

This Act is Current to May 21, 2014

BUILDING OFFICIALS' ASSOCIATION ACT

[SBC 1997] CHAPTER 16

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Definitions

1 In this Act:

"association" means the Building Officials' Association of British Columbia continued under section 2 and formerly known as the Building Inspectors' Association of British Columbia;

"BIABC" is the abbreviated form of the former name of the association;

"BOABC" is the abbreviated form of and means the association;

"building regulations" means the British Columbia Building Code and other related codes, standards and enactments governing the construction, alteration, repair and demolition of buildings and structures for the health, safety, accessibility and protection of persons and property;

"bylaw" means a bylaw made by the executive committee;

"designated committee" in relation to the function specified, means a committee of the association designated under the bylaws to perform that function;

"executive committee" means the executive committee of the association under section 7;

"member" means a member of the association;

"registered building official" means a member who is certified as a registered building official in accordance with the bylaws and includes a member certified as a registered building inspector;

"RBI" is the abbreviated form of and means registered building inspector;

"RBO" is the abbreviated form of and means registered building official.

Association continued as corporation with full capacity

- 2 (1) The Building Officials' Association of British Columbia is continued as a corporation under this Act.
- (2) The association has the power and capacity of a natural person of full capacity for the purposes of this Act.
- (3) Section 4 of the *Business Corporations Act* does not apply to the association.
- (4) By regulation, the Lieutenant Governor in Council may provide that provisions of the *Business Corporations Act* or the *Society Act* apply to the association.

Objects

- 3 The objects of the association are as follows:
 - (a) to assist in the development, maintenance and improvement of building regulations;
 - (b) to promote the uniform interpretation and enforcement of building regulations;
 - (c) to promote greater understanding and knowledge of building

regulations among its members, governments, the building industry and related organizations and the public;

(d) by providing for training, education, certification and discipline, to promote, establish and maintain high standards of knowledge, skill and proficiency in the performance of the functions of building inspection, plan review and the administration of building regulations by its members.

Membership

- 4** (1) The association must admit as a member a person who
- (a) applies for membership in accordance with the bylaws,
 - (b) has the qualifications established in the bylaws,
 - (c) pays the fees established in the bylaws, and
 - (d) meets all other eligibility requirements for membership established in the bylaws.
- (2) Only a member in good standing is entitled to membership privileges.

Registrar to maintain register

- 5** (1) The executive committee must appoint a registrar in accordance with the bylaws.
- (2) The registrar must maintain a register to record the name of each member in good standing.
- (3) The register must identify each member who is a registered building official.
- (4) The register must be available at the head office of the association for inspection by any person during regular office hours.
- (5) A certificate of the registrar is proof in the absence of evidence to the contrary of any of the following:
- (a) a person is or is not a member of the association;
 - (b) a member is or is not in good standing;
 - (c) a member is or is not a registered building official.

Persons not affected

- 6** This Act does not affect or interfere with the right of a person who is not a member to perform the function of building official, building inspector, plan reviewer or any other similar function, or to be employed or appointed in that

capacity by a government, organization or person.

Executive committee

- 7** (1) The executive committee is the governing body of the association and conducts the business of the association in accordance with this Act and the bylaws.
- (2) The executive committee is composed of the following:
- (a) a president elected by the members in accordance with the bylaws;
 - (b) vice presidents elected by the members in accordance with the bylaws;
 - (c) 7 to 14 members, elected by the members in accordance with the bylaws, to represent regions of British Columbia;
 - (d) a secretary appointed under subsection (3);
 - (e) a treasurer appointed under subsection (3);
 - (f) the most recent past president who is available and willing to serve;
 - (g) individuals appointed by the minister under subsection (4).
- (3) The executive committee must appoint a secretary and a treasurer in accordance with the bylaws.
- (4) The minister may appoint to the executive committee up to 4 individuals who are not members of the association.

Officers

- 8** The officers of the association are those members referred to in section 7 (2) (a) to (f) who are designated by the bylaws as officers of the association.

Powers and duties of executive committee

- 9** (1) The executive committee is responsible for the management and administration of the association and without limitation, may do the following:
- (a) govern the procedure and business at executive committee meetings;
 - (b) provide for application forms, certificates for registered building officials and other forms and standard documents for use by the association;
 - (c) administer the holding of courses and examinations for members, persons applying for membership and other persons;

(d) provide for the date of and place for holding annual general meetings, special general meetings and other meetings of members.

(2) By resolution, the executive committee must designate the location of the head office of the association.

Power to make bylaws

10 (1) The executive committee may make bylaws providing for carrying out the objects of the association.

(2) Without limiting subsection (1), the executive committee may make bylaws as follows:

- (a) respecting annual general meetings, special general meetings and other meetings of members, including the timing and manner of holding those meetings;
- (b) respecting absentee member voting by mail ballot and proxy;
- (c) respecting the election and appointment of members to the executive committee, including election of members on a regional basis and determining the number of vice presidents;
- (d) determining which of the members of the executive committee are voting members of the committee;
- (e) providing for the terms of office of executive committee members, including the staggering of their terms of office;
- (f) respecting officers of the association, including the designation, appointment, election and replacement of officers, and their powers, duties and remuneration;
- (g) respecting the appointment of the secretary, treasurer and registrar;
- (h) governing the establishment, operation and proceedings of committees of the association, including the appointment of committee members, their remuneration and designation of committees for specified functions;
- (i) respecting powers, duties and functions of committees of the association, including the delegation of powers, duties and functions of the executive committee to those committees;
- (j) respecting appeals to the executive committee from a decision of a committee of the association;
- (k) respecting application for membership, including the application process and requirements for persons applying for membership;

- (l) respecting qualifications and other eligibility requirements for admission as a member;
- (m) establishing and defining classes of members, including the class of members who are registered building officials;
- (n) establishing different qualifications, eligibility requirements, limitations and other conditions of membership for different classes of members;
- (o) establishing which classes of members are entitled
 - (i) to vote at the annual general meeting, special general meetings or other meetings of the members of the association, and
 - (ii) to hold office in the association;
- (p) respecting education and examinations for persons applying for membership;
- (q) respecting certification of members as registered building officials;
- (r) respecting standards of knowledge, skill and proficiency that must be attained and maintained by members;
- (s) respecting training courses and continuing education for members and other persons including establishing amounts that some or all classes of persons attending courses may be charged;
- (t) respecting standards of professional conduct and competence for members, including regulation of the conduct and competence of members and former members through suspension, expulsion or other penalties for misconduct, incompetence, contravention of this Act or the bylaws or a failure to comply with a limitation or condition imposed under this Act;
- (u) establishing fees that must be paid by members or persons applying for membership, including application fees, membership fees and fees for insurance against professional liability claims;
- (v) establishing different fees for different classes of members or persons applying for membership and exempting classes of members from some or all fees set under the bylaws;
- (w) requiring members in certain classes to maintain insurance against professional liability claims;
- (x) establishing fines and other penalties for misconduct, incompetence, contravention of the bylaws or a failure to comply with a limitation or

condition imposed under this Act;

(y) respecting inquiries into the conduct or competence of members or former members;

(z) respecting fines of up to \$10 000 that may be imposed under section 14 (2) (g) or (3) (c), including establishing different amounts of fines for different classes of members and different kinds of misconduct.

(3) A bylaw, amendment to a bylaw or repeal of a bylaw under this section does not take effect until it is approved at the annual general meeting or a special general meeting by 75% of the eligible members

(a) who are present at the meeting and vote,

(b) who vote by mail ballot in accordance with the bylaws, and

(c) who vote by proxy in accordance with the bylaws.

(4) The association must maintain an accurate copy of all current bylaws of the association and make those bylaws available at the head office of the association for inspection by any person during regular office hours.

General meetings

11 (1) An annual general meeting of the members must be held in accordance with the bylaws to conduct business of the association.

(2) A special general meeting of the members may be called and held in accordance with the bylaws.

Use of titles

12 (1) A member in good standing who is identified in the register as a registered building official may use the designation "Registered Building Official" or "Registered Building Inspector" or the initials "RBO" or "RBI".

(2) Except as authorized by this Act, a person must not indicate that he or she is a registered building official by

(a) using or displaying the designation "Registered Building Official" or "Registered Building Inspector" or the initials "RBO" or "RBI", or

(b) implying, suggesting or holding out in any manner that the person is a registered building official.

(3) A person other than the association or a member of the association must not use the name of the association, the former name of the association, the initials "BOABC" or the initials "BIABC" in any manner intended to imply, suggest or hold

out that the person is a member of or connected with the association.

Inquiry

13 (1) The executive committee or a designated committee may inquire into the professional conduct and competence of a member or former member to determine if grounds exist for discipline under section 14.

(2) A designated committee that inquires under this section must include at least one person from the executive committee appointed by the minister if, when the designated committee starts its inquiry, there are any members of the executive committee appointed by the minister.

(3) To assist in an inquiry, the executive committee or the designated committee may require in writing

(a) that the member or former member who is the subject of the inquiry answer questions, provide information and produce documents or other things for examination, and

(b) if there are reasonable and probable grounds to believe that another member possesses information, documents or other things relevant to the inquiry, that that member provide and produce them.

(4) On application to the Supreme Court by the association, if the court is satisfied that it is relevant to and reasonably required for an inquiry under this section, the court may order that a person produce any record or other thing to an officer of the association.

(5) For the purposes of an inquiry, the executive committee or a designated committee may hold a hearing, and for that hearing has the same power as the Supreme Court has for the trial of civil actions to

(a) summon and enforce the attendance of a witness, or a member or former member who is the subject of the inquiry,

(b) compel a witness, or a member or former member who is the subject of the inquiry, to give evidence on oath or in any other manner, and

(c) compel a witness, or a member or former member who is the subject of the inquiry, to produce records and other things in his or her possession or control.

(6) A person is liable to be committed for contempt, on application to the Supreme Court as if in breach of an order of the Supreme Court, if the person fails or refuses to do any of the following in relation to a hearing under this section:

(a) to attend;

- (b) to take an oath or affirmation;
- (c) to give evidence;
- (d) to produce records or other things in that person's possession or control.

(7) A person who is the subject of an inquiry under this section has the right, at that person's own expense, to be represented by counsel.

Discipline

14 (1) After an inquiry, the executive committee or the designated committee may exercise one or more of the powers under subsection (2) or (3) if it makes any of the following findings in respect of a member or former member:

- (a) the member or former member has contravened this Act or the bylaws;
- (b) the member or former member has failed to comply with a limit or condition imposed under this Act;
- (c) the member or former member has committed professional misconduct;
- (d) the member or former member is incompetent to perform, as a member, the function of building official, building inspector, plan reviewer or a similar function;
- (e) the member or former member suffers from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to perform, as a member, the function of building official, building inspector, plan reviewer or a similar function.

(2) If the executive committee or the designated committee makes a finding under subsection (1) in respect of a member it may, by order, do one or more of the following:

- (a) reprimand the member;
- (b) suspend the member;
- (c) impose limitations or conditions on the continuance of membership;
- (d) revoke the certification of the member as a registered building official;
- (e) expel the member;
- (f) if it expels the member, impose limitations or conditions on the member resuming his or her membership;

- (g) impose a fine that the member must pay to the association;
 - (h) require that the member pay to the association within a specified period of time the costs of the inquiry including costs incurred by a complainant or witness.
- (3) If the executive committee or the designated committee makes a finding under subsection (1) in respect of a former member it may, by order, do one or more of the following:
- (a) reprimand the former member;
 - (b) impose limitations or conditions on the former member resuming his or her membership;
 - (c) impose a fine that the former member must pay to the association;
 - (d) require that the former member pay to the association within a specified period of time the costs of the inquiry including costs incurred by a complainant or witness.
- (4) A fine imposed under subsection (2) (g) or (3) (c) may be imposed in accordance with the bylaws, but must not be greater than \$10 000.

Appeals

- 15** (1) A person aggrieved by a decision of the executive committee or a designated committee may appeal the decision to the Supreme Court by way of a petition proceeding if the executive committee or the designated committee in making the decision does any of the following:
- (a) refuses to certify a member as a registered building official or to identify a member as a registered building official on the register;
 - (b) imposes any form of discipline under section 14.
- (2) An appeal under this section must be commenced within 30 days after the date of the decision.
- (3) The Supreme Court Civil Rules relating to petition proceedings apply to appeals under this section, but Rule 18-3 of those rules does not apply.
- (4) A petition commencing an appeal under this section must be served
- (a) on the association, within 14 days of being filed in the court registry,
 - (b) on the member or former member who is the subject of the decision appealed, and
 - (c) if the matter relates to a complaint, on the complainant.
- (5) The court may, on application, require that the petition be served on any other

persons involved in the decision being appealed.

(6) On request by a person served with a petition under this section, and on payment of any disbursements and expenses connected with the request, the association must provide the person with the relevant record of the inquiry or other proceeding before the executive committee or designated committee.

(7) An appeal under this section

(a) must be a new hearing if there is no transcript of the inquiry or other proceeding in which the decision being appealed was made, or

(b) must be a review of the transcript and proceeding if there is a transcript, unless the court is satisfied that a new hearing or the admission of new evidence is necessary in the interests of justice.

(8) On the hearing of an appeal under this section, the court may do one or more of the following:

(a) confirm, vary or reverse the decision;

(b) refer the matter back to the executive committee or designated committee that made the decision, with or without directions;

(c) make any other order it considers appropriate in the circumstances.

(9) A decision of the Supreme Court on an appeal under this section may be appealed to the Court of Appeal if leave to appeal is granted by a justice of the Court of Appeal.

Offence

16 A person who contravenes section 12 (2) or (3) commits an offence.

Application of *Offence Act*

17 Section 5 of the *Offence Act* does not apply to this Act or to the bylaws.

Injunction

18 (1) On application of the association and on being satisfied that there is reason to believe that the Act or the bylaws are or will be contravened, the Supreme Court may grant an injunction restraining a person from the contravention.

(2) At any time before the court disposes of the injunction proceeding, it may grant an interim injunction.

Transitional

19 On the coming into force of this Act

- (a) the members in good standing of the Building Officials' Association of British Columbia immediately before the coming into force of this Act are the members in good standing of the association under this Act,
- (b) the members of the executive committee of the Building Officials' Association of British Columbia immediately before the coming into force of this Act are the members of the executive committee under this Act, and
- (c) to the extent that they are consistent with this Act, the constitution and the bylaws of the Building Officials' Association of British Columbia as they were immediately before the coming into force of this Act are continued as the bylaws of the association under this Act.

Spent

20 *[Consequential amendment. Spent. 1997-16-20.]*

Commencement

21 This Act comes into force by regulation of the Lieutenant Governor in Council.

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