] by the compensation fund corporation and required to be paid before a licence is issued, amended or reinstated.

- (3) A fee referred to in subsection (2) (c) and an assessment referred to in subsection (2) (d), (e) or (f) are refundable if the licence in respect of which the application is made is not issued, amended or reinstated, as the case may be.
- (4) In addition to any other information required by the superintendent,
 - (a) an application for a brokerage licence must identify the persons proposed to act as managing brokers in relation to the brokerage, and
 - (b) an application for a managing broker, associate broker or representative licence must identify the brokerage in relation to which the applicant proposes to be licensed.
- (5) An individual who is licensed as a brokerage and qualified to be licensed as a managing broker is deemed to be licensed as a managing broker in relation to the brokerage unless an application under subsection (1) in relation to the brokerage licence indicates that the individual will not be acting in that capacity.
- (6) The superintendent may refuse to accept an application until any amount owed by the applicant to the Authority, insurance corporation or compensation fund corporation is paid.
- (7) If a person submits an application for the renewal of the person's licence on or after the earlier of the dates referred to in section 12 (a) and (b), the superintendent may accept the application for renewal instead of requiring the person to submit an application for a new licence.
- (8) If a person's licence is inoperative or suspended, the superintendent may authorize the person to apply for the renewal of the licence instead of applying for the reinstatement of the licence or for a new licence.

49 Section 10 is amended by adding the following paragraph:

- (b.1) in the case of an applicant for a licence renewal who is an individual, the applicant meets the educational requirements specified by the superintendent; .

50 Sections 13 (4), 15 (4) and 24 (3) are amended by striking out "it must" and substituting "the superintendent must".

51 Section 13 is amended by adding the following subsections:

- (5) The superintendent may, by order, require the applicant to pay the expenses, or part of the expenses, incurred by the Authority in relation to the applicant's opportunity to be heard under subsection (3).

- (6) Amounts ordered as referred to in subsection (5)
 - (a) must not exceed the applicable limit that is prescribed in relation to the type of expenses to which they relate, and
 - (b) may include the remuneration expenses incurred in relation to employees, officers or agents of the Authority engaged in providing the opportunity to be heard.

52 Section 15 (5) is amended by striking out “real estate council’s” and substituting “superintendent’s”.

53 Section 18 (d) is amended by striking out “Division 2 [Discipline Proceedings]” and substituting “Division 2 [Discipline Proceedings Relating to Licensees]”.

54 Section 19 (2) is amended by repealing paragraphs (b) to (d) and substituting the following:

- (b) by order of the superintendent under
 - (i) section 24 [cancellation or suspension of licence if qualification not met], or
 - (ii) Division 2 [Discipline Proceedings Relating to Licensees] of Part 4.

55 The following section is added:

Form and content of brokerage reports

25.1 If, under the rules, a brokerage is required to file with or submit to the superintendent a report, or another record in place of a report, the report or record must

- (a) be filed or submitted in the form and manner required by the superintendent,
- (b) include the information required by the superintendent, and
- (c) be accompanied by any information or records required by the superintendent.

56 Section 28 (3) (c) is repealed and the following substituted:

- (c) prescribed payments.

57 *The heading to Division 1 of Part 4 is repealed and the following substituted:*

**Division 1 – Conduct, Complaints and
Investigations Relating to Licensees .**

58 *Section 35 is amended*

(a) *in subsection (1) (b) by striking out “their licence” and substituting “the licence”,*

(b) *in subsection (1) (e) by striking out “or 48 [investigations by superintendent]”,*

(c) *in subsection (1) (f) by striking out “the real estate council, a discipline committee or”,*

(d) *in subsection (1) by adding the following paragraph:*

(f.1) fails to comply with an undertaking that the licensee gave under section 53.1; , and

(e) *in subsection (2) by striking out “a discipline committee” and substituting “the superintendent”.*

59 *Section 37 is amended*

(a) *in subsection (1) by striking out “On its own initiative or on receipt of a complaint, the real estate council” and substituting “The superintendent”,*

(b) *by repealing subsection (2),*

(c) *in subsection (3) by striking out “a person carrying out the investigation” and substituting “the superintendent”,*

(d) *in subsection (3) (a) by striking out “copy records” and substituting “remove or copy records”, and*

(e) *in subsection (3) (b) (i) and (ii) by striking out “the investigator” and substituting “the superintendent”.*

60 *Section 38 is amended*

(a) *in subsection (1) by striking out “the Supreme Court” and substituting “a justice”, and*

(b) *in subsections (2) and (4) by striking out “the court” and substituting “the justice”.*

61 *The heading to Division 2 of Part 4 is repealed and the following substituted:*

Division 2 – Discipline Proceedings Relating to Licensees .

62 *Section 39 is repealed.*

63 *Section 40 is amended*

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

- (1) Following an investigation under section 37 [*investigations of licensees*] or the cancellation of an administrative penalty under section 57 (4) (a.1) [*administrative penalties*], the superintendent may issue a notice to the affected licensee and conduct a discipline hearing. , **and**

(b) in subsection (2) (c) by striking out “discipline committee” and substituting “superintendent”.

64 *Section 41 is amended*

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

- (1) At any time before the time set for the discipline hearing, the licensee who received a notice under section 40 [*notice of discipline hearing*] may deliver to the superintendent a written proposal that includes the licensee’s consent to the superintendent making a specified order under section 43 [*discipline orders*] without conducting a hearing. ,

(b) by repealing subsections (3) and (4) and substituting the following:

- (3) The superintendent may accept or reject the proposal.
- (4) If the superintendent accepts the proposal,
 - (a) the superintendent may make the proposed order, and
 - (b) no further proceedings may be taken under this Division or Division 5 [*Administrative Penalties*] with respect to the matter, other than to enforce the terms of the order as proposed or to deal with a contravention of the order. ,

(c) in subsection (5) by striking out “referred,”, and

(d) in subsection (5) (a) by adding “or” at the end of subparagraph (i) and by repealing subparagraph (ii).

65 *Section 42 is amended*

(a) in subsection (1) by striking out “a discipline committee” and substituting “the superintendent”,

(b) in subsection (2) by striking out “discipline committee” and substituting “superintendent”, and

(c) by adding the following subsection:

(3) The superintendent may conduct a discipline hearing by way of written submissions or oral hearing, or a combination of both.

66 Section 43 is amended

(a) in subsections (1) and (2) by striking out “discipline committee” and substituting “superintendent”,

(b) in subsection (1) (a) by striking out “if it determines” and substituting “if the superintendent determines”,

(c) in subsection (2) (b) by striking out “committee” and substituting “superintendent”,

(d) by adding the following subsection:

(2.2) Despite subsections (2) (i) and (j) and (2.1), if the discipline hearing was conducted following the cancellation of an administrative penalty under section 57 (4) (a.1) [administrative penalties], the sum of the discipline penalty and any additional penalty for a contravention must not be more than the highest amount of the administrative penalty indicated in the notice of administrative penalty for the contravention. ,

(e) in subsections (3) and (4) by striking out “a discipline committee” and substituting “the superintendent”, and

(f) in subsection (5) by striking out “A discipline committee” and substituting “The superintendent”.

67 Section 44 is amended

(a) in subsection (1) by striking out “A discipline committee” and substituting “The superintendent” and by striking out “real estate council” and substituting “Authority”,

(b) in subsection (2) (a) by striking out “applicable limit prescribed by regulation” and substituting “applicable prescribed limit”,

(c) in subsection (2) (b) by striking out “real estate council, or members of the discipline committee,” and substituting “Authority”, and

(d) in subsections (3) and (4) by striking out “real estate council” wherever it appears and substituting “Authority”.

68 Section 45 is amended

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

- (1) The superintendent may act under this section if
 - (a) the superintendent believes on reasonable grounds that there has been conduct in respect of which the superintendent could make an order under section 43 [*discipline orders*] against a licensee, and
 - (b) the superintendent considers that
 - (i) the length of time that would be required to complete an investigation or hold a discipline hearing, or both, in order to make such an order would be detrimental to the public interest, and
 - (ii) it is in the public interest to make an order under this section against the licensee. ,

(b) in subsections (2) and (8) by striking out “discipline committee” and substituting “superintendent”,

(c) in subsection (3) by striking out “a discipline committee” and substituting “the superintendent”,

(d) in subsection (4) by striking out “A discipline committee” and substituting “The superintendent”, and

(e) in subsection (8) (a) by striking out “if it determines” and substituting “if the superintendent determines”.

69 Section 46 is amended

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

- (1) The superintendent may make an order under this section if the superintendent believes on reasonable grounds that a licensee has contravened this Act, the regulations or the rules in a way that is contrary to the public interest. ,

(b) in subsections (2) to (4) by striking out “discipline committee” and substituting “superintendent”, and

(c) in subsection (5) by striking out “A discipline committee” and substituting “The superintendent”.

70 Section 47 is repealed and the following substituted:

Publication of orders

- 47 (1) As soon as practicable, the superintendent must, subject to the regulations, publish a copy of each order made under this Division.
- (2) The superintendent must provide a copy of an order required to be published under subsection (1) to any person requesting the copy, on payment of the prescribed fee.

71 The heading to Division 3 of Part 4 is repealed and the following substituted:

Division 3 – Investigations and Proceedings Relating to Unlicensed Activity .

72 Section 48 is amended

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

- (1) The superintendent may conduct an investigation to determine whether an unlicensed person has
- (a) engaged in any activity for which a licence under this Act is required, or
 - (b) failed to comply with an undertaking that the unlicensed person gave under section 53.1.
- (2) The superintendent may issue a notice of hearing and conduct a hearing following an investigation under subsection (1) or the cancellation of an administrative penalty under section 57 (4) (a.1) *[administrative penalties]* .

(b) by repealing subsection (3), and

(c) by repealing subsection (4) and substituting the following:

- (4) The following provisions of this Part apply to the superintendent acting under this Division in relation to an unlicensed person as if the superintendent were exercising authority under the applicable provision in relation to a licensee:
- (a) section 37 (3) and (4) *[investigations of licensees]*;
 - (b) subject to subsection (5) of this section, section 38 *[order by justice for search and seizure]*;
 - (c) section 40 (2) and (3) *[notice of discipline hearing]*, in relation to notices of hearing issued by the superintendent under subsection (2) of this section;
 - (d) section 41 *[consent orders]*, in relation to orders that the superintendent may make under section 49 *[orders respecting unlicensed activity]*;
 - (e) section 42 *[discipline hearings]*, in relation to hearings conducted by the superintendent under subsection (2) of this section;
 - (f) section 46 *[orders to freeze property]*.

- (5) For the purposes of subsection (4) (b), section 38 applies if there are reasonable grounds to believe that an unlicensed person has engaged in any activity for which a licence under this Act is required.

73 Section 49 is amended

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

- (1) This section applies if, after a hearing under section 48 (2) [*superintendent hearings*], the superintendent determines that the person subject to the hearing
- (a) did not hold a licence under this Act at a time when the person was engaged in any activity for which such a licence was required, or
 - (b) failed to comply with an undertaking that the person gave under section 53.1. ,

(b) in subsection (2) (a) by adding “referred to in subsection (1) (a)” after “the activity”,

(c) by repealing subsection (2) (c) and substituting the following:

- (c) subject to subsection (2.01), require the person to pay the expenses, or part of the expenses, incurred by the Authority in relation to either or both of the investigation and the hearing to which the order relates; , **and**

(d) by adding the following subsections:

- (2.01) Amounts required to be paid under subsection (2) (c)
- (a) must not exceed the applicable prescribed limit in relation to the type of expenses to which they relate, and
 - (b) may include the remuneration expenses incurred in relation to employees, officers or agents of the Authority engaged in the investigation or hearing.
- (2.2) Despite subsections (2) (d) and (e) and (2.1), if the hearing was conducted following the cancellation of an administrative penalty under section 57 (4) (a.1) [*administrative penalties*], the sum of the penalty and any additional penalty for a contravention must not be more than the highest amount of the administrative penalty indicated in the notice of administrative penalty for the contravention.
- (2.3) Money received by the Authority on account of a penalty under subsection (2) (d) or, subject to the regulations, an additional penalty under subsection (2) (e) may be expended by the Authority only for the purpose referred to in section 44 (3).
- (2.4) An amount ordered to be paid under subsection (2) (c), (d) or (e) is a debt owing to the Authority and may be recovered as such.

74 Section 50 is repealed.

75 Section 51 is amended

(a) in subsection (1) (a) by striking out “or 50 [orders against licensees in the public interest]”,

(b) by repealing subsection (2) and substituting the following:

(2) If the circumstances referred to in subsection (1) apply, the superintendent may make an order referred to in section 49 (2) (a) or (b) *[orders respecting unlicensed activity]*. ,

(c) by adding the following subsection:

(2.1) Despite any other provision of this Division, the superintendent may make an order referred to in subsection (2)

(a) whether or not a notice of hearing has been issued under section 48 *[investigations, hearings and other authority relating to unlicensed persons]*,

(b) without giving notice to the unlicensed person, and

(c) without providing the unlicensed person an opportunity to be heard. ,
and

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

(3) The following provisions apply to the superintendent acting under this section in relation to an unlicensed person as if the superintendent were exercising authority under section 45 *[orders in urgent circumstances]* in relation to a licensee:

(a) section 45 (4), (5) and (8), in relation to orders made under subsection (2) of this section;

(b) section 45 (6), in relation to hearings under section 48 (2) *[investigations, hearings and other authority relating to unlicensed persons]*;

(c) section 45 (7), in relation to notices under section 48 (2).

76 Section 53 (1) is repealed and the following substituted:

(1) As soon as practicable, the superintendent must, subject to the regulations, publish each order made by the superintendent under this Division.

77 *The following Division is added to Part 4:*

Division 3.1 – Undertakings by Licensees and Unlicensed Persons

Undertakings

- 53.1** (1) This section applies to a licensee or an unlicensed person if the superintendent has reason to believe that
- (a) the licensee or the unlicensed person has contravened this Act, the regulations or the rules, or
 - (b) the licensee has
 - (i) breached a restriction or condition of the licence, or
 - (ii) done anything that constitutes wrongful taking or deceptive dealing.
- (2) In the circumstances referred to in subsection (1), the superintendent may, with or without an investigation or a hearing under this Part,
- (a) give notice to the licensee or the unlicensed person of the superintendent’s reason for believing that this section applies to the licensee or the unlicensed person, and
 - (b) accept a written undertaking from the licensee or the unlicensed person to do one or more of the following:
 - (i) comply with terms or conditions set by the superintendent, which may include a condition that the licensee or the unlicensed person pay the expenses, or part of the expenses, incurred by the Authority in relation to the undertaking;
 - (ii) do anything that the licensee or the unlicensed person is required to do under this Act;
 - (iii) cease or refrain from doing anything that the licensee or the unlicensed person is prohibited from doing under this Act.
- (3) Expenses assessed under subsection (2) (b) (i)
- (a) must be for the matters, and must not exceed the amounts, set out in the regulations, and
 - (b) may include remuneration expenses for employees, officers or agents of the Authority engaged in matters related to the undertaking.
- (4) An undertaking given by a licensee or an unlicensed person under this section is binding on the licensee or unlicensed person.

78 Section 54 is amended

- (a) by repealing subsection (1) (d),**
- (b) in subsection (1) (e) by striking out “Division 3 [Authority of Superintendent]” and substituting “Division 2 [Discipline Proceedings Relating to Licensees] or Division 3 [Investigations and Proceedings Relating to Unlicensed Activity]”,**
- (c) by repealing subsections (2) and (3), and**
- (d) in subsection (4) by striking out “Subject to this Division, sections” and substituting “Sections”.**

79 Section 55 is repealed.

80 Section 56 is amended

- (a) in subsection (1) by striking out “superintendent” and substituting “Authority”,**
- (b) in subsection (1) (a) by striking out “specified rules” and substituting “specified provisions of this Act, the regulations or the rules”,**
- (c) in subsection (1) (b) by striking out “the amount” and substituting “the amount, or range of amounts,”,**
- (d) in subsection (1) (b) by striking out “specified rule” and substituting “specified provision of this Act, the regulations or the rules”,**
- (e) in subsection (1) (b) by striking out “and” at the end of subparagraph (i), by adding “, and” at the end of subparagraph (ii) and by adding the following subparagraph:**
 - (iii) different depending on whether the administrative penalty is paid**
 - (A) no more than 30 days after the date the notice of the administrative penalty is served or delivered under section 57 (3),**
 - (B) more than 30 days after the date of service or delivery,**
 - (C) no more than 30 days after the date the opportunity to be heard is provided under section 57 (4), or**
 - (D) more than 30 days after the date of the opportunity to be heard. , and**
- (f) in subsection (2) by striking out “imposed” and substituting “established” and by striking out “\$50 000” and substituting “\$100 000”.**

81 Section 57 is amended

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

(1) If the superintendent is satisfied that a person has contravened a provision of this Act, the regulations or the rules that has been designated under section 56 (1) (a) [*designated contraventions*], the superintendent may issue a notice imposing on the person an administrative penalty that consists of one or more of the following:

- (a) an amount permitted by the rules;
- (b) a requirement to complete a specified course of studies or training;
- (c) if the person is a licensee, restrictions or conditions on the licence. ,

(b) in subsection (2) (b) by striking out “the amount of”,

(c) in subsections (2) (c) and (d) and (7) by striking out “licensee” wherever it appears and substituting “person”,

(d) in subsection (2) (c) by striking out “licensee’s” and substituting “person’s”,

(e) in subsection (2) (d) by striking out “14 days” and substituting “30 days” and by striking out “allowed by the real estate council” and substituting “allowed by the superintendent”,

(f) in subsection (2) (d) (i) by striking out “the rule” and substituting “the provision of this Act, the regulations or the rules”,

(g) in subsection (2) (d) (ii) by striking out “payable to the real estate council” and substituting “payable to the Authority”,

(h) in subsection (3) (b) by adding “or other person” after “a former licensee”,

(i) in subsection (4) by striking out “The real estate council must provide the licensee” and substituting “The superintendent must provide the person”,

(j) by repealing subsection (4) (a) and substituting the following:

- (a) cancel the administrative penalty,
- (a.1) cancel the administrative penalty and issue a notice to the person under section 40 (1) [*discipline hearing*] or 48 (2) [*hearing relating to unlicensed person*] if the superintendent is satisfied that issuing the notice is more appropriate than imposing the administrative penalty, or ,
and

(k) in subsections (4) (b), (5) and (6) by striking out “real estate council” wherever it appears and substituting “Authority”.

82 *The following section is added to Division 5 of Part 4:*

Publication

- 57.1** (1) Subject to the regulations, the superintendent may publish a copy of
- (a) each notice of administrative penalty issued under section 57 (1), and
 - (b) each decision made under section 57 (4) to confirm or cancel an administrative penalty.
- (2) The superintendent must provide a copy of a notice or a decision published under subsection (1) to any person requesting the copy, on payment of the prescribed fee.

83 *Section 58 is amended*

- (a) in subsection (1) by striking out “real estate council or”,*
- (b) in subsection (1) (a) by striking out “, the rules or the bylaws” and substituting “or the rules”,*
- (c) in subsection (1) (b) by striking out “a discipline committee or”, and*
- (d) in subsection (2) by striking out “, the bylaws”.*

84 *Section 59 (1) is repealed and the following substituted:*

- (1) If the superintendent makes an order under section 43 [*discipline orders*] or 45 [*orders in urgent circumstances relating to licensees*] cancelling or suspending a licence, the superintendent may apply to the Supreme Court for the appointment of a receiver or receiver manager of all or any part of the property of the licensee.

85 *Section 60 is amended in paragraph (f) of the definition of “compensable loss” by striking out “by regulation”.*

86 *Section 61 is amended*

- (a) in subsection (2) (b) by striking out “under section 45 (2) (a) [*orders in urgent circumstances*] or 51 (2) (b) [*superintendent’s orders in urgent circumstances*]” and substituting “under section 45 (2) (a) [*orders in urgent circumstances relating to licensees*]”, and*
- (b) in subsection (2) (c) by striking out “real estate council or”.*

87 Section 62 is amended

(a) by repealing subsection (1), and

(b) by repealing subsection (2) and substituting the following:

- (2) If more than one claim has been made in relation to a licensee, the superintendent may consider the claims together.

88 Section 63 is amended

(a) in subsection (1) by striking out “The compensation committee to which a claim has been referred under section 62 [referral to committee] must consider the claim” and substituting “If a claim is made, the superintendent must consider the claim”,

(b) in subsection (2) by striking out “compensation committee” and substituting “superintendent”,

(c) in subsection (3) by striking out “compensation committee” and substituting “superintendent” and by striking out “it considers” and substituting “the superintendent considers”, and

(d) by repealing subsection (4) and substituting the following:

- (4) If the superintendent declines to make a determination or assessment under subsection (1) (b) or (3) and a court subsequently makes the determination or assessment, or both, the claim must be reconsidered by the superintendent.

89 Section 64 is amended by striking out “a compensation committee” and substituting “the superintendent” and by striking out “the committee” and substituting “the superintendent”.

90 Section 65 is amended

(a) in subsection (1) by striking out “compensation committee” and substituting “superintendent”,

(b) in subsection (3) by striking out “or 50 [superintendent orders in the public interest]”, by striking out “discipline committee or” and by striking out “compensation committee in relation to its determination” and substituting “superintendent in relation to the superintendent’s determination”,

(c) by repealing subsection (4) and substituting the following:

- (4) For certainty, subsection (3) does not apply in relation to an order of the superintendent under section 41 [consent orders] or 48 (4) (c) [application of section 41 in relation to unlicensed activity]. , **and**

(d) in subsection (5) by striking out “a compensation committee” and substituting “the superintendent”.

91 *Section 68 (a) is amended by striking out “a compensation committee” and substituting “the superintendent”.*

92 *Sections 69, 70 (1.1) and 72.2 (2) are amended by striking out “amount prescribed by regulation” and substituting “prescribed amount”.*

93 *Section 70 (1) is amended*

(a) in paragraph (a) by striking out “real estate council or”, and

(b) in paragraph (b) by striking out “or 51 (2) (b) [superintendent’s orders in urgent circumstances]”.

94 *Section 72.1 is amended*

(a) in subsection (3) by striking out “If the real estate council is satisfied” and substituting “If the superintendent is satisfied” and by striking out “the real estate council may” and substituting “the superintendent may”, and

(b) in subsection (3) (b) (ii) by striking out “real estate council” and substituting “Authority”.

95 *Section 72.4 (1) is amended by striking out “real estate council” in both places and substituting “Authority”.*

96 *Part 6 is repealed.*

97 *The heading to Part 6.1 is repealed and the following substituted:*

PART 6.1 – BC FINANCIAL SERVICES AUTHORITY .

98 *Section 89.1 is repealed.*

99 *Section 89.2 is amended*

(a) in subsections (1) to (5) by striking out “superintendent” and substituting “Authority”,

(b) in subsections (1) to (3) by striking out “the regulations” and substituting “section 89.4”,

(c) in subsection (2) (a) (ii) by striking out “duration” and substituting “term”,

(d) in subsection (2) (a) by adding the following subparagraph:

(vi) providing that the Act does not apply to a licensee in specified circumstances; ,

(e) in subsection (3) (a) by striking out “a hearing committee of the real estate council” and substituting “the superintendent”, and

(f) by repealing subsections (6) and (7) and substituting the following:

- (6) The Lieutenant Governor in Council may, by regulation,
 - (a) make a rule or repeal or amend a rule made by the Authority under this section, and
 - (b) specify powers of the Lieutenant Governor in Council to make regulations under this Act and authorize the Authority to make rules under those specified powers.
- (7) A regulation made under subsection (6) (a) is deemed to be a rule made by the Authority.
- (8) No rule made by the Authority may amend or repeal a regulation made by the Lieutenant Governor in Council.

100 Section 89.3 is repealed.

101 Section 89.4 is repealed and the following substituted:

Procedures for rules

89.4 Before making, amending or repealing a rule, the Authority must do the following:

- (a) publish the proposed rule for public comment in accordance with the regulations unless the regulations provide otherwise;
- (b) obtain the consent of the minister in accordance with the regulations;
- (c) comply with any other prescribed procedures and requirements.

102 The following sections are added to Part 6.1:

Regulation prevails over rule

89.5 If a rule made by the Authority conflicts with a regulation made by the Lieutenant Governor in Council, the regulation prevails.

Transition – Authority rules

- 89.6** (1) The Authority may make a rule without complying with section 89.4 (a) if, in the Authority’s opinion, the rule does not change in a material way
- (a) a rule made by the Authority under section 89.2, or

(b) a rule made by the superintendent under section 89.2, as that section read immediately before the coming into force of section 99 of the *Finance Statutes Amendment Act, 2021*.

(2) This section is repealed 3 years after the date it comes into force.

103 Section 91 (1) (a) is repealed and the following substituted:

(a) one member appointed by the Lieutenant Governor in Council; .

104 Section 94 (3) is amended by striking out “real estate council” and substituting “Authority”.

105 Section 98 (2) (b) is amended by striking out “the real estate council,”.

106 Section 100 (1) is amended

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

(a) one director appointed by the Lieutenant Governor in Council; , **and**

(b) by adding the following paragraph:

(c) 3 directors appointed in accordance with the regulations, if any, by the directors appointed under paragraph (a) or (b).

107 Section 102 (3) is amended by striking out “real estate council” and substituting “Authority”.

108 Section 104 is amended by adding the following subsection:

(0.1) In subsections (1) and (2), “**licensee**” includes an applicant for a licence.

109 Section 105 is amended

(a) by renumbering the section as section 105 (1), and

(b) by adding the following subsection:

(2) The insurance corporation must, out of the insurance fund, pay fees, established by the Authority, to reimburse the Authority for expenses incurred by the superintendent to collect assessments levied under section 104 (1) by the insurance corporation.

110 Section 107 (2) (b) is amended by striking out “, the real estate council”.

111 Section 110 (1) (a) is amended by striking out “real estate council” and substituting “Authority”.

112 Section 113 is amended by adding the following subsection:

(0.1) In subsections (1) and (2), “licensee” includes an applicant for a licence.

113 Section 114 is repealed and the following substituted:

Amounts paid from fund

- 114** (1) The compensation fund corporation must, out of the special compensation fund, pay fees, established by the Authority, to reimburse the Authority for expenses incurred by the superintendent
- (a) to deal with claims under Part 5 [*Payments from Special Compensation Fund*], and
 - (b) to collect assessments levied under section 113 (1) by the compensation fund corporation.
- (2) In addition to amounts required to be paid under Part 5 and subsection (1) of this section, the compensation fund corporation may authorize payment out of the special compensation fund for expenses incurred
- (a) to administer the fund, including expenses incurred by the directors of the compensation fund corporation in carrying out the purposes of the fund and remuneration paid to directors,
 - (b) to process claims against the fund,
 - (c) for any other matter relating to the protection and maintenance of the fund, or
 - (d) for any other prescribed matter.

114 Section 117 (2) (b) is amended by striking out “, the real estate council”.

115 Section 118 (1) (e) is repealed and the following substituted:

(e) fails to comply with an order of the superintendent; .

116 Section 122 is amended

(a) by repealing subsection (1), and

(b) in subsection (2) (a) by striking out “, the rules and the bylaws” and substituting “and the rules”.

117 Section 123 (1) is amended by striking out “the real estate council, a hearing committee,”.

118 *The following section is added:*

Fees for educational courses

- 123.1** The superintendent may establish fees for educational courses provided by the Authority or the superintendent regarding
- (a) the operation and regulation of the real estate industry, and
 - (b) issues related to real estate and real estate services.

119 *The following section is added:*

Opportunities to be heard

- 126.1** An opportunity to be heard under this Act may be provided by receiving written submissions or conducting an oral hearing, or a combination of both, as specified
- (a) by the Superintendent of Financial Institutions for an opportunity to be heard under section 108 (2), or
 - (b) by the superintendent for any other opportunity to be heard under this Act.

120 *Section 127 is repealed and the following substituted:*

Evidence of licence

- 127** A statement as to the existence, nonexistence or status of a licence under this Act purporting to be certified by the superintendent is proof, in the absence of evidence to the contrary, of the fact so certified, without proof of the signature or official position of the superintendent.

121 *Section 128 is repealed and the following substituted:*

Personal liability protection

- 128** (1) In this section, “**protected individual**” means an individual who is any of the following:
- (a) the superintendent;
 - (b) an individual acting on behalf of or under the direction of the Authority or the superintendent;
 - (c) an individual acting on behalf of or under the direction of the foundation, the insurance corporation or the compensation fund corporation.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected individual because of anything done or omitted
- (a) in the exercise or intended exercise of any power under this Act, or
 - (b) in the performance or intended performance of any duty under this Act.

- (3) Subsection (2) does not apply to a protected individual in relation to anything done or omitted in bad faith.
- (4) Subsection (2) does not absolve the Authority from vicarious liability arising out of anything done or omitted by an individual referred to in any of paragraphs (a) and (b) of the definition of “protected individual” for which the Authority would be vicariously liable if this section were not in force.
- (5) Subsection (2) does not absolve the foundation, the insurance corporation or the compensation fund corporation, as applicable, from vicarious liability arising out of anything done or omitted by an individual referred to in paragraph (c) of the definition of “protected individual” for which the foundation, the insurance corporation or the compensation fund corporation would be vicariously liable if this section were not in force.

122 Section 129 is repealed.

123 Section 130 is amended

(a) by repealing subsections (2) (c), (d.1), (e), (e.1) and (h) and (3),

(b) in subsection (2) (c.1) by striking out “, including by prescribing matters respecting which the superintendent may or must make rules”,

(c) by repealing subsection (2) (d) and substituting the following:

(d) respecting fees or assessments to be paid by applicants or licensees in relation to the issuing, reinstatement or amendment of a licence, which fees or assessments may be different for different levels or categories of licences; , **and**

(d) in subsection (2) by adding the following paragraph:

(d.01) establishing penalties or interest charges to be paid by licensees on the late payment of a fee or assessment referred to in paragraph (d); .

124 Sections 137.1 to 139 and 148 are repealed.

Transitional Provisions

Transition – definitions

125 In sections 126 to 133:

“**asset**” includes a right and property;

“**Authority**” means the BC Financial Services Authority established under section 2 of the *Financial Services Authority Act*;

“**council member**” has the same meaning as in section 1 of the *Real Estate Services Act*, as it read immediately before the coming into force of section 45 (b) of this Act;

“**liability**” includes an obligation;

“**new superintendent**” means the Superintendent of Real Estate appointed under section 2.1 (1) of the *Real Estate Services Act*, as enacted by section 46 of this Act;

“**real estate council**” has the same meaning as in section 1 of the *Real Estate Services Act*, as it read immediately before the coming into force of section 45 (d) of this Act;

“**superintendent**” means the Superintendent of Real Estate appointed under the *Real Estate Development Marketing Act*, as it read immediately before the coming into force of section 169 (b) of this Act.

Transition – dissolution of real estate council

- 126**
- (1) The real estate council is dissolved and discontinued.
 - (2) The appointment of each council member is rescinded.
 - (3) All operations, activities and affairs of the real estate council are transferred to the Authority and are to be carried on and continued by the Authority.
 - (4) Proceedings and other activities that are commenced or conducted by the real estate council, or to which the real estate council is a party, are
 - (a) in the case of proceedings and other activities that are related to a decision made by the real estate council under the *Real Estate Services Act*, deemed to be proceedings and other activities commenced or conducted by the new superintendent, or to which the new superintendent is a party, and are to be continued as such, and
 - (b) in the case of any other proceedings and other activities, deemed to be proceedings and other activities commenced or conducted by the Authority, or to which the Authority is a party, and are to be continued as such.
 - (5) A ruling, order or judgment in favour of or against the real estate council may be enforced by or against the Authority.

Transition – transfer of assets and liabilities

- 127**
- (1) All assets of the real estate council are transferred to and vested in the Authority.
 - (2) All liabilities of the real estate council are transferred to and assumed by the Authority.
 - (3) For certainty, assets transferred to the Authority under this section include records and parts of records.

- (4) A reference to the real estate council in any record that creates, evidences or otherwise relates to an asset or liability that is transferred from the real estate council to the Authority under this section is deemed to be a reference to the Authority.
- (5) All records that, immediately before the coming into force of this section, were in the custody or under the control of the real estate council must be delivered by the real estate council to the Authority.

Transition – how transfer of assets takes effect

- 128** (1) Despite any other enactment, a transfer and vesting effected under section 127 (1) takes effect
- (a) without the execution or issue of any record,
 - (b) without any registration or filing of this Act or any other record in or with any registry, office or court,
 - (c) despite any prohibition on all or any part of the transfer, and
 - (d) despite any condition, including the absence of any consent or approval that is or may be required for all or any part of the transfer.
- (2) In any record in or by which the Authority deals with an asset transferred by this Act, it is sufficient to cite this Act as effecting and confirming the transfer, from the real estate council to the Authority, of the title to the asset and the vesting of that title in the Authority.

Transition – dealing with transferred assets

- 129** If an asset transferred to the Authority under section 127 (1) is registered or recorded in the name of the real estate council,
- (a) the Authority may, in its own name,
 - (i) effect a transfer, charge, encumbrance or other dealing with the asset, and
 - (ii) execute any record required to give effect to that transfer, charge, encumbrance or other dealing, and
 - (b) an official
 - (i) who has authority over a registry or other office, including, without limitation, the personal property registry, in which title to or interests in the asset is registered or recorded, and
 - (ii) to whom a record referred to in paragraph (a) (ii), executed by or on behalf of the Authority, is submitted in support of the transfer, charge, encumbrance or other dealing
- must give the record the same effect as if it had been duly executed by the real estate council.

Transition – transfer is not a default

- 130** Despite any provision to the contrary in a record, the transfer to the Authority of an asset or liability under section 127 does not constitute a breach or contravention of, or an event of default under, the record and, without limiting this, does not entitle any person who has an interest in the asset or liability to claim any damages, compensation or other remedy.

Transition – superintendent

- 131** The appointment of the superintendent is rescinded.

Transition – regulations

- 132** (1) The Lieutenant Governor in Council may make regulations the Lieutenant Governor in Council considers necessary or advisable to
- (a) more effectively bring this Act into operation, or
 - (b) remedy any transitional difficulties, in respect of any matter, encountered in the transition
 - (i) from the real estate council to the Authority,
 - (ii) from the superintendent to the new superintendent, or
 - (iii) from the Authority to the Superintendent of Financial Institutions appointed under section 207 of the *Financial Institutions Act*.
- (2) A regulation under subsection (1) may be made retroactive to a specified date that is not earlier than the date this section comes into force and, if made retroactive, is deemed to have come into force on the specified date.
- (3) This section and any regulations made under it are repealed 3 years after the date this section comes into force.

Transition – repeal of amendments that may become inoperative

- 133** The Lieutenant Governor in Council may, by regulation, repeal the following provisions of the *Financial Institutions Amendment Act, 2019*, S.B.C. 2019, c. 39:
- (a) section 42 (b) as it adds subparagraph (vii.2);
 - (b) section 67 (a) as it strikes out “197,”;
 - (c) sections 67 (c), 70, 119 and 120.

Consequential and Related Amendments

- 134** *The Acts listed in Column 1 of Schedule 1 to this Act are amended in the provisions listed opposite them in Column 2 by striking out “Authority” wherever it appears and substituting “superintendent”.*

135 *The provisions of the Financial Institutions Act listed in Schedule 2 to this Act are amended by striking out “Authority’s” wherever it appears and substituting “superintendent’s”.*

136 *The provisions of the Real Estate Services Act listed in Schedule 3 to this Act are amended by striking out “real estate council” wherever it appears and substituting “superintendent”.*

Credit Union Incorporation Act

137 *Section 11 (3) (e) of the Credit Union Incorporation Act, R.S.B.C. 1996, c. 82, is amended by striking out “submitted to the Authority a personal information return in the prescribed form and disclosing the prescribed information” and substituting “submitted to the superintendent a personal information return in the form established by the superintendent that discloses the information required by the superintendent”.*

138 *Sections 16 (2), 17 (1) (b) and (2), 20 (2), 21 (1) (b) and (2), 28.2, 28.3 and 33.3 (1), (2) (b) and (3) (b) are amended by striking out “section 277 (g) of the Financial Institutions Act” and substituting “section 277 (2) (d) of the Financial Institutions Act”.*

139 *Sections 17 (1) (a) and 21 (1) (a) are amended by striking out “section 277 (e) of the Financial Institutions Act” and substituting “section 277 (2) (a) of the Financial Institutions Act”.*

140 *Section 26.2 (2) is amended by striking out “On receiving notice” and substituting “On receipt by the superintendent of notice” and by striking out “who may be the Authority’s own employee or employees” and substituting “who may be an employee or employees of the Authority”.*

141 *Section 28.2 is amended by striking out “Authority’s supervision” and substituting “superintendent’s supervision”.*

142 *Section 64 (8) is amended by striking out “written approval of the Authority” and substituting “written approval of the superintendent”.*

143 *Section 85 (1) is amended by striking out “supervision by the Authority” and substituting “supervision by the superintendent”.*

144 Sections 93 and 94 are repealed and the following substituted:

Orders, consents and refusals must be in writing

- 93**
- (1) An order of the Authority under section 29.1 (1) *[winding up on direction of Authority]* must be in writing.
 - (2) An order of the superintendent under any of the following provisions must be in writing:
 - (a) section 76 (9) (a) or (b) *[special general meetings]*;
 - (b) section 77 (9) (a) or (b) *[members' special resolutions at general meetings]*;
 - (c) section 77.1 (7) (a) or (b) *[member's proposal at annual general meeting]*.
 - (3) A consent or refusal of a consent of the Authority under any of the following provisions must be in writing:
 - (a) section 11 (2) *[incorporation]*;
 - (b) section 15.1 (4) (c) *[transfer of incorporation to British Columbia]*;
 - (c) section 15.2 (1) (b) *[transfer of incorporation from British Columbia]*;
 - (d) section 16 (3) *[business acquisition by asset transfer]*;
 - (e) section 20 (3) *[amalgamation]*.
 - (4) A consent or refusal of a consent of the superintendent under any of the following provisions must be in writing:
 - (a) section 39.71 *[alteration of constitution or rules]*;
 - (b) section 44 (8) (b) *[attaching rights or restrictions to membership shares]*;
 - (c) section 81 (1.1) *[business outside British Columbia]*;
 - (d) section 90 (2) *[insurance by central credit union]*.
 - (5) Written reasons must be given for an order referred to in subsection (1) or (2) or a refusal of a consent referred to in subsection (3) or (4).

Power to impose conditions

- 94**
- (1) The Authority may
 - (a) impose conditions that the Authority considers necessary or desirable in respect of an order referred to in section 93 (1) or a consent referred to in section 93 (3), and
 - (b) remove or vary the conditions by the Authority's own motion or on the application of a person affected by the order or consent.

- (2) The superintendent may
 - (a) impose conditions that the superintendent considers necessary or desirable in respect of an order referred to in section 93 (2) or a consent referred to in section 93 (4), and
 - (b) remove or vary the conditions by the superintendent's own motion or on the application of a person affected by the order or consent.
- (3) A condition imposed under subsection (1) or (2) is part of the order or consent in respect of which it is imposed, whether contained in or attached to the order or consent or contained in a separate document.

145 Section 93 (3), as enacted by section 144 of this Act, is amended by adding the following paragraphs:

- (d.1) section 16.1 (3) [*business acquisition of an extraprovincial credit union by asset transfer*];
- (f) section 20.1 (2) (b) [*amalgamation with extraprovincial credit union*].

146 Section 95 is amended

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

- (1) Before taking any of the following actions, the Authority must deliver notice in writing to any person directly affected:
 - (a) making an order under section 29.1 (1) [*winding up on direction of Authority*];
 - (b) giving a consent referred to in section 93 (3) subject to conditions;
 - (c) by the Authority's own motion, varying conditions imposed in respect of an order or consent;
 - (d) refusing to give a consent referred to in section 93 (3).
- (1.1) Before taking any of the following actions, the superintendent must deliver notice in writing to any person directly affected:
 - (a) giving a consent referred to in section 93 (4) subject to conditions;
 - (b) by the superintendent's own motion, varying conditions imposed in respect of an order or consent;
 - (c) refusing to give a consent referred to in section 93 (4).
- (2) Not later than 14 days after receiving notice, a person directly affected may,
 - (a) if notice is received under subsection (1), require a hearing before the Authority by delivering a notice in writing to the Authority, or
 - (b) if notice is received under subsection (1.1), require a hearing before the superintendent by delivering a notice in writing to the superintendent. ,
and

(b) in subsection (5) by striking out “the Authority” and substituting “the Authority or the superintendent, as the case may be,” and by striking out “subsection (1)” and substituting “subsection (1) or (1.1)”.

147 Section 96 is amended by striking out “the Authority” wherever it appears and substituting “the Authority or the superintendent”.

148 Section 97 (1) is amended

(a) by striking out “the Authority or a panel of it” and substituting “the Authority, a panel of it or the superintendent”, and

(b) in paragraph (g) by striking out “his or her” and substituting “the person’s”.

149 Section 98 is amended

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

(a) an order referred to in section 93 (2),

(b) a consent, referred to in section 93 (4) (c) or (d), that is given subject to conditions, or

(c) a refusal to give a consent referred to in section 93 (4) (c) or (d) ,

(b) in subsection (3) (a) by striking out “section 93 (2)” and substituting “section 93 (3) or (4) (a) or (b)” and by adding “or” at the end of the paragraph,

(c) in subsection (3) (b) by striking out “of the Authority” and by striking out “section 93 (2), or” and substituting “section 93 (3) or (4) (a) or (b)”, and

(d) by repealing subsection (3) (c).

Financial Information Act

150 Schedule 2 to the Financial Information Act, R.S.B.C. 1996, c. 140, is amended by striking out “Real Estate Council of British Columbia”.

Financial Institutions Amendment Act, 2019

151 Section 8 (b) of the Financial Institutions Amendment Act, 2019, S.B.C. 2019, c. 39, as it enacts section 61 (8.1) and (8.2) of the Financial Institutions Act, is amended by striking out “Authority” wherever it appears and substituting “superintendent”.

152 Section 14, as it enacts section 94.2 (2) and (3) of the Financial Institutions Act, is amended by striking out “Authority” wherever it appears and substituting “superintendent”.

- 153** *Section 25, as it enacts section 139.1 of the Financial Institutions Act, is amended by striking out “Authority” wherever it appears and substituting “superintendent”.*
- 154** *Section 28 (b) and (c) is repealed.*
- 155** *Section 32, as it amends section 187 (8) of the Financial Institutions Act, is amended by striking out “Authority” and substituting “superintendent”.*
- 156** *Section 45, as it enacts section 209.1 of the Financial Institutions Act, is amended by striking out “Authority” and substituting “superintendent”.*
- 157** *Section 87 is repealed.*
- 158** *Section 114, as it enacts sections 77 (9) to (11) and 77.1 (7) to (9) of the Credit Union Incorporation Act, is amended by striking out “Authority” wherever it appears and substituting “superintendent”.*
- 159** *Section 117 (b), as it enacts section 81 (1.2) (a) of the Credit Union Incorporation Act, is amended by striking out “Authority” and substituting “superintendent”.*

Financial Services Authority Act

- 160** *Section 4 of the Financial Services Authority Act, S.B.C. 2019, c. 14, is amended by adding the following paragraphs:*
- (h) Real Estate Development Marketing Act;*
 - (i) Real Estate Services Act;*
 - (j) Strata Property Act.*
- 161** *Section 8 (5) is amended*
- (a) in paragraph (d) by striking out “and the Registrar of Mortgage Brokers” and substituting “, the Registrar of Mortgage Brokers and the Superintendent of Real Estate”, and*
 - (b) by repealing paragraph (d.1) and substituting the following:*
 - (d.1) any power or duty of the Authority under the Financial Institutions Act or the Credit Union Incorporation Act, .*
- 162** *Section 10 is amended by adding the following paragraph:*
- (d) the Superintendent of Real Estate appointed under section 2.1 (1) of the Real Estate Services Act.*

163 Section 11 (3) is repealed and the following substituted:

- (3) Part 1 of the *Public Service Benefit Plan Act* applies to the Authority’s officers and employees, or the group of the Authority’s officers and employees, to whom that Part is declared to apply by order of the Lieutenant Governor in Council.

164 Section 11 (3), as enacted by section 163 of this Act, is repealed.

165 Section 12 is amended

(a) in subsection (1) by striking out “or” at the end of paragraph (b), by adding “, or” at the end of paragraph (c) and by adding the following paragraph:

- (d) by or on behalf of, as the case may be, any of the following:
 - (i) the Real Estate Foundation of British Columbia continued under section 90 (1) of the *Real Estate Services Act*;
 - (ii) the Real Estate Errors and Omissions Insurance Corporation continued under section 99 (1) of the *Real Estate Services Act*;
 - (iii) the Real Estate Compensation Fund Corporation established under section 109 (1) of the *Real Estate Services Act* .

(b) in subsection (2) by striking out “Subject to subsections (3) to (5),” and substituting “Subject to subsections (3) to (5.2),”, and

(c) by adding the following subsections:

- (5.1) Money received by the Authority under section 43 (2) (i) or (j) [*discipline orders*] or 49 (2) (d) or (e) [*orders respecting unlicensed activity*] of the *Real Estate Services Act* may be expended only for the purpose referred to in section 44 (3) [*enforcement expenses and discipline penalties*] of that Act.
- (5.2) Money received by the Authority under section 57 [*administrative penalties*] of the *Real Estate Services Act* may be expended only for the purpose referred to in section 57 (6) of that Act.

Freedom of Information and Protection of Privacy Act

166 Schedule 2 to the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165, is amended by striking out the following:

Public Body: Office of the Superintendent of Real Estate
Head: Superintendent .

167 Schedule 3 is amended by striking out the following:

Real Estate Council of British Columbia .

Insurance (Captive Company) Act

168 *The Insurance (Captive Company) Act, R.S.B.C. 1996, c. 227, is amended by adding the following section:*

Personal liability protection

12.1 (1) In this section:

“**Authority**” means the BC Financial Services Authority established under section 2 of the *Financial Services Authority Act*;

“**protected individual**” means an individual who is any of the following:

- (a) the superintendent;
- (b) an individual acting on behalf of or under the direction of the superintendent.

(2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected individual because of anything done or omitted

- (a) in the exercise or intended exercise of any power under this Act, or
- (b) in the performance or intended performance of any duty under this Act.

(3) Subsection (2) does not apply to a protected individual in relation to anything done or omitted in bad faith.

(4) Subsection (2) does not absolve the Authority from vicarious liability arising out of anything done or omitted by a protected individual for which the Authority would be vicariously liable if this section were not in force.

Real Estate Development Marketing Act

169 *Section 1 of the Real Estate Development Marketing Act, S.B.C. 2004, c. 41, is amended*

(a) by adding the following definition:

“**Authority**” means the BC Financial Services Authority established under section 2 of the *Financial Services Authority Act*; , **and**

(b) by repealing the definition of “superintendent” and substituting the following:

“**superintendent**” means the Superintendent of Real Estate appointed under section 2.1 (1) of the *Real Estate Services Act*; .

170 *Section 31 (2) (b) is amended by striking out “superintendent” and substituting “Authority”.*

171 Section 36 is amended

(a) in subsection (1) (b) (ii) by striking out “incurred by the superintendent” and substituting “incurred by the Authority”, and

(b) in subsection (2) (b) by striking out “superintendent” and substituting “Authority”.

172 Section 44 is repealed and the following substituted:

Delegation by superintendent

- 44** (1) The superintendent may, in writing, delegate any of the superintendent’s powers or duties under this Act.
- (2) The superintendent may impose conditions or restrictions on any delegation made under subsection (1).

173 Section 45 is repealed and the following substituted:

Personal liability protection

- 45** (1) In this section, “**protected individual**” means an individual who is any of the following:
- (a) the superintendent;
 - (b) an individual acting on behalf of or under the direction of the Authority or the superintendent.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected individual because of anything done or omitted
- (a) in the exercise or intended exercise of any power under this Act, or
 - (b) in the performance or intended performance of any duty under this Act.
- (3) Subsection (2) does not apply to a protected individual in relation to anything done or omitted in bad faith.
- (4) Subsection (2) does not absolve the Authority from vicarious liability arising out of anything done or omitted by a protected individual for which the Authority would be vicariously liable if this section were not in force.

Regulations Act

174 The Schedule to the Regulations Act, R.S.B.C. 1996, c. 402, is amended by striking out “Rules of the BC Financial Services Authority under the *Financial Institutions Act*,” and substituting “Rules of the BC Financial Services Authority under the *Financial Institutions Act* or the *Real Estate Services Act*,”.

Strata Property Act

175 *Section 1 (1) of the Strata Property Act, S.B.C. 1998, c. 43, is amended by repealing the definition of “superintendent” and substituting the following:*

“**superintendent**” means the Superintendent of Real Estate appointed under section 2.1 (1) of the *Real Estate Services Act*; .

176 *The following section is added:*

Personal liability protection

291.1 (1) In this section:

“**Authority**” means the BC Financial Services Authority established under section 2 of the *Financial Services Authority Act*;

“**protected individual**” means an individual who is any of the following:

- (a) the superintendent;
- (b) an individual acting on behalf of or under the direction of the superintendent.

(2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected individual because of anything done or omitted

- (a) in the exercise or intended exercise of any power under this Act, or
- (b) in the performance or intended performance of any duty under this Act.

(3) Subsection (2) does not apply to a protected individual in relation to anything done or omitted in bad faith.

(4) Subsection (2) does not absolve the Authority from vicarious liability arising out of anything done or omitted by a protected individual for which the Authority would be vicariously liable if this section were not in force.

Trade, Investment and Labour Mobility Agreement Implementation Act

177 *Section 48 of the Trade, Investment and Labour Mobility Agreement Implementation Act, S.B.C. 2008, c. 39, is repealed.*

178 *Section 55 is repealed.*

Commencement

179 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 1 to 13	By regulation of the Lieutenant Governor in Council
3	Sections 15 to 150	By regulation of the Lieutenant Governor in Council
4	Sections 160 to 167	By regulation of the Lieutenant Governor in Council
5	Sections 169 to 176	By regulation of the Lieutenant Governor in Council

SCHEDULE 1

(Section 134)

Item	Column 1 Act being amended	Column 2 Provision
1	<i>Business Corporations Act,</i> S.B.C. 2002, c. 57	324 (1)
2	<i>Credit Union Incorporation Act,</i> R.S.B.C. 1996, c. 82	11 (5) 14 (2) 15.1 (5) (a) (iii) 15.2 (2) 17 (1) (a) 21 (1) (a) 25.3 26.2 26.3 27.1 (1) (e) and (4) 29.1 (2) (c) 29.3 33.1 39.1 (b) 39.71 40 (2)

Item	Column 1 Act being amended	Column 2 Provision
		44 (8) (b) 65 (4) 69 (2) 74 (2) 76 (9) to (11) 81 (1.1) 90 (2) 92 (3)
3	<i>Financial Institutions Act</i> , R.S.B.C. 1996, c. 141	1 (1) in the definitions of “extraprovincial insurance corporation”, “insurance company” and “unaffiliated director” 10.1 (2) (b) 13 (2) (e) 13 (4) 15 16 21 (2) 22 (2) (c) 23 25 25.1 33 33.1 (6) 47 (2) and (3) 48 (1), in the definition of “connected party”, and (2) 50 (4) 51 58 60 (2) 61 63 64 (1) 69 76 (2), (3) and (5) 77 (a) (ii) 87 (1) (a) 92 93

Item	Column 1 Act being amended	Column 2 Provision
		96 (1), (2), (3) (a) and (b) and (4) 97 (2) 99 (2), (3) and (5) 101.1 102 (5) 105 107 (1) 109 (2) 117 (2) 118 125 126.14 (2) 126.15 (1) 126.16 (3) 126.23 126.24 126.27 (2) 126.29 131 (4) 137 141 (2) (c) 142 143 144 (3) 147 150 (1) 151 (2) 154 160 164 (2) (a) and (3) 166 187 (1) and (6) to (8) 193 (2) 194 197 197.1 (1) (b) (i), (3) and (4) 201.1 (1) (d) (ii) and (k) 206 215.1 (1), (2) (b) and (4) to (9) 235 (3) 241 (2) and (3)

Item	Column 1 Act being amended	Column 2 Provision
		242 (3) 244 (2) (f) (iii) and (g) and (3) to (5) 245 (1) (e), (6) and (7) 246 247 248 (1) 252 (3) 253.1 (3), (6) to (9), (12) and (16) 253.2 (2) 253.3 275 (b) to (b.2) 276 285 288 289 (3) (a.1), (f.2) (ii), (p.5) (v), (p.6) and (p.7), (4.1) and (4.2)

SCHEDULE 2

(Section 135)

<i>Financial Institutions Act Provisions</i>
67 (2.1) and (2.2) 126.29 (1) 144 (3) 197 245 (1) (d) and (5) 248 (1) (c) 275 (c) and (e) 285 (1)

SCHEDULE 3

(Section 136)

<i>Real Estate Services Act Provisions</i>
10 11 12 13

Real Estate Services Act Provisions

14
15 (1), (3) and (4)
16
18
21
22 (2)
24
36
38 (1)
41 (2)
45 (5) to (7)
46 (8)
61 (1)
66
72.1 (2) and (4) (b)
89.2 (2) (f)
116
117 (4)