

MOUNTAIN RESORT ASSOCIATION ACT

CHAPTER 13

Assented to June 8, 1995

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

Definitions

1. In this Act:

- "association" means an association incorporated under section 3;
- "bylaws" means the bylaws of an association;
- "mountain resort area" means a mountain resort area established under section 2;
- "municipality" means a municipality as defined in the Municipal Act;
- "owner" means
- a) The owner of an estate in fee simple registered under the Land Title Act, or
 - b) A person in possession of Crown Land under a lease, license, agreement for sale, easement, statutory right of way or other instrument under the Land Act;
- "regional district" means a regional district as defined in the Municipal Act;
- "registrar" means a registrar as defined in the Land Title Act;
- "resort land" means the land in a mountain resort area that is specified by the minister as resort land and includes a lot, strata lot or other parcel into which the land is subdivided

Mountain Resort Areas

2. (1) The minister may by order establish an area of British Columbia within a municipality or a regional district as a mountain resort area.
- (2) Before the minister makes an order under subsection (1), the minister must be satisfied that

- a) The area offers year-round recreation facilities including overnight accommodation and ski lift operations or that the ski area operator in the area has entered into a development agreement with the government with respect to recreational, residential and commercial facilities, and
- b) The council of the municipality in which the area is located, or, in the absence of a municipality, the board of the regional district in which the area is located, has approved the establishment of the mountain resort area.

Mountain Resort Associations

3. (1) If the minister establishes a mountain resort area under section 2, the minister may by order specify land within that area as resort land and incorporate an association to carry out the purposes referred to in section 4 (1) within the mountain resort area.
- (2) Before the minister makes an order under subsection (1), the minister must be satisfied that the owners of land in the area have signed and presented to the minister a petition for the establishment of a mountain resort area.
- (3) Section 658 and 659 of the Municipal Act apply to a petition under this section as far as reasonably possible and, for these purposes, the minister may make orders in relation to any matters dealt with in those sections.
- (4) The name of an association must include the words "Mountain Resort Association".
- (5) The first bylaws of an association must be approved by the minister and the council of the municipality in which the mountain resort area is located or, in the absence of a municipality, by the board of the regional district in which the mountain resort area is located, and filed with the Registrar of Companies.
- (6) An association incorporated under subsection (1) comes into existence when the following are filed with the Registrar of Companies:
 - a) The order under subsection (1);
 - b) The bylaws referred to in subsection (5);
 - c) A list of the person who will be the first directors of the association;
 - d) A notice of the address of the association.

Purposes and powers of association

4. (1) The purposes of an association are to promote, facilitate and encourage the development, maintenance and operation of a mountain resort area.
- (2) An association may acquire and dispose of real and personal property.

Membership in Association

5. (1) The owners of resort land and persons admitted under subsection (2) or (3) constitute the members of the association.
- (2) An owner of land within a mountain resort area that is not resort land may, in accordance with the bylaws, become a member of the association and on becoming a member the owner's land is deemed resort land.
- (3) A person may, in accordance with the bylaws of an association, become a member of the association if the person:
 - a) Owns or carries on business in the mountain resort area,
 - b) Is an occupier of resort land,
 - c) Is an agent of an owner of resort land, or
 - d) If a member of any other class of persons identified in the bylaws.

Application of Acts

6. (1) The Company Act does not apply to an association.
- (2) The following provisions of the Society Act apply to an association:
 - a) All of section 1 except for the definitions of "ordinary resolution" and "special resolution";

- b) All of Part 1 except sections 2, 3, 6, 7, 14, 17, 18 and 19;
 - c) Section 23;
 - d) All of Part 3 except sections 30 and 31;
 - e) All of part 4 except section 32 (2), 35 (3) and 38;
 - f) All of Part 5;
 - g) All of Part 6 except section 64;
 - h) All of Part 9 except section 84;
 - i) All of Part 10 except section 94;
 - j) Forms 4, 5, 7, 8, 9, 10 and 11 of Schedule A.
- (3) The minister may order that specified provisions of the Company Act and Society Act apply to an association in addition to those provisions specified in subsection (2).
- (4) An association is deemed to be a reporting society under The Society Act or a reporting company under the Company Act in respect to those provisions specified under subsection (2) and (3).

Bylaws

7. (1) An association may make bylaws that may include provisions for
- a) classes of membership
 - b) admission of members under section 5 (2) and (3),
 - c) voting rights of members, and
 - d) levying of assessments on members.
- (2) The bylaws may only be added to, amended or repealed in accordance with their provisions and section 23 of the Society Act and with the approval of the minister and the council of the municipality in which the resort land is located or, in the absence of a municipality, the board of the regional district in which the mountain resort area is located.
- (3) The bylaws bind the association and its members to the same extent as if the bylaws had been signed and sealed by the association and each member and contained covenants on the part of the association with each member and on the part of each member with every other member and with the association to observe and perform all the provisions of the bylaws.

Oppressive Acts

8. A member of an association may apply to the Supreme Court for relief if the members considers
- a) That the affairs of the association are being conducted or the powers of the association are being exercised in a manner oppressive to the member or to the member and one or more other members, or
 - b) That an act of the association has been done or is proposed or that a resolution of the members has been passed or is proposed that is unfairly prejudicial to the member or to the members and one or more other members.

Notation on title

9. (1) The resort land is, on the establishment of the mountain resort area, subject to this Act and the bylaws, without special endorsement on the indefeasible title, and the registrar may, and on application of the association must, make the following notation on every indefeasible title of resort land issued on or after the establishment of the mountain resort area:

“This land is subject to the Mountain Resort Associations Act and the bylaws of the _____ Mountain Resort Association filed with the Registrar of Companies.”

- (2) An application under subsection (1) must contain a description of the resort land that is sufficient for the registrar to identify it in the records of the land title office and must be in the form of prescribed under the Land Title Act.
- (4) In the event of any delay, omission, mistake or misfeasance by the registrar or his or her employees in relation to making a notation under subsection (1),

- i) The registrar is not liable nor is the government liable vicariously, and
- ii) The assurance fund of the Attorney General as a nominal defendant is not liable under Part 20 of the Land Title Act or any loss or damage sustained by any person by virtue of the delay, omission, mistake or misfeasance.

Levies

- 10. (1) An assessment levied under the bylaws constitutes a debt.
- (2) If any owner of resort land defaults in the payment of an assessment levied against the owner under the bylaws, the association may,
 - (a) in respect of the Crown leases and rights of way on the resort land, file with the Ministry of Environment, Lands and Parks a certificate showing the amount owing, and
 - (b) in respect of other resort land, file in the land title office, in the same manner that a charge is registered, a certificate showing the amount owing and the legal description.
- (3) If a certificate is filed or registered under subsection (2), it is a charge for the amount owing in favour of the association, in priority to every other lien or charge of whatever kind except those created under the Builders Lien Act and those of the Crown, other than mortgages in favour of the Crown.
- (4) The association must, on satisfaction of the debt, file with the Ministry of Environment, Lands and Parks or the registrar, as the case may be, a release in the form acceptable to that ministry or the registrar.
- (5) An owner or other person claiming an estate or interest in or charge on resort land may apply to the Supreme Court to require the association to show cause why a certificate filed or registered under subsection (2) should be removed.
- (6) On an application under subsection (5), the court may make any order the court considers appropriate.

Power to make regulations

- 10. The Lieutenant Governor in Council may make regulations as referred to in section 41 of the Interpretation Act.

Consequential Amendments

Municipal Act

- 12. *Section 1 of the Municipal Act, R.S.B.C. 1979, c.290, is amended*
 - (a) *by repealing the definition of "improvement district" and substituting the following: "improvement district" means and improvement district incorporated under this or any other Act and includes a mountain resort improvement district; and*
 - (b) *by adding the following definitions: "mountain resort improvement district" means a mountain resort improvement district incorporated under section 824.1; "mountain resort municipality" means a mountain resort municipality incorporated under section 9.1."*

- 13. The following section is added:

Incorporation of a mountain resort municipality

- 9.1 (1) If a vote under section 6 is in favour of incorporation, the minister may recommend to the Lieutenant Governor in council incorporation of a municipality as a mountain resort municipality.

- (2) Notwithstanding section 6, in the case of an area that is a mountain resort improvement district, the minister may recommend incorporation of a new mountain resort municipality to the Lieutenant Governor in Council, in accordance with the letters patent to the improvement district.
 - (3) On the recommendation of the minister under subsection (1) or (2), the Lieutenant Governor in Council may, by letters patent, incorporate the residents of an area into a mountain resort municipality.
 - (4) If an existing improvement district is situated within a municipality incorporated under subsection (3), the Lieutenant Governor in Council shall dissolve the existing improvement district by repealing its letters patents.
 - (5) Section 20 applies with respect to the incorporation of a mountain resort municipality under this section.
14. Section 13 is amended by adding the following subsections:
- (2) In addition, letters patent incorporating a mountain resort municipality may do one or more of the following:
 - (a) provide that sections 325, 326, 330 and 674(4) do not apply, but that the inspector may direct that the assent of electors be obtained or that section 320 (2) applies;
 - (b) provide that other works and services may be the subject of a charge under section 983(2) in addition to the facilities and land referred to in that section;
 - (c) provide that an official community plan for the municipality may include objectives and guidelines in addition to those set out in section 945(4)(e) and that section 976(7) does not apply with respect to that plan.
 - (3) Any of the provision referred to in subsection (3) may, by supplementary letters patent, be made applicable to a mountain resort area within an existing municipality if
 - (a) the council of the municipality has requested that inclusions of the provisions, and
 - (b) the municipality has obtained the assent of the electors to the inclusion of the provision in the letters patent.
15. Section 269.1 is amended
- (a) in subsection(2) by striking out “ by majority vote,”, and
 - (b) in subsection (3) by repealing paragraph (c) and substituting the following:
 - (c) “establish the maximum amount of money to be granted,”.
16. The following subsection is added:

Mountain resort business improvement areas

269.2 (1)_ In this section:

“applicant” means a corporation, association or organization applying to the council for a grant of money under this section;

“business area” means an area in a municipality where business or commerce related to a mountain resort is carried on;

“business promotion scheme” means

- (a) carrying out studies or making reports respecting one or more business areas,
- (b) the improvement, beautification or maintenance of streets, sidewalks or municipally owned land, buildings or structures in one or more mountain resort business improvement areas,
- (c) the conservation of heritage property in one or more mountain resort business improvement areas, and
- (d) the encouragement of business in one or more mountain resort business improvement areas;

“mountain resort business improvement area” means a business area designated by bylaw as a mountain resort business improvement area under subsection (3)(a).

(2) Notwithstanding section 292, but subject to this section, a council may grant money to an applicant that has as one of its aims, functions or purposes the planning and implementation of a business promotion scheme.

- (3) Before a council grants money under subsection (2), the council must, by bylaw,
 - (a) designate the appropriate business area as a mountain resort business improvement area,
 - (b) name the applicant to which the money to be granted,

- (c) establish the maximum amount of money to be granted,
 - (d) require that the money granted must be expended only by the applicant to which the money is granted, for a business promotion scheme set out in the bylaw, and
 - (e) require that all of the money granted to the applicant be recovered from the owners of land and improvements, within the mountain resort business improvement area, that was used during the year to operate a business which falls within a class of business specified in the bylaw.
- (4) For the purpose of a requirement under subsection (3)(e), the council may levy and impose within the mountain resort business improvement area any or all of the following:
- (a) a rate on land or improvements, or both;
 - (b) a frontage tax;
 - (c) other charges provided in this Act;
 - (d) a rate based on any factor set out in the bylaw.
- (5) Where the council imposes a rate of charge under subsection (4), the bylaw that imposes the rate or charge may set different rates or charges on different classes of business, as specified in the bylaw.
- (6) Sections 416 to 418 apply with respect to a rate imposed under subsection (4)(d) and for this purpose, the bylaw under subsection (3) must establish a procedure to allow property owners to complain to the Local Court of Revision about errors made in applying the bylaw to their property.
- (7) Where a council enacts a bylaw under subsection (3), it shall set conditions and limitations on the receipt and expenditure of money granted under subsection (2) and without restricting the generality of the foregoing, shall, by the bylaw,
- (a) require that the applicant submit each year a budget for approval by council,
 - (b) require the applicant to account for the money granted to it under subsection (2) in the form and manner specified in the bylaw, and
 - (c) require the applicant to take out and maintain insurance of the type and amount specified in the bylaw.
- (8) Section 674 (4)(b) and (c), (5) and (6) applies to a bylaw under this section and, for these purposes, a mountain resort business improvement area is deemed to be a specified area and a business promotions scheme is deemed to be a service.
- (9) Sections 676 and 677 apply in respect of a mountain resort business improvement area as if it were a specified area.
- (10) Part 10 applies in respect of rates, taxes and charges imposed under this section.
- (11) A bylaw designating a mountain resort business improvement area ceases to have effect on the earlier of
- (a) 20 year from the date bylaw comes into force, and
 - (b) a date specified in the bylaw.
- (12) The Lieutenant Governor in Council may take regulations considered necessary or advisable respecting mountain resort business improvement areas, and respecting business promotion schemes.
17. Section 787 is amended
- (a) by renumbering the section as section 787 (1),
 - (b) in subsection (1) by adding the following paragraph:
 - (h) the giving of grants to an applicant for a business promotion scheme under section 269.2., and
 - (c) by adding the following subsection:
 - (2) Section 813.1 does not apply to a service under subsection (1)(h).

18. Section 807 is repealed and the following substituted:

Cost recovery – general services

807. Where the board provides a general service, annual costs for operating that service, other than costs recovered by way of fees and charges payable under Part 29 or rates or charges under section 269.2, shall be paid for by the requisition of money under sections 809 and 809.1 to be collected by a property value tax to be levied on the net taxable value of land and improvements under sections 810.1(1).

19. The following sections are added:

Mountain resort improvement districts: incorporation

- 824.1 (1) If the council of a municipality in which the area is situated or, in the absence of a municipality, if the board of the regional district in which the area is situated approves, the Lieutenant Governor in Council may incorporate, by letters patent, an area of land comprising 2 or more parcels, whether contiguous or not, and its owners into a mountain resort improvement district, under a name and with objects that appear advisable and with powers deemed necessary to carry out those objects.
- (2) The letters patent may provide that some provisions of this Act or the Water Act do not apply to the mountain resort improvement district and that other specified provisions shall apply.
- (3) Section 830(1)(b) and (c) does not apply to a mountain resort improvement district unless the letters patent provide otherwise.
- (4) If it appears to the Lieutenant Governor in Council that a mountain resort improvement district will undertake the functions of an existing improvement district or a water users' community, the Lieutenant Governor in Council
- (a) may transfer to the mountain resort improvement district any asset, right, claim, charge or liability of the other improvement district or water users' community, and dissolve the other improvement district or water users' community, and
- (b) may specify that the bylaws of the dissolved improvement district or water users' community continue in force in the area that was formerly within its boundaries until amended or repealed by the trustees of the mountain resort improvement district that has undertaken its functions.
- (5) The power of dissolution conferred by subsection (4) may be exercised notwithstanding and other statute, special or otherwise, and the Lieutenant Governor in Council may, in an order under subsection (4), specify deletions of and alterations to endorsements or entries made against any indefeasible or absolute title or other document deposited in a land title office or created pursuant to the Land Title Act or any statute repealed by that Act, and, notwithstanding the Land Title Act or any other statute, every registrar of Land Titles shall make those deletions and alterations.
- (6) The Lieutenant Governor in Council, in the letters patent, may divide a mountain resort improvement district into zones, specify the number of trustees to be elected from each zone, and provide for the election and method of election of trustees in any zone.
- (7) In this section "area of land" means an area of land comprising 2 or more parcels, whether contiguous or not.

Notation on title

- 824.2 (1) Parcels in a mountain resort improvement district are, on the establishment of the mountain resort improvement district under section 824.1, subject to section 9.1(2) of this Act, without special endorsement on the indefeasible title, and the registrar may, and on application of the improvement district must, make the following notation on every indefeasible title of resort land issued on or after the establishment of the improvement district:

"This land is located in a mountain resort improvement district and is subject to the letters patent for that improvement district."

(2) An application under subsection (1) must contain a description of the resort land that is sufficient for the registrar to identify it in the records of the land title office and must be in the form prescribed under the *Land Title Act*.

- (3) In the event of any delay, omission, mistake or misfeasance by the registrar or his or her employees in relation to making a notation under subsection (1),
- (a) the registrar is not liable nor is the government liable vicariously, and
- (b) the assurance fund or the Attorney General as a nominal defendant is not liable under Part 20 of the *Land Title Act*.

Transitional

20. When section 19 comes into force, the Sun Peaks Improvement District incorporated by letters patent issued under order in council 261/95, is deemed to be a mountain resort improvement district

incorporated under section 842.1 of the *Municipal Act* with the name “Sun Peaks Resort Improvement District.”

Commencement

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

Act in force July 14, 1995; B.C. Reg 317/95