



STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE

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STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE

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Ms. Lisa Lambert
Saskatoon Churchill-Wildwood

Mr. Tim McLeod
Moose Jaw North

Mr. Greg Ottenbreit
Yorkton

[The committee met at 16:00.]

The Chair: — All right. Hello, everyone. Welcome to the Intergovernmental Affairs and Justice meeting today. It's March 16th, 2022. I'm Mark Docherty, the Chair. And with us today, I've got Gary Grewal, from the committee, Lisa Lambert, Tim McLeod, Greg Ottenbreit, and possibly sitting in for Travis Keisig is Muhammad Fiaz. Sitting with me is Robert Park. Substitutions, Nicole Sarauer, Ms. Sarauer for Betty Nippi-Albright.

And with that, I will let Minister Wyant introduce your panel and the officials. We'll get on with it.

**Bill No. 56 — *The Queen's Bench Amendment Act, 2021*
*Loi modificative de 2021 sur la Cour du Banc de la Reine***

Clause 1

Hon. Mr. Wyant: — Thank you, Mr. Chair. To my far left, Darcy McGovern, Q.C. [Queen's Counsel]; to my left, Rachel Haack, Crown counsel; and to my right, Jan Turner, assistant deputy minister from court services.

So, Mr. Chair, if I can proceed with my opening comments. I'm pleased to offer some opening comments with respect to Bill 56, *The Queen's Bench Amendment Act*. Mr. Chair, this is a bilingual bill. It will update the number of judges who comprise the Court of Queen's Bench to reflect the present size of the court. Additionally, the number of family law judges who may be assigned to the family law division under the Act will be updated to reflect the number currently fulfilling those roles.

As well, Mr. Chair, the bill provides the Chief Justice the ability to assign the residency of judges. That change is precipitated by the increased use of technology and electronic support available to the judges of Saskatchewan's superior court. The Chief Justice's ability to assign residency will allow for ease of mobility of the judiciary to respond to caseloads among various judicial centres.

In addition, Mr. Chair, the Queen's Bench Act also addresses a number of requirements for beneficiary designations. The bill will contain new provisions allowing a substitute decision maker to make, change, or revoke a beneficiary designation in respect of an employee benefit plan, retirement savings plan, income-averaging annuity contracts, or retirement income funds by court order.

Additionally, new provisions will allow a substitute decision maker to make beneficiary designations without a court order in two specific circumstances. First, no court order is needed where the new beneficiary designation is made in favour of the individual's estate. Second, no court order is needed if the beneficiary designation is renewing or replacing an investment made by the individual while the individual had capacity if the same beneficiary is designated and the new investment is similar to the one made by the individual.

Additionally, the bill will allow beneficiary designations to be made by electronic means pursuant to *The Electronic Information and Documents Act, 2000*. And lastly, Mr. Chair,

there's a number of housekeeping amendments to the bill. So with those opening remarks, we're certainly happy to answer any questions with respect to Bill 56.

The Chair: — Thank you, Minister. I was remiss with the little preamble here, but tonight we're considering four bills. We'll begin with the bill you just spoke about, Bill 56, *The Queen's Bench Amendment Act, 2021* which is a bilingual bill. Clause 1, short title.

And for the officials, please state your name when you're at the microphone before speaking, and we'll go from there. Ms. Sarauer, the floor is yours.

Ms. Sarauer: — Thank you, Mr. Chair, and I thank the minister for your opening remarks. I just have a few questions with respect to this bill. The first is around the updates to the number of judges to reflect the actual number. Can you explain to the committee why the number was different than the number that was stated in the legislation?

Hon. Mr. Wyant: — The federal government, who's responsible for the appointment of superior court judges in Saskatchewan, had added two additional judges to the complement.

Ms. Sarauer: — Was that, to your knowledge, to deal with workload issues?

Hon. Mr. Wyant: — Typically there's a conversation that happens between the Chief Justice of the Court of Queen's Bench and individuals in Ottawa talking about capacity, talking about the need for additional judges, and that's how those decisions are made. They're certainly made independent of the province but in conversations between the Chief Justice.

Ms. Sarauer: — Thank you. And with respect to the changes allowing the Chief Justice to have more control over the assignment of judicial residency, could you provide for the committee some more information as to why this is needed?

Hon. Mr. Wyant: — Well as I made the comment, in my opening comments, the Chief Justice wanted some more control over the residency of his judges to deal with workload issues, and so that's the reason. Typically issues of residency are dealt with in the Act. It requires an order in council for the residency to be established. Under the Act this will allow the Chief Justice to make those decisions.

Ms. Sarauer: — So an order in council will no longer be needed?

Hon. Mr. Wyant: — There won't be an order in council that's required any longer.

Ms. Sarauer: — Thank you. I have no further questions.

The Chair: — Seeing no further questions, we'll proceed to vote on the clauses. Clause no. 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 16 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Queen's Bench Amendment Act, 2021*, a bilingual bill.

I'd ask a member to move that we report Bill No. 56, *The Queen's Bench Amendment Act, 2021*, a bilingual bill, without amendment. Ms. Lambert moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

Bill No. 57 — *The Land Titles Amendment Act, 2021*

Clause 1

The Chair: — Next is Bill No. 57, *The Land Titles Amendment Act, 2021*. We will begin with clause 1, short title. Minister, you may make your opening comments.

Hon. Mr. Wyant: — Thank you, Mr. Chair. To my far left, again, Darcy McGovern, Q.C.; to my right, Karen Banks, who is the registrar of titles of the office of public registry administration; and to my left, Neil Karkut, senior Crown counsel.

I'll now offer a couple of opening comments, Mr. Speaker, with respect to Bill 57. Assurance compensation plays an important role in Saskatchewan's land registry system. This bill will update the Act's assurance compensation provisions by limiting or prohibiting certain assurance claims that would place an unfair burden on public funds.

First, for both surface and mineral titles, the changes will clarify that a loss should be valued at the time the error occurred. That approach aligns with the Saskatchewan Court of Appeal decision in Hermanson and Martin.

Second, the changes will place a \$50,000 compensation cap with respect to minerals. This approach aligns with other Canadian jurisdictions that either place a cap on mineral claims or pay no compensation at all.

Third, the changes will prohibit compensation in cases where a registrar's caveat was filed more than 20 years ago in the paper-based system if the caveat contained a detailed description of the error and was registered against the title when the claimant originally acquired their rights. The proposed amendments will also clarify the registrar's ability to correct title errors and to lock titles to prohibit dealings if there are concerns with permitting further transactions with respect to those titles. Mr. Speaker, these types of powers are necessary for the registrar to maintain the integrity of the land titles system.

So with that, we're happy to answer any questions that the committee has.

The Chair: — Thank you, Minister. Ms. Sarauer, the floor is yours.

Ms. Sarauer: — Thank you, Mr. Chair. And thank you, Minister, for your opening remarks. Minister, you mentioned that other Canadian jurisdictions also have a cap on compensation. Can you go into detail as to which ones and what those are?

Hon. Mr. Wyant: — I'll ask Ms. Banks to answer the question.

Ms. Banks: — Karen Banks. The examples that I can provide are from British Columbia, where they do not pay any compensation for mineral claims, including where there's a registry error.

In Alberta the amount that's paid also includes, ultimately, a cap. They will pay the amount that was originally paid for the minerals; the money that was expended in development, before the loss of title if that benefit goes to the party who received the title and the claimant cannot recover it from that party; and finally the value at the time of the claim up to a maximum of \$2,500 per hectare.

In Manitoba they will pay a maximum of \$5,000, which is the amount actually paid for the minerals and then all other losses, including expenses and interest.

And then in Ontario the amount that they will pay, the maximum, is twice the amount that was paid at the time of the original grant from the Crown.

Ms. Sarauer: — Thank you. I can imagine when there are unintentional errors in title that need to be rectified, that this legislation would be important. I'm also wondering about, I don't know any other way than describing it as intentional errors or fraud situations. Was that contemplated in this legislation as well? And have there been examples of that in Saskatchewan that this government is seeking to, I suppose, is addressing in this legislation?

Ms. Banks: — So the assurance compensation provisions include where there are occurrences of fraud in the land registry in the specified circumstances. I'm not sure quite what you mean by intentional errors.

Ms. Sarauer: — Well I guess fraud would be the right way of describing it.

Ms. Banks: — I see, yes. So as I said, the Act, section 84 of the Act includes particular errors of fraud involved in the land registry.

Ms. Sarauer: — Thank you. And this compensation cap would deal with both? Would it deal specifically with fraudulent errors or also . . . Perhaps when I say unintentional errors, I'm thinking like a technical glitch or something in the land titles database.

[16:15]

Hon. Mr. Wyant: — It would deal with all of those circumstances.

Ms. Sarauer: — Does the ministry have any idea of ballpark how often there have been errors in land titles?

Hon. Mr. Wyant: — Well we expect that there will be a

minimum number of claims. If you're asking about how many claims have been made in the past, we're not expecting this to have a dramatic effect in terms of the number of claims. But as you can imagine, the number could be significant if someone was to have had an error on the title and then just kind of sat on it to get a windfall. And that's really what we're trying to get to.

So it'll be a limited number. Of course we can't tell how many numbers. But I'm not sure if you want to know how many we've had in the past, and we'd have to get that. And I don't know if, Karen, if you have any information on that.

Ms. Banks: — Are you asking about the number of assurance claims that have been paid?

Ms. Sarauer: — Yes, yeah.

Ms. Banks: — Okay. So what I can tell you is, since the time that our office was created in 2013, there have been fewer than 50 assurance claims in total, and that the amount that has been paid for the assurance claims since 2013 through the GRF [General Revenue Fund] is \$236,000. And that's in total.

Ms. Sarauer: — In total. Thank you. I have no further questions.

The Chair: — Thank you. Seeing no more questions, we'll proceed to vote on the clauses. Clause no. 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 11 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Land Titles Amendment Act, 2021*.

I'd ask a member a move that we report Bill No. 57, *The Land Titles Amendment Act, 2021* without amendment.

Mr. McLeod: — I'll so move.

The Chair: — Mr. McLeod moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

Bill No. 58 — *The Securities Amendment Act, 2021*

Clause 1

The Chair: — All right. Next is Bill No. 58, *The Securities Amendment Act, 2021*. We'll begin our consideration with clause 1, short title. Minister Wyant, please make your opening comments.

Hon. Mr. Wyant: — Thank you very much, Mr. Chair. To my far left again, Darcy McGovern, Q.C. To my immediate left, Neil

Karkut, senior Crown counsel, and to my right, Dean Murrison, who is the executive director of the securities divisions of the Financial and Consumer Affairs Authority.

So, Mr. Speaker, this bill makes four sets of changes to *The Securities Act*. First, the amendments will add a new provision that expressly prohibits a person or company from aiding or abetting another person to contravene securities laws. This change is based on the recommendations that came from the Canadian Securities Administrators. It's been adopted by numerous Canadian jurisdictions and will assist in prosecuting matters wherein various individuals are involved and each person only carries out a certain element of the offence.

Second, the Act's secondary market civil liabilities provision. The amendments will clarify that the limitation period is suspended while a plaintiff is seeking the required leave of the Court of Queen's Bench. This change is also based on recommendations that came from the Canadian Securities Administrators and has been adopted by numerous Canadian jurisdictions.

The third set of amendments will create new provisions respecting promotional activities based on recent changes under the British Columbia *Securities Act*. The new provisions will prohibit promotional activities that are false or misleading, and allow future rules respecting promotional activities to be prescribed in regulations. These changes are particularly important, given the expanding use of social media and electronic platforms to spread information about financial markets. By implementing these new rules, Saskatchewan will be taking a leading role along with British Columbia to address misleading promotional activities.

Finally, Mr. Chair, the proposed changes update existing regulation-making powers respecting the electronic filing, delivery, deposit, or receipt of documents. Future regulations are expected regarding electronic access to documents. These changes will result in significant efficiencies and red tape reduction for businesses.

So with that, Mr. Chair, happy to answer any questions that you have with respect to Bill 58.

The Chair: — Thank you, Minister. Ms. Sarauer, the floor is yours.

Ms. Sarauer: — Thank you, Mr. Chair. And thank you, Minister, for your opening remarks. I'm curious to learn more about the inclusion of promotional activities and the banning of false or misleading promotional activities in the legislation and BC's [British Columbia] experience with that. Can you elaborate more into why this change was deemed necessary?

Hon. Mr. Wyant: — I'll ask Mr. Murrison to answer that.

Mr. Murrison: — Generally in the financial industry there's a huge move to digitalization of information, and everybody wants to do things electronically now and so on. There's also another kind of significant move in the way people are giving their advice about securities. There's a large, significant group moving to what we call do-it-yourselfers. They don't go through the normal registration, to the normal registrant or dealer to get advice. They

go wherever they can get it, basically.

And so if we don't move to sort of putting some governors of sorts on financial information in the electronic industry, you know, we're really putting investors at a disadvantage, right? And we envision this going with some disclosure, so that if you're going to do this kind of activity electronically, you're going to have to say, you know, who's paying you to do it? Do you have an interest in what you're promoting already so that you're going to make a bunch of money if the price goes up? Those kinds of things.

So that's what we're trying to get at. It is really a modernization piece to recognize the changes in how the financial industry is working. And we've run into cases off and on where we try to do it with sort of our clunky pieces of legislation we have now, but this will help us get more directly at it.

Ms. Sarauer: — Thank you for that. And it goes into the next question that I had, actually, was whether this type of activity was already caught under the legislation as activity that isn't allowed. It seems very important for, as you said, investor safety that this change is happening, but I'm just wondering why it wasn't in the Act previous.

Mr. Murrison: — Well I mean, one of the reasons it's not in the Act previous is because the Act is quite old, 1988, and so we're always adding pieces to recognize changes in the industry. And of course this industry changes quite dramatically, often, so that's kind of why it's not there now. And it's just becoming more of a problem, you know, so we felt we had to do something about it.

There are ways in the Act where you could clunkily get at it, maybe. You could make an argument that somehow this is furtherance of a trade and therefore we caught you there, but these people are often unrelated to the issuers and unrelated to the sellers, people selling the securities that are doing this. So to make that argument that it's part of that selling process by the issuer is a more difficult argument to make.

This will make it fairly clear that we can get at these people and make sure they're doing it. And we don't want to stop people from, you know, putting out information. But we want to make sure it's fair, honest, and information that people can depend on, right, is really kind of where we want to go with this. And of course anything we do would be published for comment, and we'd get public input on it.

Ms. Sarauer: — So have there been instances where you've attempted to address this issue with the legislation as it currently exists and were finding it either too cumbersome, too difficult, or impossible?

Mr. Murrison: — I don't have a case that we've taken, but I can say that we have used the threat of that sort of approach to people doing that kind of information, and usually have been able to negotiate a reasonable approach to people. So we haven't had a specific case that I can think of where this was the crux of the enforcement action. But it's just a matter of time because this is becoming quite prevalent.

Ms. Sarauer: — Sure. Can you explain why this has initially come out of BC?

Mr. Murrison: — Well BC's traditionally . . . Their financial market has traditionally been more in the exempt, kind of, small issuer kind of market. That's just the kind of market they've got there. It's not the TSX [Toronto Stock Exchange] venture market and stuff. And a lot of this stuff is more prevalent in that area of the market, so it's something that they see as an issue. But there's growing interest in it across all jurisdictions of Canada. Let's just say we're a leader, but you know, there's a lot of people catching up pretty fast.

Ms. Sarauer: — That actually led into my next question, which was whether other jurisdictions were looking into passing this legislation as well.

Mr. Murrison: — Yes, they are. We're on a committee with Alberta and BC and ourselves looking at this stuff, and I know that the rest of the CSA [Canadian Securities Administrators] jurisdictions are indicating they're quite interested in the work that we do.

Ms. Sarauer: — Thank you. I have no further questions.

The Chair: — Thank you, all. Seeing no more questions, we'll proceed to vote on the clauses. Clause no. 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 12 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Securities Amendment Act, 2021*.

I'd ask a member to move that we report Bill No. 58, *The Securities Amendment Act, 2021* without amendment.

Mr. Grewal: — I move that motion.

The Chair: — Mr. Grewal moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

Bill No. 59 — *The Justices of the Peace Amendment Act, 2021/Loi modificative de 2021 sur les juges de paix*

Clause 1

The Chair: — Okay, our last bill for this evening is Bill No. 59, *The Justices of the Peace Amendment Act, 2021*, a bilingual bill. We'll begin our consideration with clause 1, short title. Minister Wyant, please make your opening comments.

Hon. Mr. Wyant: — Thanks very much, Mr. Chair. To my far left again, Darcy McGovern, Q.C.; to my left, Jane Chapco, who's senior Crown counsel of legislative services; and to my right, Jan Turner, assistant deputy minister from court services.

Mr. Chair, my opening comments with respect to Bill 59. This bill amends *The Justices of the Peace Act, 1988* to create two new positions of relief Justice of the Peace and administrative Justice of the Peace.

Under the Act, all justices of the peace are currently required to retire at the end of the month in which they turn 70. These amendments will create a new relief Justice of the Peace position which will allow those justices of the peace, who want to continue to serve in this very important role, to work until they're 75. Mr. Chair, to be eligible to be added to the list of relief justices, a person will have to have been previously served as a Justice of the Peace in this province, and will have to be under the age of 75 years. The supervising Justice of the Peace will assign justices of the peace to cases from the relief list, just like the Chief Judge assigns temporary judges from the temporary judge list at the Provincial Court.

Mr. Chair, these amendments will also create a new position of administrative Justice of the Peace. This new position will allow justices of the peace who take on extra administrative work to receive additional compensation.

The next independent justices of the peace commission report respecting salary amounts and other benefits for justices of the peace is not due until December 2024. Instead of waiting for the next scheduled commission, these amendments will authorize a smaller interim commission process. The interim process will be used to determine the salary amounts for these two new positions until the next full commission report is due, as I said, in 2024.

[16:30]

The bill will also shorten the term of the independent justices of the peace commission from six years to four years. This will allow the commission process under the Act and the Provincial Court commission process to be synchronized. Mr. Chair, these changes will ensure that *The Justices of the Peace Act* continues to support justices of the peace as they carry out a wide range of important duties in our courts.

And with that, Mr. Chair, I'm happy to answer any questions.

Mr. Chair: — Thank you, Minister. Ms. Sarauer, the floor is yours.

Ms. Sarauer: — Thank you, Mr. Chair. And thank you, Minister, for your opening remarks. Minister, could you explain why these new positions are needed?

Ms. Turner: — Hi. Jan Turner, ADM [assistant deputy minister]. What this does really is provide flexibility for the justices of the peace, much the same . . . As you can see, it's modelled on the Provincial Court model. It would be at the discretion of the supervising Justice of the Peace but would provide a knowledgeable group of folks to be available and, for a very short period of time, to act in relief. Had we had something like that in place during these last two years as we took on the challenges of COVID, it would have been very helpful to the Justice of the Peace to have that.

I think the Act does a good job in setting out the requirements to move into relief, so it provides less of a hard stop for those JPs

[Justice of the Peace] who do choose to work to 70 years of age, and gives them the opportunity then to take some of the relief work. It's very beneficial to the workflow of the court.

Ms. Sarauer: — On that, is this then addressing a capacity issue that was discovered during the past two years?

Ms. Turner: — Well there's been a lot of capacity issues during the last two years in terms of court. That's quite a large topic to discuss. What we're trying to achieve here is just that flexibility and be able to have individuals available when they're needed in different circumstances. I think the cadre we have now, the number of JPs, is the number that gets the work done most days, but it does provide that flexibility which I think will be important going forward.

Ms. Sarauer: — Understanding, I think, that it would be up to the supervising Justice of the Peace, I'm wondering if the ministry knows how many relief JPs will be created.

Ms. Turner: — Not at this time. And that is a decision that's not a ministry decision. It will be the decision of the supervising JP, and again it will be calibrated against the need.

Ms. Sarauer: — Okay. And on that question as well, has the ministry estimated what the cost of these changes will be?

Ms. Turner: — We estimate that it will be almost nil for the ministry. We're not creating additional work. This is work that the JPs would be doing in any circumstance. It allows the matters to be heard more quickly than they would've been in the past, so there wouldn't be an overall cost. It's something, of course, we'll keep our eye on as it goes forward, but it really is a way to accelerate the time for a matter before a JP.

Ms. Sarauer: — Thank you. No further questions.

The Chair: — Okay, seeing no more questions, we'll proceed to vote on the clauses. Clause no. 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 14 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Justices of the Peace Amendment Act, 2021*, a bilingual bill.

I'd ask a member to move that we report Bill No. 59, *The Justices of the Peace Amendment Act, 2021*, a bilingual bill, without amendment.

Mr. Ottenbreit: — I so move, Mr. Chair.

The Chair: — Mr. Ottenbreit moves. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. That concludes our committee's business

for tonight. I would like to thank Mr. Park for his work on this file. I'd like to thank Ms. Sarauer, Minister Wyant, his officials, the Committee of Intergovernmental Affairs and Justice, and Hansard. And with that, do you have any closing comments, Minister or Ms. Sarauer?

Ms. Sarauer: — I'll take the opportunity as well, Mr. Chair, to thank yourself and the committee for their work this evening, as well as all committee staff and legislative staff that are here today. And thanks to the minister for providing answers to my questions. And most importantly, thank you to the Justice officials that were here today, including the staff in the minister's office. It's always a pleasure to spend time with all of you.

Hon. Mr. Wyant: — Thanks, Mr. Chair. I too want to thank you and your attendant staff for tonight; and the committee for their attendance; my officials from the Ministry of Justice and my staff from the ministry, including my chief of staff, who make me look good every day, Mr. Chair; Ms. Sarauer, for your respectful questions — I appreciate those — and to Hansard as well. Thank you very much for being here.

The Chair: — Thank you all for your work on this. And I'd ask a member to move a motion of adjournment. Mr. Fiaz has moved. All agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. This committee stands adjourned to the call of the Chair.

[The committee adjourned at 16:38.]