

## TO THE HONOURABLE THE LEGISLATIVE ASSEMBLY OF MANITOBA

Your Standing Committee on Social and Economic Development presents the following as its Second Report.

### Meetings

Your Committee met on Monday, June 14, 2010 in Room 254 of the Legislative Building:

### Matters under Consideration

- **Bill (No. 22)** – The Credit Unions and Caisses Populaires Amendment Act/Loi modifiant la Loi sur les caisses populaires et les credit unions
- **Bill (No. 34)** – The Consumer Protection Amendment Act (Negative Option Marketing and Enhanced Remedies)/Loi modifiant la Loi sur la protection du consommateur (commercialisation par abonnement par défaut et amélioration des recours)
- **Bill (No. 35)** – The Condominium Amendment Act (Phased Condominium Development)/Loi modifiant la Loi sur les condominiums (aménagement par phases)

### Committee Membership

Committee Membership for the June 14, 2010 meeting:

- Mr. ALTEMEYER
- Mr. CALDWELL
- Mr. DEWAR
- Mr. DYCK
- Mr. FAURSCHOU
- Mr. JENNISSEN
- Hon. Mr. MACKINTOSH
- Hon. Ms. MARCELINO
- Mr. NEVAKSHONOFF
- Mr. PEDERSEN
- Mrs. TAILLIEU

Your Committee elected Mr. NEVAKSHONOFF as the Chairperson.

Your Committee elected Mr. DEWAR as the Vice-Chairperson.

### Public Presentations

Your Committee heard the following 2 presentations on **Bill (No. 22)** – The Credit Unions and Caisses Populaires Amendment Act/Loi modifiant la Loi sur les caisses populaires et les credit unions:

Fernand Vermette	Fédération des caisses populaires
Garth Manness	Credit Union Central

Your Committee heard the following 3 presentations on **Bill (No. 35)** – The Condominium Amendment Act (Phased Condominium Development)/Loi modifiant la Loi sur les condominiums (aménagement par phases):

Frank Bueti	Private Citizen
Olga Fuga	Private Citizen
Doug Forbes	Canadian Condominium Institute (Manitoba Chapter)

### Written Submissions

Your Committee received one written submission on **Bill (No. 35)** – The Condominium Amendment Act (Phased Condominium Development)/Loi modifiant la Loi sur les condominiums (aménagement par phases), from:

Neil J. Childs	Private Citizen
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## Bills Considered and Reported

- **Bill (No. 22)** – The Credit Unions and Caisses Populaires Amendment Act/Loi modifiant la Loi sur les caisses populaires et les credit unions

Your Committee agreed to report this Bill, with the following amendments:

*THAT Clause 65(1)(g) of the Bill be amended by adding the following after the proposed clause 227(1)(ff):*

(ff.1) respecting annual and other general meetings of and special meetings of credit union members, including

(i) with or without conditions, authorizing credit unions to hold annual or other general members' meetings or special members' meetings by holding two or more simultaneous meetings in different locations at which the members at each location are able to communicate with members at the other locations by means of electronic communication technology,

(ii) prescribing the requirements for holding such meetings,

(iii) governing voting at members' meetings and counting votes, and

(iv) prescribing conditions to ensure that members participating in a meeting authorized under subclause (i) are able to exercise their members' rights fully and in an informed manner;

- **Bill (No. 34)** – The Consumer Protection Amendment Act (Negative Option Marketing and Enhanced Remedies)/Loi modifiant la Loi sur la protection du consommateur (commercialisation par abonnement par défaut et amélioration des recours)

Your Committee agreed to report this Bill, with the following amendments:

*THAT the following be added after Clause 1 of the Bill:*

*1.1 In the following provisions, "clause 97(d)" is struck out and "clause 97(1)(d)" is substituted:*

*(a) subsection 59(1);*

*(b) clause 60(1)(k).*

*THAT Clause 3 of the Bill be replaced with the following:*

*3 Section 97 is amended*

*(a) by renumbering it as subsection 97(1) and adding the following after clause (ee):*

*(ee.1) for the purpose of Part XXI (Negative Option Marketing),*

*(i) respecting what constitutes a material change in goods or services supplied to a consumer on a periodic basis,*

*(ii) respecting Internet negative option marketing;*

*(b) by adding the following as subsection 97(2):*

### **Regulations about Internet negative option marketing**

**97(2)** Without limiting clause (1)(ee.1), a regulation made under that clause may do one or more of the following:

(a) designate another jurisdiction as a reciprocating jurisdiction if, in the opinion of the Lieutenant Governor in Council, it has similar law for the regulation of Internet negative option marketing;

(b) authorize the minister, on behalf of the government, to enter into an agreement with the government of a reciprocating jurisdiction respecting the application, administration or enforcement of Part XXI or the law of that jurisdiction in respect of Internet negative option marketing;

(c) in accordance with any agreement made under clause (b), specify which law applies or does not apply when both Part XXI and the law of the reciprocating jurisdiction purport to apply to Internet negative option marketing;

(d) extend, modify or limit the application of any provision of Part XXI in relation to Internet negative option marketing.

- **Bill (No. 35)** – The Condominium Amendment Act (Phased Condominium Development)/Loi modifiant la Loi sur les condominiums (aménagement par phases)

Your Committee agreed to report this Bill, with the following amendments:

*THAT Clause 4(1) of the Bill be amended by adding the following after the proposed subsection 5(3.1):*

**Transitional — phasing amendment for existing phased development**

**5(3.2)** If a declaration for a phased development that was registered before the day that subsection (3.1) came into force does not meet the requirements of that subsection, the following rules apply:

1. The declaration must be amended as necessary to meet the requirements of subsection (3.1) before any proposed phase described or referred to in the declaration is implemented.

2. Subsections 5.1(2) and 5.6(3) do not apply to the registration of the phasing amendment required by this subsection if

(a) the phasing amendment is registered within one year after this subsection comes into force;

(b) the notice under subsection 5.4(1) of the proposed phasing amendment

(i) describes the material differences, if any, between the phase described in the amendment and the phase as described in the declaration and the marketing materials used to sell the existing units, and

(ii) describes the recipient's right to apply to the court for an order under section 5.7 within 30 days after receiving the notice.

3. The phasing amendment required by this subsection must not be accepted for registration unless it is accompanied by

(a) a statutory declaration of the owner-developer or the corporation stating each person to be given information under subsection 5.4(1) and this subsection was given that information;

and either

(b) a statutory declaration of the owner-developer or the corporation stating no person entitled to the information applied to the court, within 30 days after receiving the information, for an order under section 5.7; or

(c) a certified copy of an order of the court

(i) confirming that there is no material difference between the phase described in the amendment and the phase as described in the declaration and in the marketing materials, or

(ii) confirming that there is a material difference and permitting the amendment to be registered as proposed, or with changes as specified in the order or subject to conditions as specified in the order,

and, if the order permitting the amendment to be registered is made subject to conditions, evidence sufficient to satisfy the district registrar that the conditions have been satisfied.

4. If an application is made to the court under section 5.7 in respect of the proposed phasing amendment, any references in that section to the description of the phase in the declaration shall be read as references to the phase as described in the declaration and in the marketing materials used to sell the existing units.

5. Until the phasing amendment required by this subsection is registered,

(a) subsection 4(4) does not apply to the declaration; and

(b) for the purposes of this Act, other than this subsection and the registration of the phasing amendment,

(i) the property that is the subject of the declaration is deemed not to be a phased development, and

(ii) each proposed phase described or referred to in the declaration is deemed not to be a proposed phase.

*THAT Clause 5 of the Bill be amended by adding the following after the proposed clause 5.7(4)(b):*

(b.1) if the phasing amendment creates a proposed phase, an order permitting or requiring the amendment to be registered as proposed, or with changes as specified in the order;

*THAT Clause 5 of the Bill be amended by adding the following after the proposed section 5.15:*

**Notice and consent not required if only one owner**

**5.16** Despite subsections 5(6) and (7) and 6(3) and (4) and sections 5.1 to 5.15, an amendment to a declaration may be registered without notice and without consent if, at the time of the registration, the entire property that is the subject of the declaration is owned by the same person.

Submitted by,

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Mr. Tom Nevakshonoff, Chairperson  
June 14, 2010