



*The
Canadian
Bar Association
British Columbia*

**LAW REFORM CONSULTATIONS
& NOTABLE BILLS
FROM THE LEGISLATIVE
ASSEMBLY OF BRITISH COLUMBIA**

Appendix A provides an analysis of the law reform proposals

Appendix B provides an analysis of current B.C. government notable bills and a summary of each bill noted

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APPENDIX A

The Legislative Update is for information purposes only and does not create a lawyer-client relationship. The information does not constitute legal advice or an opinion on any matter. Changes in the law as a result of judicial decisions and legislative reform may occur to make the information no longer current or accurate. Every effort is made to ensure the accuracy of the information provided but the information should not be relied upon without referring to the official version of the specific legislative or regulatory provision or receiving advice from a lawyer.

LAW REFORM PROPOSALS

Currently the BC government has the following law reform proposals in process:

- Civil Justice Reform Task Force Report;
- *Insurance Act*;
- *Limitation Act*; and
- *Family Relations Act* Review.

Civil Justice Reform Task Force Report

(http://www.bcjusticereview.org/working_groups/civil_justice/cjrwg_report_11_06.pdf)

- creates legal services hub;
- requires parties to Supreme Court actions to attend a case planning conference;
- enacts new Supreme Court Rules of Court, including limiting discovery;
- CBABC membership on Civil Justice Reform Working Group;
- CBABC Subcommittee of the Legislation and Law Reform Committee (LLRC) along with Civil Litigation Sections to prepare submission, Legislation and Law Reform Officer (LLRO) to draft submission for review and comment

Insurance Act

(http://www.fin.gov.bc.ca/scp/fcsp/InsuranceAct_Review_DiscussionPaper.pdf)

The government proposes that:

- the consumer protection provisions of the Fire Part be extended to cover all basic home insurance policies (multi-peril, all-peril or comprehensive, homeowner, condo, tenants, etc.).
- earthquake not be added to the list of permitted exclusions.
- terrorism be added to the list of permitted exclusions, thereby recognizing insurance companies' legitimate underwriting concerns respecting fire following terrorism.
- for fire coverage, the:
 - provisions in the act stating that fire coverage includes fires resulting from any cause be retained and clarified;

- meaning of “vacancy” be defined to provide a statutory “grace period” of 30 days during which coverage for fire, and for vandalism resulting in fire loss, would continue.
- statutory conditions be maintained and updated to protect consumers and enhance contractual standardization.
- the Act be amended to require insurance contracts to maintain coverage of an innocent co-insured.
- for consumers, the:
 - consumers be given a statutory right to obtain, upon request, a copy of a group insurance policy, while insurers be permitted to withhold personal and commercially sensitive information;
 - consumers of group P&C insurance be given the same rights as consumers of group life and A&S insurance, including the right to sue on the contract, and the right to be notified of termination or changes in coverage.
- for limitation periods:
 - the limitation period in *Insurance Act* be extended to 2 years;
 - a single general provision be adopted for the act, with the trigger being “the date the cause of action arises against the insurer” (the trigger found in vehicle insurance legislation and the current B.C. *Limitation Act*). This general trigger would then be refined for certain types of claims, such as the “date of loss” for property claims and the “date of the last payment” for ongoing disability and A&S claims;
 - the incapacity and discoverability provisions of the general *Limitation Act* be applied to insurance claims;
 - insurers be required to give notice to the consumer before the expiry of the limitation period.
- for alternative dispute resolution:
 - insurance companies offering home, life or A&S insurance be required to have in place an internal dispute resolution system and to participate in a dispute resolution service that offers mediation of disputes between consumers and insurers. The list of acceptable services would be set out in the regulations or, alternatively, established by order of the Financial Institutions Commission. In addition, insurance companies would be required to notify consumers of their right to take a dispute to a dispute resolution service;
 - the appraisal remedy be retained and updated to allow the courts to award actual costs to an intransigent party who attempts to subvert the appraisal process by refusing to appoint an appraiser or agree to an umpire.
- Act be amended to state that insured parties making claims under insurance policies can be required to submit to an examination under oath and to allow for regulations to prescribe protections for insured parties, including notification of the right to be represented by counsel.

- Liaise with CBABC Automobile Committee and CBABC Sections and if required, LLRO to draft submission for review and comment

Limitation Act

(<http://www.ag.gov.bc.ca/legislation/>)

The Attorney General is seeking comment on these questions:

- How long should limitation periods set by the *Limitation Act* be?
- When should they start to run?
- Should people be permitted to change them by agreement?
- How should the limitation periods set by the *Limitation Act* fit with the limitation periods set by foreign laws?
- If BC were to adopt a new limitations law, how should it transition from the old law to the new one?

Family Relations Act Review

(<http://www.ag.gov.bc.ca/legislation/>)

- CBABC Family Law Sections Working Group, after several meetings, drafting response to AGBC's 3 of 9 discussion papers:
 - division of property;
 - division of pensions; and
 - judicial separation.

Note: other AGBC 6 discussion papers to follow in June and September 2007 and comment expected from Working Group

APPENDIX B

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NOTABLE BILLS FROM THE LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

This legal information is current to June 1, 2007.

In the Spring 2007 Session, the BC Legislature began its session in February and ended its session on May 31, 2007.

Unofficial copies of the bills at Third Reading are available at:
<http://www.leg.bc.ca/legislation/bills.htm>.

List Of Bills

The list of relevant Spring 2007 bills is:

- *Adult Guardianship And Planning Statutes Amendment Act, 2007* (Bill 29) (First Reading April 19, 2007);
- *Attorney General Statutes Amendment Act, 2007*, S.B.C. 2007, c. 14 (Bill 33);
- *Enforcement of Canadian Judgments and Decrees (Trade, Investment and Labour Mobility Agreement) Amendment Act, 2007*, (Bill 17) (First Reading April 15, 2007);
- *Finance Statutes Amendment Act, 2007*, S.B.C. 2007, c. 7 (Bill 14);
- *Human Rights Code (Mandatory Retirement Elimination) Amendment Act, 2007*, S.B.C. 2007, c. 21 (Bill 31);
- *Securities Amendment Act, 2007* (Bill 28) (First Reading April 18, 2007); and
- *Tobacco Sales (Banning Tobacco And Smoking In Public Places And Schools) Amendment Act, 2007*, S.B.C. 2007, c. 12 (Bill 10).

Analysis

The analysis of the bills that: are imminent, are significant and where CBA is playing a role are:

***Adult Guardianship And Planning Statutes Amendment Act, 2007* (Bill 29) (First Reading April 19, 2007)**

- enacts many of the recommendations of the McClean Report (2002), including:
 - permit powers of attorney and enduring powers of attorney to be made for financial matters under the *Power of Attorney Act*;
 - limit representation agreements to non-financial matters under *Representation Agreement Act*;

- for enduring power of attorney, only requires one witness, not 2, if the witness is a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia (s. 38 adding a new section 16(4));
- for representation agreements:
 - repeals and replaces section 9 (section 47 of Bill 29), including repealing: section 9(1)((f) and (g) regarding financial affairs and requirements respecting consultation with a member of the Law Society of British Columbia or other prescribed persons;
 - provides that only one witness required for executing a representation agreement is required if that witness is a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia;
- repeals *Patients Property Act*, replaced by *Adult Guardianship Act*;
- permits advanced directives in BC which provide that an adult may refuse consent to health care and that this decision to give or refuse consent to health care is not affected by any subsequent incapability;
- for advanced directives:
 - requiring only 1 witness, not 2, if the witness is a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia;
 - permitting a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia to act as a witness to the signing of an advanced directive;
- significant CBA involvement with committee of all 6 CBA Wills and Trusts Sections engaging in public consultations with AGBC and Professor McClean in the preparation of his report regarding powers of attorney and representation agreements;
- CBA supporting recommendations in McClean Report

Attorney General Statutes Amendment Act, 2007, S.B.C. 2007, c. 14 (Bill 33)

- adds new sections 46.1, 46.2 or 46.3 of the *Administrative Tribunals Act* added by Bill 33 provide ways for administrative tribunals to apply the jurisdiction of *Human Rights Code*. The following statutes, amended by Bill 33, have provisions respecting the ways in which each respective body applies or does not apply the jurisdiction of the *Human Rights Code*:
 - *Agricultural Land Commission Act*;
 - *Assessment Act*;
 - *Business Practices and Consumer Protection Act*;
 - *Community Care and Assisted Living Act*;
 - *Employment and Assistance Act*;
 - *Employment Standards Act*;

- *Financial Institutions Act*;
 - *Forest and Range Practices Act*;
 - *Hospital Act*;
 - *Human Rights Code*;
 - *Industry Training Authority Act*;
 - *Labour Relations Code*;
 - *Manufactured Home Park Tenancy Act*;
 - *Mental Health Act*;
 - *Natural Products Marketing (BC) Act*;
 - *Passenger Transportation Act*;
 - *Petroleum and Natural Gas Act*;
 - *Residential Tenancy Act*;
 - *Safety Standards Act*;
 - *School Act*;
 - *Securities Act*;
 - *Utilities Commission Act*; and
 - *Workers Compensation Act*.
- permits the director to collect from lottery winnings amounts owing under a maintenance order under the *Family Maintenance Enforcement Act*;
 - under the *Legal Profession Act*, permits the Law Society to:
 - be appointed as a custodian of a lawyer's practice if the lawyer is unable to continue practising;
 - impose remedial programs on lawyers where necessary and appropriate;
 - make appeals of discipline decisions more efficient; and
 - obtain evidence outside BC for its regulatory hearings.
 - for Bill 33 no CBA involvement

Enforcement of Canadian Judgments and Decrees (Trade, Investment and Labour Mobility Agreement) Amendment Act, 2007 (Bill 17) (First Reading April 15, 2007)

- recognizes that panel monetary and costs awards under TILMA are Canadian judgments for the purposes of the Act;
- Article 13 of TILMA provides labour mobility that may include lawyers; Article 13 generally provides that "any worker certified for an occupation by a regulatory authority of a Party shall be recognized as qualified to practice that occupation by the other Party".
- Law Society has no public position on TILMA
- no CBA involvement in TILMA or Bill 17

Finance Statutes Amendment Act, 2007, S.B.C. 2007, c. 7 (Bill 14);

- permits formation of unlimited liability companies under the *Business Corporations Act*;
- no CBA involvement;

Human Rights Code (Mandatory Retirement Elimination) Amendment Act, 2007, S.B.C. 2007, c. 21 (Bill 31)

- eliminates mandatory retirement at age 65 years under the *Human Rights Code*;
- for Bill 33 no CBA involvement

Securities Amendment Act, 2007 (Bill 28) (First Reading April 18, 2007);

- imposes liability upon a public company as well as those responsible for the company's disclosure for secondary market disclosure for making misleading statements, whether written or oral;
- no CBA involvement;

Tobacco Sales (Banning Tobacco And Smoking In Public Places And Schools) Amendment Act, 2007, S.B.C. 2007, c. 12 (Bill 10)

- bans smoking in certain public places and workplaces, including law firms;
- makes employers liable if any person contravenes the ban regarding smoking unless employers use due diligence defence to prove that they exercised reasonable care and diligence to prevent the contravention;
- no CBA involvement.

SUMMARIES

ADULT GUARDIANSHIP AND PLANNING STATUTES AMENDMENT ACT, 2007 (BILL 29) (FIRST READING APRIL 19, 2007)

Amended: *Adult Guardianship Act*, R.S.B.C. 1996, c. 6; *Health Care (Consent) and Care Facility (Admission) Act*, R.S.B.C. 1996, c. 181; *Power of Attorney Act*, R.S.B.C. 1996, c. 370; *Representation Agreement Act*, R.S.B.C. 1996, c. 405.

Consequential amendments are made to the: *Adult Guardianship Statutes Amendment Act, 1999*, S.B.C. 1999, c. 25; *Assessment Act*, R.S.B.C. 1996, c. 20; *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75; *Court Rules Act*, R.S.B.C. 1996, c. 80; *Credit Union Incorporation Act*, R.S.B.C. 1996, c. 82; *Enforcement of Canadian Judgments and Decrees Act*, S.B.C. 2003, c. 29; *Estate Administration Act*, R.S.B.C. 1996, c. 122; *Expropriation Act*, R.S.B.C. 1996, c. 125; *Family Relations Act*, R.S.B.C. 1996, c. 128; *Financial Institutions Act*, R.S.B.C. 1996, c. 141; *Health Emergency Act*, R.S.B.C. 1996, c. 182; *Health Professions Amendment Act, 2003*, S.B.C. 2003, c. 57; *Home Owner Grant Act*, R.S.B.C. 1996, c. 194; *Insurance (Motor Vehicle) Act*, R.S.B.C. 1996, c. 231; *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231; *Land Title Act*, R.S.B.C. 1996, c. 250; *Legal Profession Act*, S.B.C. 1998, c. 9; *Limitation Act*, R.S.B.C. 1996, c. 266; *Mental Health Act*, R.S.B.C. 1996, c. 288; *Mineral Tax Act*, R.S.B.C. 1996, c. 291; *Notaries Act*, R.S.B.C. 1996, c. 334; *Partition of Property Act*, R.S.B.C. 1996, c. 347; *Partnership Act*, R.S.B.C. 1996, c. 348; *Personal Property Security Act*, R.S.B.C. 1996, c. 359; *Pharmacists, Pharmacy Operations and Drug Scheduling Act*, R.S.B.C. 1996, c. 363; *Pharmacy Operations and Drug Scheduling Act*, S.B.C. 2003, c. 77; *Property Law Act*, R.S.B.C. 1996, c. 377; *Public Guardian and Trustee Act*, R.S.B.C. 1996, c. 383

Transitional

Provisions: Advance directives, enduring powers of attorney, financial support provisions, financial support provisions in representation agreements, non-routine financial provisions, amendments to add dates of repeal

Statutes

Repealed: *Patients Property Act*, R.S.B.C. 1996, c. 349

Summary:

By way of background, in 2002, the Attorney General commissioned the McClean Report. The McClean Report made 40 recommendations for law reform to representation agreements and enduring powers of attorney (www.ag.gov.bc.ca/public/McClean-Report.pdf).

McClellan Report

The McClellan Report's key recommendations included:

- repeal of section 8 of the *Power of Attorney Act* regarding enduring powers of attorney (Recommendation 1);
- except for agreements made under section 7 of the *Representation Agreement Act*, the enduring power of attorney should be the sole instrument available for making advance arrangements for the management of a person's financial affairs in anticipation of possible incapacity (Recommendation 1);
- *Representation Agreement Act* should be amended to remove from it all references to financial affairs, other than those necessary to accommodate the continued existence of section 7, including repeal of s. 9(1)(f) and (g) regarding financial affairs (Recommendation 1 and 27(4));
- adopting a definition of "enduring power of attorney" in the Act (Recommendation 2);
- permit "springing powers", where enduring powers of attorney only take effect on a specified event determined by the adult executing a power of attorney (Recommendation 10);
- adopting the majority of the list of duties of the attorney under an enduring power of attorney (Recommendation 14); and
- adopting the circumstances when an enduring power of attorney terminates (Recommendations 20 and 21).

Bill 29 and the McClellan Report

Bill 29 specifically adopts some of the McClellan Report recommendations including:

- section 37 repealing section 8 of the *Power of Attorney Act* regarding enduring powers of attorney (Recommendation 1);
- section 47 amending the *Representation Agreement Act* repealing section 9(1)(f) and (g) regarding financial affairs (Recommendation 1 and 27(4));
- section 38 amending the *Power of Attorney Act* adopting a definition of "enduring power of attorney" (Recommendation 2);
- section 38 adding to the *Power of Attorney Act* section 26 permitting "springing powers", where enduring powers of attorney only take effect on a specified event determined by the adult executing a power of attorney (Recommendation 10);
- section 38 adding to the *Power of Attorney Act* section 19(1) adopting the majority of the list of duties of the attorney under an enduring power of attorney (Recommendation 14); and
- section 38 adding to the *Power of Attorney Act* adding section 30(4)(e), section 29(2)(d)(i), section 29(3), section 30(4)(b) and

section 25(2) adopting the circumstances when an enduring power of attorney terminates (Recommendations 20 and 21).

Bill 29

Bill 29 repeals the *Patients Property Act*.

Bill 29 makes amendments:

Adult Guardianship Act, including to:

Court Appointed Guardians

- substitute a new Part 2 to replace the repealed *Patients Property Act*, including:
 - enabling the court to make a guardianship order, which would permit a person to make decisions respecting an incapable adult's personal care and health care or financial affairs or both on behalf of the adult;
 - requiring mediation;
 - unless the court orders otherwise, if a personal guardian is appointed for an adult, terminating any provisions respecting personal care or health care within a representation agreement or an advance directive made by the adult;
 - unless the court orders otherwise, if a property guardian is appointed for an adult, terminating any enduring power of attorney made by the adult and any provisions respecting financial affairs within a representation agreement made by the adult are terminated;
 - if a property guardian is appointed for an adult, terminating any power of attorney made by the adult;
 - setting out the respective duties, powers and liabilities of a property guardian or personal guardian appointed under Part 2;
 - establishing rules regarding the review, replacement and end of guardianship;
 - providing power in the Public Guardian and Trustee to conduct investigations and acceptance of extrajurisdictional orders in British Columbia;

- create a new Part 2.1 to allow the Public Guardian and Trustee to assume statutory property guardianship of an incapable adult's financial affairs without an order of the court;
- clarify that a person must not disclose the identity of a person who reports the abuse or neglect of an adult, despite any provision of the *Freedom of Information and Protection of Privacy Act* or the *Personal Information Protection Act* that might otherwise enable or require that disclosure;

Administrative

- describe the events when a disposition of property by an adult who may be incapable is voidable;

Information

- permit a designated agency, a qualified health care provider and the Public Guardian and Trustee to have the right to all the information necessary to enable them to perform their duties, powers and functions under the Act and this overrides any claim of confidentiality or privilege, except:
 - a claim based on solicitor-client privilege and
 - any restriction in an enactment or the common law about the disclosure or confidentiality of information, except a restriction in section 51 of the *Evidence Act* regarding health care evidence;
- permit a designated agency and the Public Guardian and Trustee or a health care provider to disclose information obtained under the Act;
- permit a qualified health care provider who performs an assessment of an adult's incapability under the Act to disclose information obtained under the Act for the purposes of providing a report of the assessment and this overrides any restriction in an enactment or the common law about the disclosure or confidentiality of information;
- for the purposes of exercising the powers or performing the duties or functions of the designated agency under the Act;

Supreme Court

- clarify that the Supreme Court maintains its *parens patriae* jurisdiction and provides that the court may give directions or give other orders on application by a guardian;
- permit the court to order that the cost of an application under Part 2 or 2.1 of the Act may be paid from the property of the adult who is the subject of the application;

Regulations

- add regulation making powers consequential to the repeal and replacement of Part 2 and the enactment of Part 2.1 of the Act;

***Health Care (Consent) and Care Facility (Admission) Act* to:**

- provide that an adult may refuse consent to health care by means of an advance directive;
- provide that a decision to give or refuse consent to health care is not affected by any subsequent incapability;
- clarify that health care must be withdrawn if a guardian, representative or substitute decision maker refuses consent for continued health care;
- add persons who may be chosen as temporary substitute decision makers;
- add a new Part 2.1(Advance Directives), including:
 - permitting an adult to make advance directive unless incapable;
 - setting our rules that apply if there is both an advance directive and representation agreement in place for the adult;

Execution and Witnesses

- requiring the form and execution of the advanced directive including:
 - requiring only 1 witness, not 2, if the witness is a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia;

- permitting a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia to act as a witness to the signing of an advanced directive;
- permitting an adult to change or revoke an advance directive unless the adult is incapable of understanding the nature and consequences of the change or revocation;

Health Care

- providing health care if an adult has an advance directive;
- stating when an advance directive does not apply;
- permitting withdrawal of health care in specified circumstances;
- providing that an adult must not be required to have an advance directive as a condition of receiving any good or service;
- setting out rules that apply to extrajurisdictional advance directives;
- adding a new section regarding court directions and orders;
- permit regulations to be made regarding advance directives;

Power of Attorney Act, including to:

- provide that nothing in Part 2 (Enduring Powers of Attorney) and Part 3 (General Matters Respecting Enduring Powers of Attorney) of the Act affects the application of the common law to Part 1 (General Powers of Attorney);
- repeal section 8 regarding enduring powers of attorney;

Part 2 (Enduring Powers of Attorney)

- add in section 38 a new Part 2 (Enduring Powers of Attorney) including:
 - adopting a definition of “enduring power of attorney”;
 - presuming adults are capable of making decisions about the adult's financial affairs and understanding the nature and

consequences of making, changing or revoking an enduring power of attorney;

- permitting adults to make enduring power of attorney unless incapable;
- providing what an enduring power of attorney may do and not do;
- requiring an enduring power of attorney to include provision for continued authority;

Execution

- requiring enduring power of attorney to be signed by an adult, the attorney and be witnessed;
- only require one witness, not 2, if the witness is a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia (s. 38 adding a new section 16(4));

Attorney

- providing who may act as an attorney, duties, powers and liabilities of attorney (duties of attorney section 19);
- prohibiting attorney from making a will for the adult;
- providing that, unless the enduring power of attorney states otherwise, an attorney must not delegate any decision-making authority given to the attorney in an enduring power of attorney;
- providing that an attorney must not be compensated for acting as an adult's attorney unless the enduring power of attorney expressly authorizes the compensation and sets the amount or rate;
- establishing a procedure for resignation of attorney (section 25);

Operation of Enduring Power of Attorney

- setting out when an enduring power of attorney is effective (section 26);
- permitting a capable adult to do anything that the adult has authorized an attorney to do, regardless of whether the enduring power of attorney is in effect;
- providing how to change or revoke enduring powers of attorney;

- setting out when authority of attorney is suspended or ends (section 29);
- setting out when enduring power of attorney is suspended or terminates (section 30);
- stating what is improper exercise of authority by an attorney;

Information

- permitting an attorney to request information and records respecting the adult for whom the attorney is acting;
- setting specified limits on what information or records the attorney may disclose;

Reporting to Public Guardian and Trustee

- permitting anyone to report to the to Public Guardian and Trustee abuse or fraud or other specified matters;
- permitting court directions and orders;
- recognizing extrajurisdictional powers of attorney;
- ruling that, if any provision, respecting an adult's financial affairs, of a representation agreement made by an adult under the *Representation Agreement Act* is inconsistent with, or in conflict with, a provision of an enduring power of attorney made by the adult, the inconsistency or conflict is to be resolved in favour of the provision in the enduring power of attorney;

Regulations

- permitting regulations to be made;

***Representation Agreement Act*, including to:**

- prohibit requirement of a representation agreement as a condition of receiving a good or service;
- narrow the category of persons who may act as a representative;
- eliminate the requirement for representatives and alternate representatives to sign certificates in respect of representation agreements made under section 9 of the Act;

- clarify that section 7 applies only to representation agreements and that decisions respecting the use of restraints, despite the objections of the adult, cannot be the subject of representation agreements made under the specified section;
- repeals and replaces section 9 (section 47 of Bill 29), including repealing: section 9(1)((f) and (g) regarding financial affairs and requirements respecting consultation with a member of the Law Society of British Columbia or other prescribed persons;
- provide that only one witness required for executing a representation agreement is required if that witness is a practising member of the Law Society of British Columbia or a member of the Society of Notaries Public of British Columbia;
- clarify in section 9.1 that representatives must exercise their authority in accordance with the Act and any other enactment that gives authority to a representative;
- prohibit representatives from making decisions in respect of non-therapeutic sterilization of an adult for whom the representative is acting;
- amend section 13 to remove a requirement for persons signing a representation agreement made under section 9 of the Act on behalf of an adult, and witnesses to those agreements, to sign certificates and make changes to execution requirements to be consistent with execution requirements in respect of advance directives and enduring powers of attorney;
- re-enact provisions regarding access to information and disclosing information in order to be consistent with the *Power of Attorney Act*;
- prohibit representatives from making or changing a will on behalf of an adult;
- recognize representation agreements made outside British Columbia;

In Force: By regulation

ATTORNEY GENERAL STATUTES AMENDMENT ACT, 2007, S.B.C. 2007, C. 14 (BILL 33)

Amended: *Administrative Tribunals Act*, S.B.C. 2004, c. 45; *Agricultural Land Commission Act*, S.B.C. 2002, c. 36; *Assessment Act*, R.S.B.C. 1996, c. 20; *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2; *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75; *Court of Appeal Act*, R.S.B.C. 1996, c. 77; *Employment and Assistance Act*, S.B.C. 2002, c. 40; *Employment Standards Act*, R.S.B.C. 1996, c. 113; *Evidence Act*, R.S.B.C. 1996, c. 124; *Family Maintenance Enforcement Act*, R.S.B.C. 1996, c. 127; *Family Relations Act*, R.S.B.C. 1996, c. 128; *Financial Institutions Act*, R.S.B.C. 1996, c. 141; *Forest and Range Practices Act*, S.B.C. 2002, c. 69; *Hospital Act*, R.S.B.C. 1996, c. 200; *Human Rights Code*, R.S.B.C. 1996, c. 210; *Industry Training Authority Act*, S.B.C. 2003, c. 34; *Labour Relations Code*, R.S.B.C. 1996, c. 244; *Legal Profession Act*, S.B.C. 1998, c. 9; *Legal Services Society Act*, S.B.C. 2002, c. 30; *Manufactured Home Park Tenancy Act*, S.B.C. 2002, c. 77; *Mental Health Act*, R.S.B.C. 1996, c. 288; *Motor Vehicle Act*, R.S.B.C. 1996, c. 318; *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c. 330; *Offence Act*, R.S.B.C. 1996, c. 338; *Passenger Transportation Act*, S.B.C. 2004, c. 39; *Petroleum and Natural Gas Act*, R.S.B.C. 1996, c. 361; *Provincial Court Act*, R.S.B.C. 1996, c. 379; *Residential Tenancy Act*, S.B.C. 2002, c. 78; *Safety Standards Act*, S.B.C. 2003, c. 39; *School Act*, R.S.B.C. 1996, c. 412; *Securities Act*, R.S.B.C. 1996, c. 418; *Securities Act*, S.B.C. 2004, c. 43; *Supreme Court Act*, R.S.B.C. 1996, c. 443; *Utilities Commission Act*, R.S.B.C. 1996, c. 473; *Workers Compensation Act*, R.S.B.C. 1996, c. 492; *Interpretation Act*, R.S.B.C. 1996, c. 238.

Consequential amendment made to the: *Accountants (Certified General) Act*, R.S.B.C. 1996, c. 2; *Accountants (Chartered) Act*, R.S.B.C. 1996, c. 3; *Agricultural Land Commission Act*, S.B.C. 2002, c. 36; *Applied Science Technologists and Technicians Act*, R.S.B.C. 1996, c. 15; *Auditor General Act*, S.B.C. 2003, c. 2; *Business Corporations Act*, S.B.C. 2002, c. 57; *Business Paper Reduction Act*, S.B.C. 1998, c. 26; *Coal Act*, S.B.C. 2004, c. 1; *College of Applied Biology Act*, S.B.C. 2002, c. 68; *Commercial Transport Act*, R.S.B.C. 1996, c. 58; *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75; *Corporation Capital Tax Act*, R.S.B.C. 1996, c. 73; *Dentists Act*, R.S.B.C. 1996, c. 94; *Drainage, Ditch and Dike Act*, R.S.B.C. 1996, c. 102; *Emergency Program Act*, R.S.B.C. 1996, c. 111; *Employment Standards Act*, R.S.B.C. 1996, c. 113; *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116; *Environmental Management Act*, S.B.C. 2003, c. 53; *Estates of Missing Persons Act*, R.S.B.C. 1996, c. 123; *Food Safety Act*, S.B.C. 2002, c. 28; *Forest Act*, R.S.B.C. 1996, c. 157; *Forest and Range Practices Act*, S.B.C. 2002, c. 69; *Forest Practices Code of British Columbia Act*, R.S.B.C. 1996, c. 159; *Foresters Act*, S.B.C. 2003, c. 19; *Health Act*, R.S.B.C. 1996, c. 179; *Health Professions Act*, R.S.B.C. 1996, c. 18; *Hospital District Act*, R.S.B.C. 1996, c. 202;

Industrial Roads Act, R.S.B.C. 1996, c. 189; *Insurance Corporation Act*, R.S.B.C. 1996, c. 228; *Insurance (Motor Vehicle) Act*, R.S.B.C. 1996, c. 231; *Justice Administration Act*, R.S.B.C. 1996, c. 243; *Labour Relations Code*, R.S.B.C. 1996, c. 244; *Land Title Act*, R.S.B.C. 1996, c. 250; *Legal Profession Act*, S.B.C. 1998, c. 9; *Liquor Control and Licensing Act*, R.S.B.C. 1996, c. 267; *Liquor Distribution Act*, R.S.B.C. 1996, c. 268; *Local Government Act*, R.S.B.C. 1996, c. 323; *Medical Practitioners Act*, R.S.B.C. 1996, c. 285; *Medicare Protection Act*, R.S.B.C. 1996, c. 286; *Milk Industry Act*, R.S.B.C. 1996, c. 289; *Mineral Tax Act*, R.S.B.C. 1996, c. 291; *Mines Act*, R.S.B.C. 1996, c. 293; *Motor Vehicle Act*, R.S.B.C. 1996, c. 318; *Notaries Act*, R.S.B.C. 1996, c. 334; *Offence Act*, R.S.B.C. 1996, c. 338; *Optometrists Act*, R.S.B.C. 1996, c. 34; *Passenger Transportation Act*, S.B.C. 2004, c. 39; *Personal Property Security Act*, R.S.B.C. 1996, c. 35; *Petroleum and Natural Gas Act*, R.S.B.C. 1996, c. 361; *Pharmacists, Pharmacy Operations and Drug Scheduling Act*, R.S.B.C. 1996, c. 363; *Pharmacy Operations and Drug Scheduling Act*, S.B.C. 2003, c. 77; *Pipeline Act*, R.S.B.C. 1996, c. 364; *Police Act*, R.S.B.C. 1996, c. 367; *Private Career Training Institutions Act*, S.B.C. 2003, c. 7; *Protected Areas of British Columbia Act*, S.B.C. 2000, c. 17; *Public Sector Pension Plans Act*, S.B.C. 1999, c. 44; *Public Service Labour Relations Act*, R.S.B.C. 1996, c. 388; *Railway Act*, R.S.B.C. 1996, c. 395; *Range Act*, S.B.C. 2004, c. 71; *Securities Act*, R.S.B.C. 1996, c. 41; *Social Service Tax Act*, R.S.B.C. 1996, c. 431; *Strata Property Act*, S.B.C. 1998, c. 4; *Teaching Profession Act*, R.S.B.C. 1996, c. 449; *Transportation Investment Act*, S.B.C. 2002, c. 65; *University Endowment Land Act*, R.S.B.C. 1996, c. 469; *Utilities Commission Act*, R.S.B.C. 1996, c. 473; *Veterinarians Act*, R.S.B.C. 1996, c. 476; *Water Act*, R.S.B.C. 1996, c. 483; *Wildlife Act*, R.S.B.C. 1996, c. 488

Minor amendments are made to 289 Acts listed in Schedules 1 to 20 attached to Bill 33.

The corrections to statutes, made by these regulations, are confirmed:

- Ministry of Advanced Education Statutes Correction Regulation, 2006, B.C. Reg. 333/2006;
- Ministry of Agriculture and Lands Statutes Correction Regulation, 2006, B.C. Reg. 334/2006;
- Attorney General Statutes Correction Regulation, 2006, B.C. Reg. 335/2006;
- Ministry of Children and Family Development Statutes Correction Regulation, 2006, B.C. Reg. 336/2006;

- Ministry of Community Services Statutes Correction Regulation, 2006, B.C. Reg. 337/2006;
- Ministry of Economic Development Statutes Correction Regulation, 2006, B.C. Reg. 338/2006;
- Ministry of Education Statutes Correction Regulation, 2006, B.C. Reg. 339/2006;
- Ministry of Employment and Income Assistance Statutes Correction Regulation, 2006, B.C. Reg. 340/2006;
- Ministry of Energy, Mines and Petroleum Resources Statutes Correction Regulation, 2006, B.C. Reg. 341/2006;
- Ministry of Environment Statutes Correction Regulation, 2006, B.C. Reg. 342/2006;
- Ministry of Finance Statutes Correction Regulation, 2006, B.C. Reg. 343/2006;
- Ministry of Forests Statutes Correction Regulation, 2006, B.C. Reg. 344/2006;
- Ministry of Health Statutes Correction Regulation, 2006, B.C. Reg. 345/2006;
- Ministry of Labour and Citizens' Services Statutes Correction Regulation, 2006, B.C. Reg. 353/2006;
- Ministry of Public Safety and Solicitor General Statutes Correction Regulation, 2006, B.C. Reg. 346/2006;
- Ministry of Small Business and Revenue Statutes Correction Regulation, 2006, B.C. Reg. 347/2006;
- Ministry of Tourism, Sport and the Arts Statutes Correction Regulation, 2006, B.C. Reg. 348/2006;
- Ministry of Transportation Statutes Correction Regulation, 2006, B.C. Reg. 367/2006.

All decisions, proceedings and other actions of 3 named judicial justices-- that would have been valid had the judicial justices been appointed and designated on the dates referred to in Bill 33--are conclusively deemed to have been validly made, conducted and done.

Transitional
Provisions: None

Statutes

Repealed: *British Columbia Enterprise Corporation Financial Restructuring Act*, S.B.C. 1987, c. 39; *Burlington Northern Relocation Act*, R.S.B.C. 1979, c. 41; *Cabinet Appeals Abolition Act*, S.B.C. 1993, c. 38; *Carmanah Pacific Park Act*, S.B.C. 1990, c. 36; *Coquihalla Highway Construction Acceleration Act*, S.B.C. 1985, c. 69; *Development Corporation Act*, R.S.B.C. 1979, c. 93; *Equity Investment Plan Act*, S.B.C. 1985, c. 71; *Expo 86 Corporation Act*, S.B.C. 1980, c. 59; *Fuel Tax Validation Act*, S.B.C. 1990, c. 8; *Harbour Board Repeal Act*, S.B.C. 1983, c. 5; *Ocean Falls Corporation Repeal Act*, S.B.C. 1983, c. 7; *Petroleum Corporation Repeal Act*, S.B.C. 1994, c. 55; *Public Education Support Staff Collective Bargaining Assistance Act*, S.B.C. 2000, c. 2; *Rate Increase Restraint Act*, S.B.C. 1982, c. 77; *Senatorial Selection Act*, S.B.C. 1990, c. 70; *Traffic Victims Indemnity Fund Repeal Act*, S.B.C. 1982, c. 30; *Vancouver Centennial Celebration Act*, S.B.C. 1982, c. 55; *Wildlife Act*, R.S.B.C. 1979, c. 433

Summary: Bill 33 repeals 18 statutes:

- *British Columbia Enterprise Corporation Financial Restructuring Act*;
- *Burlington Northern Relocation Act*;
- *Cabinet Appeals Abolition Act*;
- *Carmanah Pacific Park Act*;
- *Coquihalla Highway Construction Acceleration Act*;
- *Development Corporation Act*;
- *Equity Investment Plan Act*;
- *Expo 86 Corporation Act*;
- *Fuel Tax Validation Act*;
- *Harbour Board Repeal Act*;
- *Ocean Falls Corporation Repeal Act*;
- *Petroleum Corporation Repeal Act*;
- *Public Education Support Staff Collective Bargaining Assistance Act*;
- *Rate Increase Restraint Act*;
- *Senatorial Selection Act*;
- *Traffic Victims Indemnity Fund Repeal Act*;
- *Vancouver Centennial Celebration Act*; and
- *Wildlife Act*, R.S.B.C. 1979, c. 433.

Bill 33 amends 35 statutes, including the *Administrative Tribunals Act*. Note: The new sections 46.1, 46.2 or 46.3 of the *Administrative Tribunals Act* added by Bill 33 provide ways for administrative tribunals to apply the jurisdiction of *Human Rights Code*. The following statutes, amended by Bill 33, have provisions respecting the ways in which each respective body applies or does not apply the jurisdiction of the *Human Rights Code*:

- *Agricultural Land Commission Act*;
- *Assessment Act*;
- *Business Practices and Consumer Protection Act*;
- *Community Care and Assisted Living Act*;
- *Employment and Assistance Act*;
- *Employment Standards Act*;
- *Financial Institutions Act*;
- *Forest and Range Practices Act*;
- *Hospital Act*;
- *Human Rights Code*;
- *Industry Training Authority Act*;
- *Labour Relations Code*;
- *Manufactured Home Park Tenancy Act*;
- *Mental Health Act*;
- *Natural Products Marketing (BC) Act*;
- *Passenger Transportation Act*;
- *Petroleum and Natural Gas Act*;
- *Residential Tenancy Act*;
- *Safety Standards Act*;
- *School Act*;
- *Securities Act*;
- *Utilities Commission Act*; and
- *Workers Compensation Act*.

Bill 33 amends 35 statutes:

Administrative Tribunals Act to:

- permit an absent or incapacitated member of a tribunal to return to less than full duty and permit a person appointed to replace the absent or incapacitated member to continue as a replacement until the absent or incapacitated member returns to full duty, unless the member's term expires;
- permit the appointment of an individual to a second temporary appointment to a tribunal within a 2-year period;
- provide to the tribunal the discretion to apply its jurisdiction regarding *Human Rights Code* matters in 3 ways:
 - permit the tribunal to decline jurisdiction to apply the *Human Rights Code*, and set out what a tribunal may consider when determining whether to decline jurisdiction and provide for notice to and the intervention of the Attorney General (s. 46.1);

- permit the tribunal to decline jurisdiction to apply the *Human Rights Code*, provide that the tribunal does not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment and set out what a tribunal may consider when determining whether to decline jurisdiction (s. 46.2); or
- provide that the tribunal does not have jurisdiction to apply the *Human Rights Code* (s. 46.3);

Agricultural Land Commission Act to:

- hold that the Provincial Agricultural Land Commission does not have jurisdiction to apply the *Human Rights Code*;

Assessment Act to:

- permit an absent or incapacitated member of the property assessment review panel to return to less than full duty and permits a person appointed to replace the absent or incapacitated member to continue as a replacement until the absent or incapacitated member returns to full duty, unless the member's term expires;
- provide that a property assessment review panel does not have jurisdiction to apply the *Human Rights Code*;

Business Practices and Consumer Protection Act to:

- provide that the director does not have jurisdiction to apply the *Human Rights Code*;

Community Care and Assisted Living Act to:

- provide that the Community Care and Assisted Living Appeal Board may decline jurisdiction to apply the *Human Rights Code* and does not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Court of Appeal Act to:

- provide that an appeal or a notice of application for leave to appeal is to be treated as inactive if no notice of hearing is filed within 2 months after a certificate of readiness has been filed;

Employment and Assistance Act to:

- provide that the Employment and Assistance Appeal Tribunal does not have jurisdiction to apply the *Human Rights Code*;

Employment Standards Act to:

- provide that the Director of Employment Standards does not have jurisdiction to apply the *Human Rights Code*;
- provide that the Employment Standards Tribunal does not have jurisdiction to apply the *Human Rights Code*;

Evidence Act to:

- validate that electronic images are included within the definition of "photograph" but that inclusion does not oblige the government or the court to provide any equipment, facility or technology to allow or facilitate their introduction into evidence;

Family Maintenance Enforcement Act, including to:

Director

- permit the director to make demands for information to:
 - locate a creditor;
 - determine a debtor's interest in a corporation;
 - protect the safety of a creditor or debtor;
- permit the director to collect from lottery winnings amounts owing under a maintenance order;
- permit the director to disclose prescribed information about a debtor to a credit reporting agency instead of the fact that the debtor is in arrears on a maintenance order;

- permit the director to apply for a court order restraining harassment if a maintenance order is filed with the director, and that the debtor or creditor may apply for this type of order if the maintenance order is not filed with the director;

Court

- permit the court to make an order of committal if the debtor is before the court, without the further step of issuing a summons or a warrant;
- permit the court to make an order of committal in the absence of a debtor who fails to appear in response to a summons and provides for a review of that decision;
- permit the court to require a debtor to provide security for maintenance payments on application of the director or the creditor;
- permit the attachment of joint bank accounts and deems money in a joint account to be owned equally by the co-holders of the account;
- deem the variation of a maintenance order, varied after being registered against the title to land, as being registered against the title;
- substitute appeal procedures under the *Family Relations Act* for those under the *Offence Act* when appealing an order of the Provincial Court;

Insurance Corporation of British Columbia (ICBC)

- increase the duty of ICBC, on receipt of a notice from the director that a debtor is in arrears on a maintenance order, to include refusal to license a vehicle owned by the debtor;

Family Relations Act, including to:

Child Support Service

- require that a child support order issued out of a prescribed registry must indicate the provision of the child support guidelines under which the order is made;
- permit the child support service, on a party's request, to correct typographical, clerical and arithmetical errors in a statement of recalculation;
- require the child support service to notify the parties of any corrections to a statement of recalculation;
- provide that the time a recalculated amount becomes payable or the period within which a party may apply for a variation order remains unchanged despite a correction to a statement of recalculation;
- provide for deemed receipt of documents at the end of a prescribed period;

Powers Of Enforcement Officer

- permit an enforcement officer to demand information in order to ensure the safety of a person the enforcement officer is assisting;

Regulations

- permit regulations to be made regarding the manner and form in which a party can request a correction of an error in a statement of recalculation and the time within which such a request must be made;

Financial Institutions Act to:

- provide that the Financial Services Tribunal may decline jurisdiction to apply the *Human Rights Code*, and that the Tribunal does not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Forest and Range Practices Act to:

- provide that the Forest Practices Board may decline jurisdiction to apply the *Human Rights Code*, and that the Board does not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Hospital Act to:

- provide that the Hospital Appeal Board may decline jurisdiction to apply the *Human Rights Code*, and that the Board does not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Human Rights Code to:

- provide for notice to and the intervention of the Attorney General in respect of a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Industry Training Authority Act to:

- provide that the Industry Training Appeal Board may decline jurisdiction to apply the *Human Rights Code* and that the Board does not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Labour Relations Code to:

- permit the Labour Relations Board to decline jurisdiction to apply the *Human Rights Code*;
- set out what the Labour Relations Board may consider when determining whether to exercise jurisdiction;
- provide for notice to and the intervention of the Attorney General;

Legal Profession Act to:

Benchers

- give authority to the benchers to make rules permitting the practice standards committee;
- make orders imposing conditions or limitations on the practice of a lawyer, if the lawyer's competence is subject to investigation and to make rules in respect of such orders;
- allow remaining benchers to act in respect of a review if quorum is lost;

Court

- give the Supreme Court power, on application by the society, to issue a letter of request to another jurisdiction for the purpose of obtaining evidence in that other jurisdiction;

Custodian

- permit the court to appoint the society as custodian of a lawyer's practice;
- require the executive director of the society to designate an employee, or retain a person, who is a practising lawyer to act as custodian on behalf of the society;
- empower the court to appoint the society as custodian of a lawyer's practice;

Legal Services Society Act to:

- remove references to “low income individuals” regarding the objects of the society and replace these references with “individuals”;
- add a provision providing advice to the Attorney General respecting “access to justice” instead of simply providing advice on legal aid regarding the objects of the society;

- require the society to give priority to identifying and assessing the legal needs of low-income individuals in British Columbia;
- require the society to be flexible and innovative in the manner in which it carries out its objects, deleting “provides legal aid” and replacing it with “carries out its objects”;

Manufactured Home Park Tenancy Act to:

- provide that the director does not have jurisdiction to apply the *Human Rights Code*;

Mental Health Act to:

- provide that the board and members of review panels may decline jurisdiction to apply the *Human Rights Code* and do not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Motor Vehicle Act to:

- permit ICBC to refuse to issue a driver's licence to a person whose driver's licence has been refused in another province or territory of Canada for failure to pay maintenance in that province or territory;
- make owners of motor vehicles liable for prescribed contraventions in relation to parking;
- add a power to prescribe enactments in relation to parking for which an owner of a motor vehicle is liable;

Natural Products Marketing (BC) Act to:

- provide that the British Columbia Farm Industry Review Board may decline jurisdiction to apply the *Human Rights Code* and does not have jurisdiction over a question of whether there is a conflict between the *Human Rights Code* and any other enactment;

Offence Act, including to:

- add the authority to mail violation tickets regarding prescribed parking offences;
- permit service of violation tickets on individuals and corporations located outside the province;
- permit defendants to appear electronically at violation ticket trials for prescribed offences or for prescribed offences in prescribed circumstances;
- add authority to make regulations prescribing offences, or offences and circumstances, in relation to which defendants may appear electronically;

Passenger Transportation Act to:

- provide that the Passenger Transportation Board does not have jurisdiction to apply the *Human Rights Code*;

Petroleum and Natural Gas Act to:

- provide that the Mediation and Arbitration Board does not have jurisdiction to apply the *Human Rights Code*;

Provincial Court Act to:

- permit the Chief Judge of the Provincial Court, instead of the Attorney General, to designate administrative judges;
- permit the chief administrator of court services to disclose to the chief judge information regarding the conduct of persons appointed to carry out duties under the Act;

Residential Tenancy Act to:

- provide that the director does not have jurisdiction to apply the *Human Rights Code*;

Safety Standards Act to:

- provide that the Safety Standards Appeal Board does not have jurisdiction to apply the *Human Rights Code*;

School Act to:

- provide that the superintendent of achievement and an adjudicator do not have jurisdiction to apply the *Human Rights Code*;

Securities Act to:

- permit the British Columbia Securities Commission to decline jurisdiction to apply the *Human Rights Code* and set out what the British Columbia Securities Commission may consider when determining whether to exercise jurisdiction and provide for notice to and the intervention of the Attorney General;

Supreme Court Act to:

- permit the Chief Justice to require a judge of the court to attend meetings relating to the administration of justice;
- permit the chief administrator of court services to disclose to the Chief Justice information regarding the conduct of persons appointed to carry out duties under the Act;

Utilities Commission Act to:

- provide that the British Columbia Utilities Commission does not have jurisdiction to apply the *Human Rights Code*;

Workers Compensation Act to:

- permit an absent or incapacitated member of the Workers' Compensation Appeal Tribunal to return to less than full duty and permits a person appointed to replace the absent or incapacitated

member to continue as a replacement until the absent or incapacitated member returns to full duty, unless the member's term expires;

- provide that the Workers' Compensation Appeal Tribunal does not have jurisdiction to apply the *Human Rights Code*.

Interpretation Act to:

- add a new section to provide that, if an enactment refers to a matter "under" a named or unnamed Act, an Act in that reference includes regulations enacted under the authority of that Act.

In Force: On Royal Assent or by regulation for specified provisions

***ENFORCEMENT OF CANADIAN JUDGMENTS AND DECREES
(TRADE, INVESTMENT AND LABOUR MOBILITY AGREEMENT)
AMENDMENT ACT, 2007 (BILL 17) (FIRST READING APRIL 15,
2007)***

Amended: *Enforcement of Canadian Judgments and Decrees Act*, S.B.C. 2003, c. 29

Transitional

Provisions: None

Statutes

Repealed: None

Summary: By way of background, in April 2006, British Columbia signed the Trade, Investment and Labour Mobility Agreement between British Columbia and Alberta (TILMA) (copy available: http://www.gov.bc.ca/ecdev/popt/media_room/bc_ab_trade_investment_mobility_agreement.htm).

TILMA

April 1, 2007, TILMA will be in force with a 2 year transition.

April 1, 2009, TILMA will be fully operational.

TILMA was never introduced as a bill in the BC Legislature. The BC government's position is that it did not need to introduce legislation to sign and implement TILMA.

Under TILMA, each province has agreed to make a compliance award enforceable as if it were an order issued by the respective province's superior court.

BILL 17

Bill 17 amends the *Enforcement of Canadian Judgments and Decrees Act*.

Section 1 recognizes that panel monetary and costs awards under TILMA are Canadian judgments for the purposes of the Act. Section 1 also sets out rules for how the Act is to be read when it applies to those awards.

Section 2 provides that specified provisions of the Act do not apply to TILMA panel awards and confirms that orders under the applicable provisions of section 6 of the Act regarding applications to the Supreme Court for directions on enforcement are subject to the *Crown Proceeding Act*.

In Force: April 1, 2007 and retroactive to the extent necessary to give it effect on and after that date

FINANCE STATUTES AMENDMENT ACT, 2007, S.B.C. 2007, C. 7 **(BILL 14)**

Amended: *Business Corporations Act*, S.B.C. 2002, c. 57; *Cooperative Association Act*, S.B.C. 1999, c. 28; *Real Estate Development Marketing Act*, S.B.C. 2004, c. 41; *Real Estate Services Act*, S.B.C. 2004, c. 42

Transitional Provisions: None

Statutes Repealed: None

Summary: Bill 14 amends 4 statutes.

Bill 14 amends the:

Business Corporations Act including to:

- add definitions of "limited company" and "unlimited liability company";

Unlimited Liability Companies

- add a new Part 2.1 (Unlimited Liability Companies) to permit unlimited liability companies, including to:
 - impose joint and several liability on shareholders and former shareholders of an unlimited liability, subject to a former shareholder defence against this liability;

- permit a limited company to become an unlimited liability company by altering its notice of articles;
- permit an unlimited liability to become a limited company by altering its notice of articles;
- create rules on notices of articles and share certificates;
- state name requirements;
- list amalgamation requirements;
- permit foreign corporations to be continued into British Columbia as an unlimited liability company;
- prohibit a foreign unlimited liability corporation to be continued into British Columbia as a limited company;

Uncertificated Shares

- permit a company the option to use uncertificated shares;
- set out rules for certificated or uncertificated shares;

Meetings

- provide the directors, if a loss of quorum of directors occurs, the option of calling a shareholders' meeting, or of appointing temporary directors, and clarifies the term of temporary directors;
- clarify rules regarding passing of resolutions;

Offence

- make it an offence to use, in British Columbia, a name that suggests that a corporation is an unlimited liability company unless that corporation is an unlimited liability company or a foreign unlimited liability corporation;

Regulations and Fees

- permit regulations to be made to regulate unlimited liability companies, including permitting persons to use the terms "Unlimited Liability Company", "Unlimited Liability Corporation" or "ULC",
- set a fee schedule for unlimited liability companies;

Cooperative Association Act, including to:

Definitions

- add definition of “community service cooperative”;
- add definition of BC "*Company Act*";
- add definition of "federal corporation";

Company Act Provisions Included In The Act By Bill 14, including provisions regarding:

- reduction of capital;
- debentures;
- change of auditors;
- cooperatives;
- audit committees;
- records that cooperatives are required to keep at their records offices;
- oppressive or prejudicial actions of cooperatives;
- court applications;
- court-ordered investigations;
- cooperative-requested investigations;
- inspectors and inspectors' reports;
- extraprovincial associations;
- winding up of cooperatives;
- offences; and
- penalties;

Community Service Cooperatives

- establish requirements for cooperatives seeking to become community service cooperatives;

Real Estate Development Marketing Act

- clarify that a deposit cannot be released unless a purchaser has no rights to rescission;
- clarify that an exemption can be from all or part of a provision.

Real Estate Services Act, including to:

- limit exceptions to this section to a licensee who is providing trading services in relation to a trade in real estate, and expands the accounts into which remuneration may be paid;
- clarify that remuneration is part of the compensable loss that may be claimed by a principal, but cannot be claimed by a licensee or former licensee;
- add a new division to permit the real estate council to require the compensation fund corporation to pay money if there has been a compensable loss, for the purpose of completing a trade in real estate or preventing further significant compensable loss.

In Force: Royal Assent and regulation for specified sections

HUMAN RIGHTS CODE (MANDATORY RETIREMENT ELIMINATION) AMENDMENT ACT, 2007, S.B.C. 2007, C. 21 (BILL 31)

Amended: *Human Rights Code*, R.S.B.C. 1996, c. 210. Consequential amendment made to the *Public Service Act*

Transitional Provisions: None

Statutes Repealed: None

Summary: Bill 31 amends the *Human Rights Code* to:

- eliminate mandatory retirement at age 65 by amending the definition of “age” to mean “an age of 19 years or more”;
- permit a distinction on the basis of age if that distinction is permitted or required by any Act or regulation;
- provide that communications related to activities permitted under the Code are not prohibited;
- add age as a prohibited ground of discrimination in the provision of any accommodation, service or facility customarily available to the public;
- provide that contracts of insurance--be they bona fide retirement, superannuation or pension plans or group or employee insurance plans whether or not a plan is the subject of a contract of insurance between

an insurer and an employer--may continue to differentiate on the basis of age without violating the Code's prohibition against discrimination in employment.

Bill 31 repeals the section of the *Public Service Act* that requires employees to retire at age 65.

In Force: Act comes into force on January 1, 2008

SECURITIES AMENDMENT ACT, 2007 (BILL 28) (FIRST READING APRIL 18, 2007)

Amended: *Securities Act*, R.S.B.C. 1996, c. 418. Consequential amendments are made to the *Securities Amendment Act, 2006*, S.B.C. 2006, c. 32

Transitional
Provisions: None

Statutes
Repealed: None

Summary: Bill 28 amends the *Securities Act*, including to:

Harmonization

- harmonize with legislation in other jurisdictions, including:
 - adding a definition of "forward-looking information" to harmonize defences for civil liability mechanisms with defences available in other Canadian jurisdictions;
 - amending the definition of "material fact";
 - broadening the requirement to require investment fund managers to register;
 - amending provisions regarding manipulation and fraud;
 - harmonizing the defences available to statutory civil actions with those defences under Ontario legislation;
 - permitting the British Columbia Securities Commission (the "Commission") to specify additional classes of mutual funds, non-redeemable investment funds and reporting issuers, which is a power available to securities regulators in several other Canadian jurisdictions;

British Columbia Securities Commission

- permit parties to consent to a commissioner hearing a matter;
- increase the existing prohibition to include representations regarding an issuer's disclosure;
- add provisions prohibiting obstruction of justice and require that a person that gives a written undertaking to the Commission or the executive director must comply with the undertaking;

Civil Liability for Secondary Market Disclosure

- add a new Part 16.1 (Civil Liability for Secondary Market Disclosure), reproducing legal remedies in Ontario legislation, including to:
 - impose liability upon a public company as well as those responsible for the company's disclosure for making misleading statements, whether written or oral;
 - establish rules regarding burden of proof and defences;
 - provide for assessment of damages;
 - where liability is found, to require courts to determine proportionate liability;
 - set limits on damages;
 - provide for procedural matters, including:
 - leave to proceed,
 - notice,
 - discontinuation of actions,
 - Commission power to intervene,
 - no derogation from other rights,
 - limitation on commencing actions regarding liability for secondary market disclosure,

Reviews

- add a provision permitting a compliance review of a self regulatory body or an exchange;
- add a provision permitting a compliance review of a registrant, investment fund manager or custodian;
- add a provision permitting a compliance review of a reporting issuer
- broaden the grounds upon which a freeze order may be issued;
- amend the disgorgement power to make it consistent with other disgorgement powers currently in the Act;
- expand the remedial powers of the court;
- expand the Commission's remedial powers to other securities market participants;
- clarify that persons that may be subject to some of the expanded remedial powers of the commission;

- eliminate the duty of the executive director to notify the commission of some of the director's decisions;
- eliminate the duty of a designated organization or delegate to notify the commission of its decisions;

Authority

- clarify the authority to make rules requiring membership in a self regulatory organization as a condition of registration or before engaging in specified conduct;
- create authority to make rules regulating auditors of reporting issuers;
- create authority to make rules relating to the new civil liability regime proposed by Bill 28;
- create authority to establish principles relating to the calculation of monetary penalties;
- provide authority to define terms relevant to the new civil liability regime proposed by Bill 28;
- clarify the Commission's power to set fees;
- clarify the Commission's power to issue guidance regarding the interpretation of securities legislation.

In Force: On Royal Assent or by regulation for specified provisions

TOBACCO SALES (BANNING TOBACCO AND SMOKING IN PUBLIC PLACES AND SCHOOLS) AMENDMENT ACT, 2007, S.B.C. 2007, C. 12 (BILL 10)

Amended: *Tobacco Sales Act*, R.S.B.C. 1996, c. 451. Consequential amendments are made to the: *Tobacco Sales (Preventing Youth Access to Tobacco) Amendment Act, 2006*, S.B.C. 2006, c. 10; *Tobacco Tax Act*, R.S.B.C. 1996, c. 452

Transitional Provisions: None

Statutes Repealed: None

Summary: Bill 10 amends the *Tobacco Sales Act*, including to:

- repeal the name of the “*Tobacco Sales Act*” and substitute it with the “*Tobacco Control Act*”;
- add the definition of "lease"; lease “means to lease as either lessor or lessee”;
- ban the sale of tobacco in certain public places,
- ban smoking in:
 - schools and in or on school property,
 - in certain public places and workplaces except for ceremonial use of tobacco in relation to a traditional aboriginal cultural activity or by a prescribed group for a prescribed purpose;
 - prohibit displays or advertisements of tobacco in any manner that is contrary to the regulations;
- if any person contravenes the ban regarding smoking in or near certain places, the employer, manager, owner and lessee of the place (as the case may be) is deemed to be liable for the contravention, subject to the defence that these persons show that they have exercised reasonable care and diligence to prevent the contravention;
- permit enforcement officers to enter and inspect school property and certain public places and workplaces for the purpose of enforcing Bill 10;
- add regulation-making authority;
- provide that contravention of any of the new sections banning smoking and other related matters by Bill 10 is an offence.

In Force: On Royal Assent or by regulation as specified for specific provisions

END