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THE ANNOTATED BUSINESS CORPORATIONS ACT OF ALBERTA Brenda-Jean Currie Release No. 2, February 2025

This looseleaf service provides complete coverage of Alberta corporations law including: full text of the *Alberta Business Corporations Act* and Regulations as amended, clear and concise summaries of key reported and unreported decisions interpreting the Act, tables of cases and statutes, relevant case law from other jurisdictions, and a thorough index. This publication also includes forms and a comprehensive table of concordance relating to the *Alberta Business Corporations Act*. This publication features useful materials such as Words and Phrases, Legal Issues in Focus, and Extra-Provincial Corporations Summaries.

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This release features updates to Part 9 (s. 122(1)), Part 11 (ss. 136, 142), Part 13 (ss. 162, 163), Part 17 (s. 210(9)), Part 19 (ss. 240, 242, 248). This release also features updates to Appendix A.

Highlights:

- **Section 122—Duty of Care of Directors and Officers**—Fiduciary duties do not disappear because exercising them is inconvenient or unprofitable. The officers could not sacrifice their fiduciary obligations on the altar of “getting it done”: *MANN v. MTM INCOME TRUST*, 2024 ABKB 161, 2024 CarswellAlta 602, 53 B.L.R. (6th) 39.
- **Section 136—Shareholder Proposals**—There is significant attention paid in the Ontario Act to due process where the removal of a director is concerned; accordingly, it is hard to understand what logic would have led the legislature to impose a five percent threshold for making a proposal to nominate a director while permitting any shareholder to make a proposal to remove a director. Had the legislation meant to include the removal of a director by way of a proposal, it is not fanciful to conclude that it would have done so (decided under Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16, s. 99; different wording): *ONEMOVE CAPITAL CORPORATION v. DYE & DURHAM LIMITED*, 2024 ONSC 5114, 2024 CarswellOnt 14524 (S.C.J.).
- **Section 242—Relief by Court on the Ground of Oppression or Unfairness**—The court recognized the prima facie strength of a shareholder’s claim to audited financial statements, but found that these cases should not be taken as a judicial re-writing of the terms of the legislation. It follows that an order is not mandatory where there is an application under the oppression provision; rather, the court must decide whether the order is warranted in all the circumstances. In this case, the court held that an order for audited financial statements, under the oppression provision, should not be granted just because audited financial statements had not been distributed as required. The failure to distribute audited financial statements contrary to the Alberta Act is not per se oppression: *EHLI v. LAMANATOR COATINGS LTD.*, 2022 ABQB 152, 2022 CarswellAlta 498; affirmed 2024 ABKB 339, 2024 CarswellAlta 1474.