

2016 Legislative Session: 5th Session, 40th Parliament
FIRST READING

The following electronic version is for informational purposes only.
The printed version remains the official version.

HONOURABLE MICHAEL DE JONG
MINISTER OF FINANCE

BILL 28 – 2016
MISCELLANEOUS STATUTES (HOUSING PRIORITY INITIATIVES)
AMENDMENT ACT, 2016

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

PART 1 – COMMUNITY, SPORT AND CULTURAL
DEVELOPMENT AMENDMENTS

Vancouver Charter

Explanatory Note

1 *The Vancouver Charter, S.B.C. 1953, c. 55, is amended by adding the following Part:*

PART XXX – VACANCY TAX

Definitions for this Part

615. In this Part

"property status declaration" means a property status declaration required under section 618 (a) [*permissive vacancy tax by-law powers*];

"residential property", subject to any applicable regulations, means real property classified as class 1 property (residential) under the *Assessment Act*;

"status", in relation to a residential property, means whether the property is any of the following, as applicable:

- (a) in a category of residential property that is exempt under section 617 (f) [*required vacancy tax by-law provisions*] from the vacancy tax;
- (b) vacant property;

(c) taxable property;

"taxable property", in relation to a vacancy tax, means residential property that is all of the following:

(a) vacant property;

(b) not exempt from taxation under section 373 [*annual rating by-law*];

(c) not in a category of residential property that is exempt under section 617 (f) from the vacancy tax;

"vacancy reference period" means a period of time specified by a vacancy tax by-law for the purpose of determining whether residential property was unoccupied during the period such that it is vacant property;

"vacancy tax" means a tax imposed on taxable property by a vacancy tax by-law;

"vacancy tax by-law" means a by-law under section 616 (1) [*vacancy tax*];

"vacant property" means residential property that is unoccupied during the vacancy reference period for at least the total length of time specified by a vacancy tax by-law and in the circumstances established in the vacancy tax by-law.

Vacancy tax

616. (1) The Council may, by by-law, impose an annual vacancy tax on a parcel of taxable property in accordance with this Part.

(2) A registered owner of taxable property must pay the vacancy tax imposed on that parcel of taxable property by a vacancy tax by-law.

(3) A vacancy tax, together with any applicable penalties and interest payable under section 618 (d) [*permissive vacancy tax by-law powers*], owed to the city is a debt due to the city and is a levy that

(a) is a charge or lien on the real property on or in respect of which the vacancy tax is imposed,

(b) has priority over any claim, lien, privilege or encumbrance of any person except the Crown, and

(c) does not require registration to preserve it.

(4) The city may use monies raised from a vacancy tax only for the purposes of initiatives respecting affordable housing and for the administration and collection of the vacancy tax.

Required vacancy tax by-law provisions

617. A vacancy tax by-law must do the following:

(a) provide for a process for the administration and collection of a

vacancy tax;

(b) establish circumstances in which residential property is to be considered unoccupied;

(c) specify a vacancy reference period and the total length of time that apply for the purpose of determining whether a residential property is vacant property;

(d) establish the basis on which the vacancy tax is imposed, which may be any basis in relation to taxable property;

(e) establish the rate or amount of the vacancy tax;

(f) establish exemptions from the vacancy tax;

(g) establish requirements respecting notice to a registered owner of a residential property that is subject to the vacancy tax;

(h) provide for a record of taxable properties and for a process to correct and update that record;

(i) provide for a process to hear and determine complaints respecting the imposition of a vacancy tax, including providing for a review process for determinations of complaints;

(j) provide for a process to refund to a registered owner any excess amount of vacancy tax paid by the registered owner and any amount of penalty and interest paid under section 618 (d) [*permissive vacancy tax by-law powers*] on the excess;

(k) provide for the preparation of an annual report respecting the vacancy tax, which report must include the amount of monies raised from the vacancy tax and how the monies were used;

(l) provide for making the annual report referred to in paragraph (k) available to the public.

Permissive vacancy tax by-law powers

618. A vacancy tax by-law may do any of the following:

(a) provide that a registered owner of a residential property must make a property status declaration;

(b) establish requirements and provide for a process respecting property status declarations;

(c) provide for requiring a registered owner of a residential property to provide information respecting the status of the property, including providing information to support a property status declaration and submitting evidence to verify the declaration;

(d) establish penalties and interest payable for failure to pay the vacancy tax and for failure to pay the vacancy tax by a specified date;

- (e) authorize employees of the city or other persons to enter onto residential property in accordance with section 621 [*entering onto residential property*];
- (f) provide that a vacancy tax is a levy lawfully inserted in the real-property tax roll and, if that provision is made, section 409 (2) and (3) [*special charges that are to be collected as real-property taxes*] applies.

Vacancy tax by-law variation power

619. The Council may, in a vacancy tax by-law,

- (a) establish categories of residential property, registered owners and vacant property,
- (b) make different provisions for different categories established under paragraph (a) in respect of the following:
 - (i) different vacancy reference periods and different total lengths of time that apply for the purpose of determining whether a residential property is vacant property;
 - (ii) different rates or amounts of vacancy tax;
 - (iii) different exemptions;
 - (iv) different requirements respecting notices to a registered owner;
 - (v) different requirements respecting a property status declaration, including respecting any information or evidence required under section 620 [*property status declarations*];
 - (vi) different requirements respecting information that a registered owner must provide respecting the status of a residential property of the owner, and
- (c) make different provisions for different times, conditions or circumstances.

Property status declarations

620. (1) For the purposes of administering a vacancy tax, a vacancy tax by-law may do any of the following respecting property status declarations:

- (a) provide for requiring a registered owner of a residential property to provide information respecting the property and the identity and address of the registered owner and the individual occupying the property, if any, which may include information respecting the status of the property and the nature of its occupancy during the vacancy reference period;
- (b) require a registered owner of a residential property to submit evidence necessary to verify a property status declaration and the status of the property during the vacancy reference period;

- (c) specify the type and form of information that a registered owner must provide or of the evidence that a registered owner must submit;
- (d) provide for determining the information and evidence that is to be considered satisfactory to demonstrate the status of a residential property;
- (e) establish fines and penalties that may be imposed on a registered owner who, in relation to a residential property,
 - (i) fails to make a property status declaration,
 - (ii) makes a false property status declaration,
 - (iii) fails to provide required information or to submit required evidence,
 - (iv) provides information or submits evidence that is not considered satisfactory, or
 - (v) provides false information or submits false evidence;
- (f) provide that, if a registered owner does anything listed in paragraph (e) (i) to (v), the residential property is considered to be vacant property and is subject to the vacancy tax.

(2) For certainty, a vacancy tax by-law may require a registered owner to provide information or submit evidence whether or not the owner makes a property status declaration.

Entering onto residential property

- 621 .** (1) The authority to enter onto a residential property may be exercised by an authorized employee of the city or other person authorized by the city only
- (a) in relation to a residential property for which a property status declaration may be required under a vacancy tax by-law,
 - (b) for the purpose of determining the status of the property and whether the property is subject to the vacancy tax,
 - (c) at reasonable times and in a reasonable manner, and
 - (d) after reasonable steps are taken to advise the registered owner and the individual occupying the property, if any, before entering onto the property.
- (2) An authorized employee of the city or other authorized person may enter into a residential property that is a private dwelling only if the individual occupying the property, if any, consents.

Regulations

- 622 .** (1) For the purposes of this Part, the Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations for the purposes of the definition of "residential property" in

section 615 [*definitions for this Part*]

- (a) excluding real property that is expressly included as class 1 property (residential) under the *Assessment Act*, and
- (b) including real property that is expressly excluded from class 1 property (residential) under the *Assessment Act*.

PART 2 – FINANCE AMENDMENTS***Property Transfer Tax Act*****Explanatory Note****2 Section 2 of the *Property Transfer Tax Act*, R.S.B.C. 1996, c. 378, is amended**

(a) in subsection (2) by striking out "section 3 or 38" and substituting "section 2.02 and section 3 or 38",

(b) in subsection (5) by striking out "file a return and pay tax at the rate set out in section 3" and substituting "file a return under this section and pay tax under this section and section 2.02", and

(c) in subsection (8) by repealing paragraph (a) and substituting the following:

- (a) the tax under subsection (1) or section 2.02 (3) has not been paid or the return required by subsection (1) of this section is incomplete or has not been filed, and .

Explanatory Note**3 The following sections are added:****Definitions in relation to additional tax imposed**

2.01 In this section and sections 2.02 and 2.03:

"controlled", in relation to the control of a corporation, means controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the *Income Tax Act* (Canada);

"foreign corporation" means a corporation that is one of the following:

- (a) a corporation that is not incorporated in Canada;
- (b) unless the shares of the corporation are listed on a Canadian stock exchange, a corporation that is incorporated in Canada and is controlled by one or more of the following:
 - (i) a foreign national;
 - (ii) a corporation that is not incorporated in Canada;
 - (iii) a corporation that would, if each share of the corporation's capital stock that is owned by a foreign national or by a corporation described in paragraph (a) of this definition were

owned by a particular person, be controlled by the particular person;

"foreign entity" means a foreign national or a foreign corporation;

"foreign national" means an individual who is a foreign national as defined in section 2 (1) of the *Immigration and Refugee Protection Act* (Canada);

"residential property" means any of the following:

(a) land or improvements, or both, as defined in section 1 (1) of the *Assessment Act*, that are described as class 1 property in section 1 of the Prescribed Classes of Property Regulation, B.C. Reg. 438/81, but does not include prescribed land or improvements;

(b) an area of land, not including improvements, that

(i) is not larger than 0.5 ha in area, and

(ii) is classified as a farm under the *Assessment Act* only because the land is used for

(A) an owner's dwelling as defined in section 23 (0.1) of the *Assessment Act*, or

(B) a farmer's dwelling as defined in section 1 (1) of the Classification of Land as a Farm Regulation, B.C.

Reg. 411/95;

"specified area" means any of the following:

(a) the Greater Vancouver Regional District, other than both of the following:

(i) subject to paragraph (b), the treaty lands of the Tsawwassen First Nation;

(ii) a prescribed area within the Greater Vancouver Regional District;

(b) the treaty lands of the Tsawwassen First Nation, if those treaty lands are prescribed for the purposes of this definition;

(c) a prescribed area that is not within the Greater Vancouver Regional District;

"taxable trustee", in relation to a taxable transaction, means a trustee of a trust in respect of which

(a) any trustee is a foreign entity, or

(b) no trustee is a foreign entity but, immediately after the registration of the taxable transaction, a beneficiary of the trust who is a foreign entity holds a beneficial interest in the residential property to which that taxable transaction relates;

"trust" does not include the following:

(a) a mutual fund trust within the meaning of section 132 (6) of the

Income Tax Act (Canada);

(b) a real estate investment trust as defined in section 122.1 (1) of the *Income Tax Act* (Canada);

(c) a SIFT trust as defined in section 122.1 (1) of the *Income Tax Act* (Canada).

Additional tax imposed

2.02 (1) The tax imposed under this section in respect of a taxable transaction is in addition to the tax imposed under section 2 (1) in respect of the taxable transaction.

(2) Subsection (3) applies to a taxable transaction if

(a) the subject matter of the taxable transaction includes residential property located, in whole or in part, within a specified area, and

(b) any transferee is a foreign entity or taxable trustee, or both.

(3) On application at a land title office for registration of a taxable transaction to which this subsection applies, the transferee must

(a) pay tax to the government, in accordance with subsection (4), by the means, at the time and in the manner required by the administrator,

(b) include with the return filed under section 2 (1) (b) the information and records required by the administrator, and

(c) unless the administrator specifies otherwise, file the form established by the administrator, by the means, at the time and in the manner required by the administrator, whether or not the taxable transaction is exempt under this Act.

(4) The tax payable under subsection (3) by the transferee is,

(a) unless paragraph (b) of this subsection applies, 15% of the taxable amount, or

(b) if a rate of tax is prescribed for the purposes of this subsection, the amount determined by multiplying the prescribed rate by the taxable amount.

(5) For the purposes of subsection (4) and subject to section 2.03, the taxable amount in respect of a taxable transaction is as follows:

(a) in the case of a taxable transaction in respect of which each transferee is a foreign entity or taxable trustee, or both, the taxable transaction's fair market value;

(b) in any other case, the total of all amounts, each of which is one of the following:

(i) in the case of a transferee who is a foreign entity and is not a taxable trustee, the transferee's proportionate share of the

taxable transaction's fair market value;

(ii) in the case of a transferee who is a taxable trustee, the transferee's proportionate share of the taxable transaction's fair market value.

(6) For the purposes of calculating the taxable amount under subsection (5) (b) in respect of a taxable transaction whose subject matter includes residential property located, in whole or in part, in a specified area,

(a) if, immediately after the registration of the taxable transaction, a foreign entity holds an interest in the residential property as a taxable trustee and in a capacity other than as a taxable trustee, the foreign entity is deemed to be

(i) a transferee under subsection (5) (b) (i) in respect of the interest held in the capacity other than as a taxable trustee, and

(ii) a separate transferee under subsection (5) (b) (ii) in respect of the interest held as a taxable trustee, and

(b) if there is more than one taxable trustee of a trust, including any taxable trustee who is deemed under paragraph (a) (ii) to be a separate transferee, all of the trustees of the trust are deemed to be a single transferee.

(7) For certainty, each transferee under a taxable transaction referred to in subsection (3) is jointly and severally liable to pay the total amount of tax owing under that subsection in respect of that taxable transaction.

Additional tax imposed – calculation of tax if transaction includes non-residential property

2.03 If the subject matter of a taxable transaction to which section 2.02 (3) applies includes land that is not residential property, the taxable amount for the purposes of section 2.02 (4) is the taxable amount calculated as follows:

$$\frac{\text{VTA}}{\text{VFS}} \times \text{VRP}$$

where

VTA is the amount that, but for this section, would be the taxable amount under section 2.02 (5) in respect of the taxable transaction;

VFS is the value of the fee simple interest in the land that is the subject matter of the taxable transaction, determined

(a) as though that land were being transferred in a taxable transaction referred to in paragraph (a) (i) of the definition of "taxable transaction" in section 1 (1), and

(b) in accordance with paragraph (a) of the definition of "fair market value" in section 1 (1);

VRP is, subject to the regulations, the value of the residential property included in the subject matter of the taxable transaction, determined

- (a) as though that residential property were being transferred in a taxable transaction referred to in paragraph (a) (i) of the definition of "taxable transaction" in section 1 (1), and
- (b) in accordance with paragraph (a) of the definition of "fair market value" in section 1 (1).

Additional tax imposed – anti-avoidance rule

2.04 (1) In this section:

"avoidance transaction" means a transaction

(a) that, but for this section, would result, directly or indirectly, in a tax benefit, or

(b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit,

but does not include a transaction that may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than for the purpose of obtaining a tax benefit;

"tax benefit" means a reduction, avoidance or deferral of tax payable under section 2.02;

"transaction" includes an arrangement or event.

(2) For the purposes of this section, a series of transactions is deemed to include any related transactions completed in contemplation of the series.

(3) If a transaction is an avoidance transaction, the administrator may determine the tax consequences to a transferee in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

(4) The tax consequences to any person, after the application of this section, must be determined only through an assessment under section 18.

Explanatory Note

4 Sections 2.1 (2) and 2.2 (2) are amended by striking out "Despite section 2," and substituting "Despite sections 2 and 2.02,".

Explanatory Note

5 Section 3 is amended

(a) in subsection (1) by striking out "The tax payable under this Act" and substituting "The tax payable under section 2", and

(b) by adding the following subsection:

(1.1) Subsections (2) to (7) do not apply to tax under section 2.02 (3).

Explanatory Note

6 Section 3.1 (2) is amended by striking out "Despite section 3 (1)," and substituting "Despite sections 2.02 (3) and 3 (1)," and by striking out "in accordance with section 3 (1) as that section read on the date of registration" and substituting "in accordance with this Act and the regulations, as they read on the date of registration".

Explanatory Note

7 Section 13 is amended

(a) by striking out "The return required by section 2 must be certified" and substituting "The return required by section 2 (1) (b) and the form required by section 2.02 (3) (c) must be certified," and

(b) in paragraphs (a) and (c) by striking out "the return" and substituting "the return or form".

Explanatory Note

8 Section 14 is amended by adding the following subsection:

(2.1) Despite subsections (3) and (4), a transferee is not exempt from the payment of tax under section 2.02 (3) in respect of a taxable transaction that is a transfer described in subsection (3) (m) or (4) (q) or (u) of this section.

Explanatory Note

9 Section 16 is amended

(a) in subsection (3) by striking out "payment of tax" and substituting "payment of tax under section 2",

(b) in subsection (7) by striking out "exempt from tax" and substituting "exempt under subsection (3) from tax", and

(c) in subsection (8) (b) by striking out "as tax payable under this Act," and substituting "as tax payable under section 2,".

Explanatory Note

10 Section 17 is amended by adding the following paragraph:

(a.1) information required to be provided under this Act is accurate, .

Explanatory Note

11 Section 18 is amended by adding the following subsection:

(5.1) In respect of a taxable transaction to which section 2.02 (3) applies, the administrator must issue the notice of assessment within 6 years after

(a) the date that the transaction was registered in the land title office,
or

(b) the expiry of the prescribed period under section 2 (5),

as the case may be.

Explanatory Note

12 Section 23 (2) is amended by striking out "section 2 (1) of this Act," and substituting "section 2 (1) or 2.02 (3),".

Explanatory Note

13 Section 31 (1) (b) (i) (B) is amended by striking out "is or should be in a return or record" and substituting "is or should be in, or provided with, a return or record".

Explanatory Note

14 Section 34 is amended

(a) in subsection (2) (a) by striking out "under this Act;" and substituting "under this Act, or in information required to be provided under this Act;";

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

(b) an amount not exceeding

(i) \$200 000, in the case of an offence in relation to the tax imposed under section 2.02, or

(ii) \$50 000, in any other case. , **and**

(c) by repealing subsection (5) (a) (ii) and substituting the following:

(ii) an amount not exceeding

(A) \$100 000, in the case of an offence in relation to the tax imposed under section 2.02, or

(B) \$25 000, in any other case, .

Explanatory Note

15 Section 35 is amended

(a) by renumbering the section as section 35 (1),

(b) in subsection (1) by striking out "An information or complaint" and substituting "Subject to subsection (2), an information or complaint", and

(c) by adding the following subsection:

(2) An information or complaint in respect of an offence in relation to the tax imposed under section 2.02 must be laid or made within 6 years after the date that the matter of the information or complaint arose.

Explanatory Note

16 Section 37 is amended

(a) in subsection (2) (b) by striking out "from tax or from the requirement to file a return" and substituting "from tax under section 2 (1) (a) or from the requirement to file a return under section 2 (1) (b)",

(b) by adding the following subsection:

(2.1) Without limiting subsections (1) and (2), the Lieutenant Governor in Council may make regulations as follows:

- (a) for the purposes of paragraph (a) of the definition of "residential property" in section 2.01, prescribing land or improvements, or both, as land or improvements that are not residential property;
- (b) for the purposes of paragraph (a) (ii) of the definition of "specified area" in section 2.01, excluding an area within the Greater Vancouver Regional District from being a specified area within the meaning of that definition;
- (c) for the purposes of paragraph (b) of the definition of "specified area" in section 2.01, prescribing the treaty lands of the Tsawwassen First Nation as being a specified area within the meaning of that definition;
- (d) for the purposes of paragraph (c) of the definition of "specified area" in section 2.01, prescribing an area that is not within the Greater Vancouver Regional District as being a specified area within the meaning of that definition;
- (e) for the purposes of section 2.02 (4), prescribing a rate of tax that is not less than 10% and not greater than 20%;
- (f) subject to conditions that may be specified in the regulation, exempting any of the following from tax under section 2.02 (3) (a) or from the requirement to provide information or records under section 2.02 (3) (b) or to file a form under section 2.02 (3) (c):
 - (i) a person or class of persons;
 - (ii) a transferee or class of transferees;
 - (iii) a taxable transaction or class of taxable transactions;
- (g) in respect of tax under section 2.02 (3) (a) or in respect of the requirement to file a return under section 2 (1) (b), to provide information or records under section 2.02 (3) (b) or to file a form under section 2.02 (3) (c), and subject to conditions that may be specified in the regulation,
 - (i) deeming a foreign national or foreign corporation to be a person who is not a foreign national or foreign corporation, and
 - (ii) deeming persons within a class of foreign nationals or a class of foreign corporations to be persons who are not foreign nationals or foreign corporations;
- (h) for the purposes of the description of "VRP" in section 2.03, providing for the method of determining the value of residential property. , **and**

(c) in subsection (4) by striking out "or" at the end of paragraph (a), by adding ", or" at the end of paragraph (b) and by adding the following paragraph:

- (c) under subsection (2.1) (c), (d), (e) or (h) of this section.

17 Section 38 is amended by striking out "the tax payable under this Act" and substituting "the tax payable under section 2".

Real Estate Services Act

Explanatory Note

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

(a) by repealing the definition of "elected council member", and

(b) in the definition of "rules" by striking out "real estate council under section 86" and substituting "superintendent under section 89.2".

Explanatory Note

19 The following section is added to Division 2 of Part 2:

Brokerage responsibility respecting training and supervision

7.1 (1) A brokerage must ensure that the following individuals do not train or supervise managing brokers, associate brokers and representatives who are licensed in relation to the brokerage, unless the individual is licensed in relation to that brokerage:

(a) a partner, or a director, officer or shareholder of a corporation that is a partner, in the case of a brokerage that is a partnership;

(b) a director, officer or shareholder of the corporation, in the case of a brokerage that is a corporation;

(c) a sole proprietor, in the case of a sole proprietorship.

(2) For the purposes of this section, "**train or supervise**" means to train or supervise in respect of real estate services or the provision of real estate services.

Explanatory Note

20 Section 18 (e) is amended by striking out "section 86 (2) (b)" and substituting "section 89.2 (2) (b)".

Explanatory Note

21 Section 43 is amended

(a) in subsection (2) (i) (i) by striking out "\$20 000" and substituting "\$500 000",

(b) in subsection (2) (i) (ii) by striking out "\$10 000" and substituting "\$250 000",

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

(j) require the licensee to pay an additional penalty up to the amount

of the remuneration accepted by the licensee for the real estate services in respect of which the contravention occurred. ,

(d) by adding the following subsection:

(2.1) A discipline penalty imposed under subsection (2) (i) may be imposed for each contravention. , **and**

(e) by adding the following subsection:

(6) For the purposes of this section, "**contravention**" means an act or omission that is the subject of a determination under subsection (1) (a).

Explanatory Note

22 Section 44 is amended

(a) in subsection (3) by striking out "section 43 (2) (i)" and substituting "section 43 (2) (i) or, subject to the regulations, an additional penalty under section 43 (2) (j)", and

(b) in subsection (4) by striking out "section 43 (2) (h) or (i)" and substituting "section 43 (2) (h), (i) or (j)".

Explanatory Note

23 Section 49 is amended

(a) in subsection (2) (d) (i) by striking out "\$20 000" and substituting "\$500 000",

(b) in subsection (2) (d) (ii) by striking out "\$10 000" and substituting "\$250 000",

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

(e) require the person to pay an additional penalty up to the amount of the remuneration accepted by the person for the real estate services in respect of which the contravention occurred. ,

(d) by adding the following subsection:

(2.1) A penalty imposed under subsection (2) (d) may be imposed for each contravention. , **and**

(e) by adding the following subsection:

(4) For the purposes of this section, "**contravention**" means an act or omission that is the subject of a determination under subsection (1).

Explanatory Note

24 Section 50 is amended

(a) in subsection (2) (f) (i) by striking out "\$20 000" and substituting "\$500 000",

(b) in subsection (2) (f) (ii) by striking out "\$10 000" and substituting "\$250 000",

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

(g) require the licensee to pay an additional penalty up to the amount of the remuneration accepted by the licensee for the real estate services in respect of which the contravention occurred. ,

(d) by adding the following subsection:

(2.1) A penalty imposed under subsection (2) (f) may be imposed for each contravention. , **and**

(e) by adding the following subsection:

(4) For the purposes of this section, "**contravention**" means an act or omission that is the subject of a determination under subsection (1).

Explanatory Note**25 Section 56 is repealed and the following substituted:****Designated contraventions and penalty amounts**

56 (1) The superintendent may, by rule,

(a) designate contraventions of specified rules as being subject to administrative penalties under this Division, and

(b) establish the amount of administrative penalty that may be imposed in respect of each contravention of a specified rule, which may be

- (i) different for different levels or categories of licence, and
- (ii) different for first and subsequent contraventions.

(2) The maximum amount of administrative penalty that may be imposed under subsection (1) is \$50 000.

Explanatory Note

26 Section 73 (2) (a) is amended by adding ", subject to the oversight and direction of the superintendent under section 89.1," **after "administer"**.

Explanatory Note**27 Section 74 (1) is repealed and the following substituted:**

(1) The real estate council consists of 16 individuals, who are to be appointed by the Lieutenant Governor in Council.

Explanatory Note

28 Sections 74.1, 76 and 77 are repealed.

Explanatory Note

29 Section 78 is repealed and the following substituted:

Disqualification of council members

78 A council member ceases to hold office if

(a) the member

(i) contravenes a provision of this Act or the regulations, rules or bylaws,

(ii) contravenes a provision of another provincial or federal enactment, or

(iii) becomes bankrupt, and

(b) the superintendent or a majority of the other council members consider that the matter is sufficiently serious to justify the member's removal.

Explanatory Note

30 Section 80 is repealed and the following substituted:

Chair and vice chair

80 The chair and vice chair of the real estate council are appointed by the Lieutenant Governor in Council.

Explanatory Note

31 Section 82 (2) is amended by striking out "or rules".

Explanatory Note

32 Section 84 (2) is amended

(a) in paragraph (b) by striking out "for election as a council member, for temporary appointment as an elected council member, for election as chair or vice chair of the real estate council or",

(b) by repealing paragraph (c), and

(c) in paragraph (f) by striking out "or the making of rules".

Explanatory Note

33 Section 85.1 is amended

(a) in subsection (1) by striking out "and rules", and

(b) in subsection (2) by striking out "or rules".

Explanatory Note

34 Section 86 is repealed.

Explanatory Note

35 Section 87 is amended

- (a) in subsections (1) and (2) by striking out "and rules", and**
(b) in subsection (3) by striking out "or rules".

Explanatory Note

36 Section 88 is amended

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

- (b) a copy of the following:
- (i) its bylaws;
 - (ii) the rules;
 - (iii) the council rules, as defined in subsection (5); , **and**

(b) by adding the following subsection:

(5) Despite the definition of "rules" in section 1 [definitions], for the purposes of subsection (1) (b) (iii) of this section, "**council rules**" means any rules made by the real estate council before the coming into force of this subsection.

Explanatory Note

37 The following Part is added:

PART 6.1 – SUPERINTENDENT

Role of superintendent respecting real estate council

89.1 (1) The superintendent may oversee and direct the operations and activities of the real estate council, including requiring that the real estate council do one or more of the following:

- (a) investigate a particular matter;
- (b) issue, subject to subsection (4) (a), a notice of discipline hearing under section 40 [notice of discipline hearing];
- (c) establish committees, other than discipline committees, for purposes determined by the superintendent;
- (d) amend or repeal an existing bylaw or make a new bylaw;
- (e) provide information of a particular nature to be included in the following:
 - (i) discipline orders, or other orders, made by the real estate council under this Act;
 - (ii) communications by the real estate council to licensees;
 - (iii) communications by the real estate council made available to the public;
- (f) provide reports to the superintendent on the operations and activities of the real estate council;

(g) engage independent third parties to provide assessments of the operations and activities of the real estate council.

(2) The superintendent may serve as a member of a hearing committee established under section 83 [*hearing committees*], other than a discipline committee established under subsection (1) (a) of that section.

(3) The role of the superintendent does not include the following:

(a) the power to determine the content of the notice of discipline hearing under section 40 (2);

(b) the oversight or direction of a discipline committee, or the participation in its proceedings.

Superintendent rules

89.2 (1) Subject to the regulations, the superintendent may make rules that the superintendent considers necessary or advisable

(a) respecting licensing, or

(b) regulating licensees in relation to the provision of real estate services.

(2) Without limiting subsection (1) but subject to the regulations, the superintendent may make rules as follows:

(a) respecting licences and the issuing of licences, including rules

(i) establishing, within a licence level, different categories of licence that are restricted to particular real estate services as identified by the rules,

(ii) respecting the duration of licences,

(iii) respecting the education, experience or other qualifications for a person to obtain or renew a licence, including rules conferring discretion to determine equivalent qualifications,

(iv) respecting licensing in relation to branch offices of a brokerage, and

(v) providing for the granting of temporary licences to personal representatives of deceased licensees, including rules conferring discretion to establish conditions and restrictions applicable to a specific temporary licence;

(b) establishing conditions and restrictions applicable to licences;

(c) respecting the relationships between and among brokerages and their related licensees, including rules

(i) respecting the supervision of associate brokers and representatives by managing brokers, and

(ii) providing for a related licensee of a brokerage to act as a managing broker for the brokerage in the temporary absence of a managing broker for the brokerage;

- (d) requiring licensees to undertake continuing professional education;
 - (e) establishing or adopting standards of conduct and business practice standards for licensees, including rules
 - (i) respecting the keeping and operation of trust accounts by licensees,
 - (ii) regulating the operation of offices by licensees,
 - (iii) respecting the use of business names by licensees,
 - (iv) respecting the form and content of advertising carried out by licensees,
 - (v) establishing or providing for the establishment of standard forms for use in providing real estate services, and requiring their use by licensees, and
 - (vi) respecting the making of disclosures by licensees in relation to the provision of real estate services;
 - (f) requiring licensees to
 - (i) provide reports, returns and other information to the real estate council, and
 - (ii) allow the inspection and auditing of their books of account and other records by the real estate council;
 - (g) requiring licensees to acquire, maintain or provide a bond or other form of security and, in relation to this,
 - (i) respecting the amount and form of such security and the terms and conditions under which it is to be provided, and
 - (ii) respecting the forfeiture of the security and the payment of claims against the security;
 - (h) respecting any other matter for which rules are contemplated by this Act, including the designation of contraventions for the purposes of section 56 [*designated contraventions and penalty amounts*];
 - (i) respecting any other matters provided in the regulations.
- (3) Without limiting subsection (1) or (2) but subject to the regulations, the superintendent may make rules as follows:
- (a) providing for the payment of expenses, by an applicant, of hearings conducted by a hearing committee of the real estate council to determine whether the applicant is qualified to be licensed;
 - (b) establishing conditions and restrictions applicable to brokerages respecting the involvement of the following individuals in the brokerage's operations:
 - (i) a partner, or a director, officer or shareholder of a corporation that is a partner, in the case of a brokerage that is a partnership;

- (ii) a director, officer or shareholder of the corporation, in the case of a brokerage that is a corporation;
 - (iii) a sole proprietor, in the case of a sole proprietorship;
 - (c) establishing a code of ethics for licensees;
 - (d) establishing or providing for the establishment of standard terms to be included in proposed contracts or forms prepared by licensees for consideration by a party to whom or on whose behalf a licensee is providing real estate services;
 - (e) respecting the provision of real estate services to more than one party, including conditions and restrictions applicable to the provision of trading services to or on behalf of different parties to a trade in real estate;
 - (f) respecting agreements for the payment of remuneration to licensees, including information that must be included in agreements, and establishing conditions and restrictions for payment of the remuneration;
 - (g) requiring the making of disclosures or the provision of other information by licensees to parties to trades in real estate who are not represented by a licensee;
 - (h) implementing a registry of information respecting real estate sales data obtained from licensees;
 - (i) establishing conditions and restrictions on a licensee acquiring an interest in real estate if the licensee, or a related licensee, is providing real estate services in respect of that real estate;
 - (j) respecting the winding up of a brokerage or the transfer of the business of a brokerage, including requiring the appointment of a managing broker or other person to direct the winding up or transfer.
- (4) The superintendent may make different rules under this section in relation to
- (a) different levels of licences,
 - (b) different categories of licences, and
 - (c) different circumstances as described in the rules.
- (5) The superintendent may make different rules under subsection (2) (a) respecting the issuing of licences, the renewal of licences, the amendment of licences and the reinstatement of licences.
- (6) A rule under this section
- (a) may be made effective on
 - (i) the date on which it is made, or
 - (ii) a future date specified by the rule, and
 - (b) may be made applicable to current licensees either

- (i) at the time the rule becomes effective, or
- (ii) at the time of licence renewal.

(7) The authority of the superintendent to make rules under this section is subject to any restrictions or conditions established by regulation.

Consolidation and revision of rules

89.3 (1) Subject to the regulations, the superintendent may make rules giving effect to an editorial consolidation or revision of all or some of the rules that does one or more of the following:

- (a) consolidates provisions and omits spent provisions;
- (b) alters the form, style, punctuation, numbering and arrangement of provisions;
- (c) corrects typographical errors.

(2) The authority under subsection (1) does not include the authority to make substantive changes to the rules.

Procedures relating to rules

89.4 (1) The rules must be made in accordance with any applicable regulations.

(2) The superintendent must

- (a) publish copies of the rules, and
- (b) provide a copy of the rules to the real estate council for the purposes of section 88 (1) (b) (ii) [*council records*].

(3) The *Regulations Act* does not apply to the rules.

Explanatory Note

38 Section 119 is amended

(a) in subsections (1) (a) and (2) (a) by striking out "\$50 000" and substituting "\$1.25 million", and

(b) in subsections (1) (b) and (2) (b) by striking out "\$100 000" and substituting "\$2.5 million".

Explanatory Note

39 Section 122 (2) (c) is repealed and the following substituted:

(c) for a purpose authorized under the *Freedom of Information and Protection of Privacy Act* or as required by law.

Explanatory Note

40 Section 130 (2) is amended

(a) in paragraph (c) by striking out "rules and",

(b) by adding the following paragraphs:

(c.1) conferring additional powers and imposing additional duties and restrictions on the superintendent, including by prescribing matters respecting which the superintendent may or must make rules;

(d.1) prescribing the purposes for which any money that is received by the real estate council or the superintendent on account of an additional penalty under this Act may be expended; ,

(c) in paragraph (e) by striking out "and rules" and by striking out "and different types of rules",

(d) by adding the following paragraph:

(e.1) respecting procedures for the making and giving notice of rules by the superintendent, which may be different for different types of rules; , **and**

(e) in paragraph (h) by striking out "rules or bylaws" and substituting "bylaws or the superintendent may make rules".

Explanatory Note

41 Sections 131 to 137 are repealed.

Explanatory Note

42 The following sections are added to Part 9:

Definitions

137.1 In this Part:

"former council" means the real estate council that was in place immediately before the coming into force of this section;

"former elected council member" means an elected council member of the former council elected in accordance with section 74 [*council membership*] or temporarily appointed under section 76 (5) [*election of council members*], as those sections read immediately before the coming into force of this section;

"former strata owner representative" means a member of the former council appointed in accordance with section 74.1 [*strata owner representative*], as that section read immediately before the coming into force of this section.

Transition – council members

137.2 (1) On the coming into force of this section, the following members of the former council cease to hold office:

(a) the former elected council members;

(b) the former strata owner representative, if any.

(2) No legal proceeding for damages lies or may be commenced or maintained

as a result of a former elected council member or former strata owner representative ceasing to hold office.

(3) The council members of the former council who were appointed under section 74 (1) (b) [*council membership*], as that section read immediately before the coming into force of this section, continue to hold office under section 74 (1) as enacted by the *Miscellaneous Statutes (Housing Priority Initiatives) Amendment Act, 2016*.

Transition – superintendent rules

137.3 (1) The contraventions designated by regulation under section 56 (1) [*designated contraventions and penalty amounts*], as that section read immediately before the coming into force of this section, are deemed to have been designated by the superintendent, by rule, under section 56 (1) as enacted by the *Miscellaneous Statutes (Housing Priority Initiatives) Amendment Act, 2016*.

(2) The rules made under section 86 [*council rules*], as that section read immediately before the coming into force of this section, are deemed to be rules made by the superintendent under section 89.2 [*superintendent rules*] as enacted by the *Miscellaneous Statutes (Housing Priority Initiatives) Amendment Act, 2016*.

(3) Until the end of the first year after this section comes into force, the superintendent may make rules under section 89.2 without complying with section 89.4 (1) [*procedures relating to rules*].

Transition – discipline and hearing committees

137.4 In the event that, on the coming into force of this section,

(a) a discipline committee has been established under section 39 [*discipline committees*] or another hearing committee has been established under section 83 [*hearing committees*],

(b) the discipline committee or the hearing committee consists of a single council member who ceases to hold office under section 137.2 (1) [*transition – council members*] or a majority of council members who cease to hold office under that section,

(c) a final decision in the proceeding has not been made, and

(d) it is not practicable to proceed in accordance with section 83 (3) and (4),

the real estate council may establish a new discipline committee or a new hearing committee to proceed with the matter as if the discipline committee or the hearing committee established before the coming into force of this section had not been established.

Transitional regulations

137.5 (1) The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the amendment or repeal of any rules that are deemed, under section 137.3, to have been made by the superintendent;
- (b) respecting any matters necessary for more effectively bringing into operation the amendments to this Act by the *Miscellaneous Statutes (Housing Priority Initiatives) Amendment Act, 2016* and for remedying any transitional difficulties encountered in doing so.

(2) The authority to make or amend a regulation under this section, but not the authority to repeal a regulation under this section, ends 2 years after the date on which this section comes into force.

Special Accounts Appropriation and Control Act

Explanatory Note

43 The Special Accounts Appropriation and Control Act, R.S.B.C. 1996, c. 436, is amended by adding the following section:

Housing Priority Initiatives special account

9.7 (1) A special account, to be known as the Housing Priority Initiatives special account, is established.

(2) The special account consists of the following:

- (a) an initial balance of \$75 million;
- (b) amounts transferred to the special account under subsection (3);
- (c) amounts received by the government as repayments of loans referred to in subsection (4) (e), including any interest paid on those loans;
- (d) any other amounts received by the government in relation to activities undertaken under subsection (4);
- (e) any other amounts received by the government for payment into the special account;
- (f) interest attributed to the special account in the amount calculated in accordance with the regulations made under subsection (8).

(3) Treasury Board may direct that an amount in respect of amounts received by the government under the *Property Transfer Tax Act* be transferred to the special account.

(4) Despite sections 21 (3) and 45 (1) of the *Financial Administration Act* but subject to the prior approval of Treasury Board, the Minister of Finance may pay money out of the special account for the following purposes:

- (a) acquiring, constructing, maintaining or renovating housing or shelter;

- (b) acquiring or improving land used for or intended to be used for housing or shelter;
- (c) supporting the acquisition, construction, maintenance, renovation or retention of housing or shelter or the acquisition or improvement of land intended to be used for housing or shelter;
- (d) supporting housing, rental or shelter programs;
- (e) making loans to persons in relation to the acquisition, construction, maintenance, renovation or retention of housing or shelter or the acquisition or improvement of land intended to be used for housing or shelter;
- (f) administering, continuing, exchanging and disposing of loans made under paragraph (e);
- (g) paying amounts required to be paid by the government in relation to guarantees given under subsection (5) of this section;
- (h) paying expenses related to the administration or disposal of housing, shelter or land acquired with money paid out of the special account;
- (i) paying the expenses of administering the special account or any other expenses related to administering other activities undertaken under this subsection.

(5) Despite section 72 (3) of the *Financial Administration Act*, the Minister of Finance may, on behalf of the government, guarantee the repayment of all or part of a loan by a person if the loan is in relation to the acquisition, construction, maintenance, renovation or retention of housing or shelter or the acquisition or improvement of land intended to be used for housing or shelter.

(6) A guarantee may only be given under subsection (5) if prior approval of Treasury Board has been obtained.

(7) If a vote, as defined in the *Financial Administration Act*, authorizes expenditures for any of the purposes referred to in subsection (4),

- (a) the vote is deemed to provide that costs may be recovered from the special account, and

- (b) for the purposes of section 23 (3) (b) of the *Financial Administration Act*, the amount recovered from the special account is deemed to be an estimated recovery set out in the details related to that appropriation.

(8) For the purposes of subsection (2) (f), Treasury Board may make regulations prescribing the balance on which interest is calculated, the interest rate and the manner of calculating interest.

Commencement

44 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 2 to 17	August 2, 2016
3	Sections 18 to 42	By regulation of the Lieutenant Governor in Council

Explanatory Notes

SECTION 1: **[Vancouver Charter, Part XXX]**

- authorizes the City of Vancouver to impose an annual vacancy tax on specified residential properties;
- establishes a framework for making by-laws for the administration and collection of the vacancy tax.

SECTION 2: **[Property Transfer Tax Act, section 2]** is consequential to the addition by this Bill of section 2.02 to the Act.

SECTION 3: **[Property Transfer Tax Act, sections 2.01 to 2.04]**

- defines terms used in sections 2.01 to 2.03 of the Act, as added by this Bill;
- imposes an additional tax if the subject matter of a taxable transaction includes residential property located within a specified area and any transferee is a foreign entity or taxable trustee, or both;
- provides an anti-avoidance rule in respect of the additional tax imposed under section 2.02 of the Act, as added by this Bill.

SECTIONS 4 TO 6: **[Property Transfer Tax Act, sections 2.1, 2.2, 3 and 3.1]** are consequential to the addition by this Bill of section 2.02 to the Act.

SECTION 7: **[Property Transfer Tax Act, section 13]** requires certification of the form required by section 2.02 (3) (c) of the Act, as added by this Bill.

SECTION 8: **[Property Transfer Tax Act, section 14]** provides that the exemptions in respect of taxable transactions described in section 14 (3) (m) or (4) (q) or (u) of the Act do not apply to tax imposed under section 2.02 (3) of the Act, as added by this Bill.

SECTION 9: **[Property Transfer Tax Act, section 16]** provides that the exemption under the section applies only in respect of tax imposed under section 2 of the Act.

SECTION 10: **[Property Transfer Tax Act, section 17]** is consequential to the addition by this Bill of section 2.02 (3) (b) to the Act.

SECTION 11: **[Property Transfer Tax Act, section 18]** requires the administrator to issue, in respect of a taxable transaction under section 2.02 (3) of the Act, as added by this Bill, a notice of assessment within 6 years after the registration date of the transaction or

the period prescribed under section 2 (5) of the Act, as the case may be.

SECTION 12: **[Property Transfer Tax Act, section 23]** is consequential to the addition by this Bill of section 2.02 to the Act.

SECTION 13: **[Property Transfer Tax Act, section 31]** is consequential to the addition by this Bill of section 2.02 (3) (b) to the Act.

SECTION 14: **[Property Transfer Tax Act, section 34]**

- amends subsection (2) of the section consequential to the addition by this Bill of section 2.02 (3) (b) to the Act;
- amends subsections (4) and (5) of the section to increase the maximum fine by \$150 000 for corporations and by \$75 000 for individuals in respect of offences relating to tax imposed under section 2.02 of the Act, as added by this Bill.

SECTION 15: **[Property Transfer Tax Act, section 35]** adds a new limitation period of 6 years for offences relating to tax imposed under section 2.02 of the Act, as added by this Bill.

SECTION 16: **[Property Transfer Tax Act, section 37]** adds new regulation-making powers in relation to the additional tax imposed under section 2.02 of the Act, as added by this Bill, and specifies the regulations that may not be made retroactively.

SECTION 17: **[Property Transfer Tax Act, section 38]** is consequential to the addition by this Bill of section 2.02 to the Act.

SECTION 18: **[Real Estate Services Act, section 1]**

- repeals the definition of "elected council member";
- amends the definition of "rules".

SECTION 19: **[Real Estate Services Act, section 7.1]**

- provides for brokerages to be responsible for ensuring that certain individuals do not train or supervise managing brokers, associate brokers and representatives;
- defines "train or supervise" for the purposes of the section.

SECTION 20: **[Real Estate Services Act, section 18]** is consequential to amendments made by this Bill.

SECTION 21: **[Real Estate Services Act, section 43]**

- provides for an increase in the maximum amount of the discipline penalties;
- provides for the power to impose a discipline penalty for each contravention;
- provides for a maximum amount for an additional penalty;
- defines "contravention" for the purposes of the section.

SECTION 22: **[Real Estate Services Act, section 44]** is consequential to amendments made by this Bill.

SECTION 23: **[Real Estate Services Act, section 49]**

- provides for an increase in the maximum amount of the penalty for unlicensed activity;
- provides for the power to impose a penalty for each contravention;
- provides for a maximum amount for an additional penalty;
- defines "contravention" for the purposes of the section.

SECTION 24: **[Real Estate Services Act, section 50]**

- provides for an increase in the maximum amount of the penalty for actions contrary to the public interest;
- provides for the power to impose a penalty for each contravention;
- provides for a maximum amount for an additional penalty;
- defines "contravention" for the purposes of the section.

SECTION 25: **[Real Estate Services Act, section 56]** provides for the superintendent's authority respecting administrative penalties for contraventions of rules.

SECTION 26: **[Real Estate Services Act, section 73]** is consequential to amendments made by this Bill.

SECTION 27: **[Real Estate Services Act, section 74]** provides for the composition of the real estate council as 16 individuals appointed by the Lieutenant Governor in Council.

SECTION 28: **[Real Estate Services Act, sections 74.1, 76 and 77]** is consequential to amendments made by this Bill.

SECTION 29: **[Real Estate Services Act, section 78]** is consequential to amendments made by this Bill.

SECTION 30: **[Real Estate Services Act, section 80]** provides for the appointment, by the Lieutenant Governor in Council, of the chair and the vice chair of the real estate council.

SECTION 31: **[Real Estate Services Act, section 82]** is consequential to amendments made by this Bill.

SECTION 32: **[Real Estate Services Act, section 84]** is consequential to amendments made by this Bill.

SECTION 33: **[Real Estate Services Act, section 85.1]** is consequential to amendments made by this Bill.

SECTION 34: **[Real Estate Services Act, section 86]** is consequential to amendments made by this Bill.

SECTION 35: **[Real Estate Services Act, section 87]** is consequential to amendments made by this Bill.

SECTION 36: **[Real Estate Services Act, section 88]** is consequential to amendments made by this Bill.

SECTION 37: **[Real Estate Services Act, Part 6.1]**

- adds section 89.1 to provide for the role of the superintendent in respect of the real estate council and for the limits on that role;

- adds section 89.2 to provide for the superintendent's authority to make rules;
- adds section 89.3 to provide for the superintendent's consolidation and revision of rules;
- adds section 89.4 to provide for procedures relating to the rules.

SECTION 38: **[Real Estate Services Act, section 119]** provides for an increase in the amount of the maximum fines for committing offences.

SECTION 39: **[Real Estate Services Act, section 122]** provides for purposes with respect to which information may be shared or disclosed.

SECTION 40: **[Real Estate Services Act, section 130]**

- is consequential to amendments made by this Bill;
- provides for regulation-making authority in respect of the purposes for which money received on account of an additional penalty may be expended.

SECTION 41: **[Real Estate Services Act, sections 131 to 137]** repeals spent provisions.

SECTION 42: **[Real Estate Services Act, sections 137.1 to 137.5]** provides for transitional matters.

SECTION 43: **[Special Accounts Appropriation and Control Act, section 9.7]** establishes the Housing Priority Initiatives special account.