

Summary of Orders and changes to Strata Legislation: April 15-Aug 14, 2020:

Some of the orders and legislation are dependent on the dates of a State of Emergency. Find the current expiry date [here](#).

April 15, 2020: [Order of the Minister of Public Safety and Solicitor General, Ministerial Order No. M114, under the Emergency Program Act](#)

May 29, 2020: [Order of the Lieutenant Governor in Council, Order in Council No. 270](#)

July 8, 2020: [Bill 19 – COVID-19 Related Measures Act](#)

August 14, 2020: [Bill 14 - Municipal Affairs and Housing Statutes Amendment Act \(No. 2\), 2020](#)

INSURANCE:

1. Strata corporations are now required to let strata owners know as soon as feasible of any material change in the strata corporation's insurance coverage, such as in increase in deductibles. (Bill 14 – SPA s154(c))

Tip: Provide the summary page of the strata's policy to owners so they can contact their own insurance agents and review their policy for sufficient coverage to: a) cover their portion of a special levy for a deductible that is a common expense (this is typically called loss assessment coverage) and b) should the owner be responsible for damage (such as water damage), coverage for repairs up to the amount of the strata corporation's deductible. Note: The responsibility for b) can vary depending on the bylaws of the strata corporation.

2. Strata corporations can use their operating fund or contingency reserve fund to pay for property and liability insurance required under the Strata Property Act or the strata corporation's bylaws without a vote of owners if there are reasonable grounds to believe that an immediate expenditure is necessary to obtain the required insurance. (Bill 14: SPA s98(3.1); and Order 270: SPA Regulation 6.13 [new definition of "prevent significant loss"])

Tip: Council does its best to predict the cost of the insurance renewal in the coming year, however with the large increases we have seen, the cost at the time of renewal may be much more than originally budgeted. For the portion that is over the budgeted amount, the council can pay the remainder from either the operating account or CRF, without a vote of the owners. We recommend

that this be documented in the council meeting minutes, specifying the extra amount that is being paid pursuant to SPA s98(3.1) and from which fund.

3. Bill 14 also includes a change to s289(3) of the FINANCIAL INSTITUTIONS ACT that requires an insurer to inform the policy holder of their intention not to renew a policy.

EXTENSION OF GENERAL MEETING DEADLINES:

Under certain circumstances, new SPA Regulation 17.23 allows for an extension of up to 2 months to hold an AGM or SGM: *“If a declaration of a state of emergency or a declaration of a state of local emergency is in effect where the land in a strata plan is located and at any time during the period of one month that ends on the last day on which a general meeting of the strata corporation must be held under any of the following provisions of the Act, the meeting may be held up to 2 months after the last day on which the meeting must be held under the provision...”* (Order 270)

Example: A strata corporation has a fiscal year-end of June 30. The Act requires the annual general meeting to be held within 2 months – no later than August 31. A state of emergency is in effect in the province or local area from July 20 - Aug 4. Therefore a portion of the State of Emergency falls within a one month period before the deadline to hold the meeting. The new deadline for the meeting is October 31.

ELECTRONIC MEETINGS:

Until the state of emergency declared on March 18, 2020 expires, all strata corporations can hold electronic meetings (AGMs, SGMs, hearings, council meetings) whether or not they have strata bylaws explicitly enabling this. A person who attends is deemed to be present in person at the meeting. (Order M114)

The expiry date of the Order above abruptly cuts off permission to hold electronic meetings. Bill 19 allows a **90-day transition period** (90 days after the date on which the last extension of the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the Emergency Program Act expires or is cancelled) so that strata corporations may continue to hold their general meetings electronically without a bylaw. (Bill 19)

Example: The expiry date of the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the Emergency Program Act has been extended many times. Suppose that there was an expiry date of August 18. On Aug 12, a strata sends out their Notice for an AGM to be held electronically on Sep 2. Under M114, if the state of emergency had expired on August 18, the strata would not have been able to hold the Sep 2 AGM electronically unless they have a bylaw permitting it. In this example, Bill 19 allows an additional 90 days from Aug 18 for an electronic meeting format: being Nov 15. Tip: If your

strata would like to have the option of holding general meetings electronically in the future, consider presenting a bylaw to owners at your next general meeting (requires a ¾ vote).

FUTURE REGULATIONS:

Bill 14 enacts various amendments to the *Strata Property Act* and the *Financial Institutions Act*. Some of these changes came into effect when the bill was passed, while others will come into force at a later date by regulation.

Many of the wording changes in the SPA refer to regulations; we expect that new Regulations will be created to complete the legislative changes, such as:

SPA s12 and s13: Regulations will specify the percentages for CRF contributions in relation to the owner-developer and interim budget

SPA s59: The Information Certificate (Form B) will require a copy of the summary of the strata corporation's insurance coverage

SPA s94: Regulations in regards to depreciation reports

SPA s149: Regulation for prescribed circumstances (if any) where a strata is not required to obtain property insurance based on the full replacement value

SPA 152: Regulation regarding the definition of "fixtures"

SPA s158: Regulation limiting the amount than an owner can be sued to cover an insurance deductible in respect of a claim on the strata corporation's insurance policy (limit does not apply in some circumstances).

SPA s292: Power for the Lieutenant Governor in Council to make the regulations described above as well as:

- defining "major perils" for insurance,
- any circumstances in which a strata corporation need not obtain or defer obtaining a depreciation report,
- the form, content, standards and methodologies of depreciation reports
- and more

Bill 14 also includes a change to the FINANCIAL INSTITUTIONS ACT that prohibits payment to third parties for referring business in relation to the insurance of a strata corporation. This will be effective by regulation of Lieutenant Governor in Council.

Handy link: [Changes to Strata Legislation since 2011](#)