



FINAL REPORT OF THE COMMITTEE TO REVIEW THE ACT

PRESENTED TO THE BOARD OF THE

NEW BRUNSWICK ASSOCIATION OF REAL ESTATE APPRAISERS

August 15, 2023

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BACKGROUND

In the 1980s US financial markets came under increasing scrutiny, and appraisers started facing varying degrees of state regulations. Some appraisers in New Brunswick were concerned that Canadian regulations might not be far away and feared being regulated by a government body. A team was established by the New Brunswick Chapter of the Appraisal Institute of Canada (AIC) to study the setup of a regulatory association for real estate appraisal in New Brunswick. They studied other jurisdictions which were set-up in this fashion.

The team reported back to membership on how a regulatory association may work and the membership agreed to begin the preparation of legislation that would be the guide for the new association.

An Act to Incorporate the New Brunswick Association of Real Estate Appraisers/Association des évaluateurs immobiliers du Nouveau-Brunswick (the Act) came into force on January 1, 1995.

In 2003/2004, the New Brunswick Association of Real Estate Appraisers (NBAREA) Board engaged in a thorough review of the Act, bylaws, and rules, and draft amendments were developed and circulated to members and stakeholders for comment. For a variety of reasons, however, work on these proposed amendments was abandoned, and the Act has remained unchanged since 1995.

In May 2021, the NBAREA Board struck a committee to review the Act (the Committee) in response to concerns expressed by NBAREA members that the Act is out of sync with current-day realities and best practices. In the terms of reference, the NBAREA Board defined the Committee's scope as:

“...to undertake a review of the Act for the purposes of identifying and clarifying issues related to the provisions and/or administration of the Act, and preparing recommendations for addressing any issues or concerns identified. In addition to recommending changes to the Act, it is within the scope of this committee to consider and recommend alternative approaches for addressing identified issues (for example, through the development or amendment of by-laws, rules, and/or policies).

The complete terms of reference for the Committee can be found in Appendix A.

Between May 2021-June 2023, the Committee met 7 times (August 2021, November 2021, February 2022, June 2022, October 2022, May 2023, and June 2023). During that time, the committee engaged in a variety of activities to inform the substance of this report and recommendations:

- Detailed line-by-line review of the Act to identify provisions that may be out of date or in need of revision.

- Reviewed reports from other jurisdictions related to governance and evaluation of the regulation of the profession of real estate appraisal as well as other professions.^{1, 2, 3, 4, 5, 6}
- Developed and distributed a survey to solicit input from members regarding the Act.
- Consultation with legal counsel and the Clerk of the Legislative Assembly of New Brunswick regarding the processes and costs involved for either amending or repealing the Act.
- Consultation with a variety of stakeholders including AIC, CNAREA, the New Brunswick Real Estate Association, the Chair of the Standing Committee on Private Bills, the Ministry of the Environment and Local Government, and the Associate Deputy Minister of Corporate Services and Revenue Administration (Finance and Treasury Board).

IDENTIFYING THE ISSUES

As a result of their consultation and review, the committee has identified three main issues with the Act as it currently exists:

- I. The Act is out of date. Some examples of outdated aspects of the Act include:
 - The definition of “practice of real estate appraisal”⁷ does not reflect the scope of the profession as it has evolved (e.g. equipment/machinery).
 - The exemptions⁸ refer to legislation and professions⁹ that no longer exist or that have been renamed.
 - Many of the provisions in the Act are out of step with current best practices in professional regulation:
 - Formal affiliation with national association (AIC),
 - Registration requirements for education and training do not reflect one of the two main education programs in Canada and are not framed in line with best practices in regulation,
 - Board composition (elected board; includes a member of the national association; only one member of the public) is out of step with best practices, which is evolving to include competency based appointments, and greater involvement of the public (50-50),

¹ KPMG, “Governance Review of the Real Estate Council of Alberta”, Government of Alberta, June 28, 2019 <https://open.alberta.ca/publications/governance-review-of-the-real-estate-council-of-alberta>. [accessed March 1, 2022]

² Perrin, Dan, “Real Estate Regulatory Structure Review”, Government of BC, https://cullencommission.ca/files/Real_Estate_Regulatory_Structure_Review_Report_2018.pdf [accessed March 1, 2022]

³ Cayton, Harry, and Williams, Deanna, “A report and recommendations on improving governance prepared for the Ontario College of Social Workers and Social Service Workers”, Ontario College of Social Workers and Social Service Workers, May 3, 2022. <https://www.ocswssw.org/wp-content/uploads/OCSWSSW-governance-report.pdf> [accessed June 8, 2022]

⁴ Richler, Erica, “Two Major Reports on Professional Regulation in British Columbia”, Grey Areas, Summer 2018, No. 228, <https://www.sml-law.com/wp-content/uploads/2018/08/Greyar228.pdf> [accessed June 6, 2022]

⁵ Durcan, Rebecca, “The Cayton Report: The Wolf Finally Arrives”, Grey Areas, May 2019 – No. 236. <https://www.sml-law.com/wp-content/uploads/2019/05/Greyar236.pdf> [Accessed June 6, 2022]

⁶ Office of the Auditor General of Ontario, “Value-for-Money Audit: Real Estate Council of Ontario”, Auditor General of Ontario, November 2022, https://www.auditor.on.ca/en/content/annualreports/arreports/en22/AR_RECO_en22.pdf [accessed December 13, 2022]

⁷ Section 2 of the New Brunswick Association of Real Estate Appraisers (the Act)

⁸ Section 29 of the Act

⁹ The *Certified General Accountants Act* and the *Chartered Accountants Act* were replaced by the *Chartered Professional Accountants Act* in 2014. The professional titles of certified general accountant and chartered accountant were replaced with certified professional accountant.

- Complaints and Discipline processes is out of step with current best practices – for example, the Act requires involvement of board members in the complaints and discipline committees; hearings are closed to public;
 - Changes to the by-laws must be approved by resolution of 2/3 of the members voting at an annual or special meeting. This gives members of the profession the ability to block regulatory changes that may be in the public's interest.
2. The profession is too small to sustain the current regulatory scheme in keeping with best practices.
- As of June 20, 2023, NBAREA has a total of 179 members, including
 - 68 Regular practising members located in NB,
 - 25 Candidates,
 - 23 Regular or Candidate members who are Assessors with SNB – the Act provides exemptions for provincial assessors however some have voluntarily joined NBAREA for the purposes of education and training opportunities through AIC; SNB has discussed the possibility of encouraging Assessors to engage with other organizations, in part due to increase costs associated with AIC/NBAREA membership,
 - 45 Regular or candidate members located outside of NB (required to register under the Act for work in NB),
 - 16 retired/non-practising members,
 - 1 honorary member,
 - and 1 Temporary member
 - Finding volunteers for Board, and the statutory committees is increasingly difficult. The bylaws permit retired members to serve on committees and candidates can serve on the Board and committees, however NBAREA has avoided using candidates for complaints and discipline committees. Given the small pool of people it is increasingly difficult to manage conflicts of interest or perception of bias when dealing with complaint.
 - Because the Act was introduced as a private members bill, NBAREA is responsible for the costs associated with updating/amending. Initial cost estimates for amending the Act have been set at \$160,000-\$250,000. This estimate does not consider increased staffing needs (NBAREA currently has 1 part-time employee – 20 hours / week), or the additional strain on an already overburdened pool of volunteers.
3. NB's regulation of real estate appraisers is out of step with the rest of the country – Only New Brunswick and Nova Scotia are regulated in this way which impacts labour mobility among provinces, creates confusion for the public, and increases costs for NB appraisers and consumers. The costs of this regulation are shared by NBAREA members – as a result NB appraisers pay as much as \$200-\$450 more in registration fees than appraisers in other provinces. These costs are passed on to consumer. The Committee cannot confidently say that regulation under the NBAREA Act is providing better regulation/value to the consumer compared to the regulation in other provinces, achieved through the complaint resolution processes administered through AIC and CNAREA.

IDENTIFYING ALTERNATIVES

To address the issues identified above, the Committee has identified four alternatives for evaluation and consideration:

1. Status Quo – no amendments to the Act. Attempt to address deficiencies through changes to by-laws, rules, and policies.
2. Amend the Act – work with the profession and government to pursue amendments to the Act to address changes in the scope and practice of the profession, and to bring it in line with best practices in professional regulation.
3. Repeal the Act – work with the profession and government to pursue legislation to repeal the Act. Public protection would be achieved through the existing complaint resolution processes supported by the existing national associations and through the courts.
4. Explore the creation of alternative regulatory schemes – consider amendments to the Act which would permit NBAREA to enter into service agreements with other organizations for administration of the Act (e.g., regulator for another profession), or have another regulatory body assume responsibility for administration of the Act (e.g. the New Brunswick Financial and Consumer Services Commission (FCNB) already regulates mortgage brokers, insurance agents, auctioneers).

Some examples of alternative regulatory schemes include:

- Several provinces have organizations for the regulation of professionals and organizations in the finance and/or real estate industries.
 - BC Financial Services Authority (Real Estate Agents, Mortgage Brokers, Credit Unions, Insurance)
 - Real Estate Council of Alberta
 - Financial Services Commissions (e.g. in Ontario, NB, NS) regulate the financial and insurance sectors, including pension plans, credit unions, mortgage brokers
- Australia and the UK have national bodies established for regulating health professions. The national organization handles administration (registration, monitoring of compliance with CPD requirements, complaints and discipline). Each profession maintains a separate board with powers to determine qualifications, standards and requirements for their own profession, with policy and administrative support from the national organization.
- There are several examples of regulatory bodies established for the purposes of regulating more than one profession (Engineers and Geoscientists in BC; Audiologists and Speech Language Pathologists in Ontario:

EVALUATION FRAMEWORK

In order to ensure a thorough evaluation of the alternatives, the Committee discussed and agreed on a set of criteria against which each alternative was considered. The criteria for evaluating the options were identified as:

- Effectiveness of the proposed solution in addressing the issues
- Public interest – The public's interest should be paramount in the choice of alternative, as the purpose of the Act is to protect the public interest by regulating the practice of the profession. The extent to which each alternative protects the public interest was considered.
- Government support – Three of the four alternatives identified would require support and action from government. As a result, the Committee sought input from government.

- Cost – Although the other criteria would be given more weight, the committee determined that the cost of each alternative must be considered, given the limited resources of NBAREA and small membership base from which to derive revenues.

CONSULTATIONS WITH GOVERNMENT

The Registrar and the former Chair of the Committee consulted with the Ministry of the Environment and Local Government, the Chair of the Standing Committee on Private Bills, and the Associate Deputy Minister of Corporate Services and Revenue Administration (Finance and Treasury Board). The government representatives were provided with a brief overview of the issues, the proposed alternatives, and asked to provide input on the government’s position and/or level of support for the alternatives under consideration.

Although the Ministry of the Environment and Local Government is tasked with approving appointments of the lay representatives to the NBAREA Board and Discipline Committee, they declined to provide any comment regarding potential changes to the Act. The rationale was that it is a private Act, so they will not intervene¹⁰. The Chair for the Standing Committee on Private Bills provided an overview of the process¹¹, but referred NBAREA to Travis Bergin, the Associate Deputy Minister of Corporate Services and Revenue Administration (Finance and Treasury Board). In his response, Mr. Bergin stated that FCNB is not in a position to take over regulation of real estate appraisers, as this would move NB out of alignment with other provinces (no other province regulates appraisers through a government body).¹²

ASSESSMENT OF ALTERNATIVES

ALTERNATIVE I – STATUS QUO

The first alternative for consideration is to address the issues and problems through development of updated or new by-laws, rules, and policies.

EFFECTIVENESS

OUTDATED ACT

Although some of the issues could be addressed through changes to bylaws, rules, or policies, many of the issues identified relate to provisions set out in the Act. Under Sections 7(1) and 11(1) of the Act, any by-laws or rules made by the Association must be consistent with the Act, so these tools cannot be used to correct or override any outdated definitions or practices in the Act. Additionally, this presupposes that any proposed by-law amendments would be supported by of 2/3 of the members voting at an annual or special meeting. Regulatory bodies in other professions and jurisdictions have seen the membership vote against proposed by-law changes which would have imposed restrictions or requirements on the members, even though the board had deemed them to be in the public interest. It is for this reason that regulatory reform in many jurisdictions and professions has eliminated the requirement for by-laws to be approved by the membership.

¹⁰ Email correspondence – December 5, 2022

¹¹ Teleconference meeting – January 12, 2023

¹² Email correspondence, dated April 25, 2023, in follow up to Zoom meeting March 22, 2023

SUSTAINABILITY

This alternative does nothing to address the issue of sustainability, as the provisions of the Act require participation of the membership on the NBAREA Board and statutory committees. Application volumes for new candidates have remained steadily low. In addition, SNB has discussed affiliating with other organizations for the education and continuing education of their assessors. SNB employees currently hold a number of Board and committee positions. Low (and potentially decreasing) membership makes sustainability unlikely.

NB OUT OF STEP WITH THE REST OF THE COUNTRY

This alternative would not address the issue of NB being out of step with the rest of the country. Keeping the Act unchanged would maintain the requirement for appraisers to be registered in NB, which currently exists only in NB and NS.

PUBLIC INTEREST

The current Act is not in line with current best practices in regulation. In recent years, many jurisdictions and professions have introduced legislative changes intended to better promote/preserve the public interest (e.g. appointed vs elected board; exclusion of members of association board from regulatory body board; increased participation of public on board and complaints/discipline committees; exclusion of board from complaints/discipline process). Without amendments to the Act, NBAREA would be unable to address most of these deficiencies.

GOVERNMENT SUPPORT

Given the responses received from government officials, this alternative appears unlikely to be opposed by government. Although it keeps NB out of step with the rest of the country, in the absence of any concerns raised by the public or the profession itself, government appears unlikely to intervene.

COST

Although this alternative eliminates the cost of amending the Act, it is not without risk for potential cost. A significant increase in complaints and discipline hearings could deplete the Associations modest reserves. In addition, there may be risk of appeal/litigation related to the outdated provisions of the Act. Additionally, it maintains NBAREA's responsibilities for regulation, regardless of the size of the membership. NBAREA may choose to reduce activities in some areas, but the activities outlined in the Act (Registration practices, Complaints and Discipline processes) must be maintained. If membership continues to decline the costs of regulating the profession will continue to be borne by fewer people, resulting in the need to increase fees.

ALTERNATIVE 2 – AMEND THE ACT

The second alternative for consideration is to draft and propose amendments to the Act to address the issues. Implementing this option would depend on the support of the membership, in terms of funding the project as well as political support during consultation and drafting of proposed amendments.

EFFECTIVENESS

OUTDATED ACT

By definition, this alternative would be very effective in addressing concerns about the Act being outdated. Amendments would be proposed to either eliminate or revise any provisions of the Act which are outdated or not aligned with current best practices in professional regulation.

SUSTAINABILITY

Amending the Act to align with best practices in regulation is not likely to address the problem of sustainability, especially with respect to recruitment of suitable volunteers for the board, and the complaints and discipline committees. The issue of limited/low volunteer capacity could be exacerbated if SNB stops promoting AIC/NBAREA membership for their employees.

Additionally, amending the Act is not a one-time solution. As regulatory practices continually evolve, the Act would eventually become outdated again, at which point NBAREA members would again be responsible for the costs associated with the process for making amendments.

NB OUT OF STEP WITH THE REST OF THE COUNTRY

This alternative would not address the issue of NB being out of step with the rest of the country. Amending the Act would maintain the requirement for appraisers to be registered in NB, which currently exists only in NB and NS.

PUBLIC INTEREST

Any amendments to the Act would reflect recent changes in best practices in regulation which have been introduced with the intention to promote/preserve the public interest (appointed vs elected board; exclusion of members of association board from regulatory body board; increased participation of public on board and complaints/discipline committees; exclusion of board from complaints/discipline process).

NBAREA may still want to consider whether this type of regulation is truly in the public interest. Even if NBAREA and government find some deficiencies in the AIC and CNAREA complaints processes, if NBAREA cannot confidently demonstrate that it provides better public protection, then regulation under the Act may serve only to hinder labour mobility and increase the costs for NB consumers.

GOVERNMENT SUPPORT

Given the responses received from government officials, it is unclear whether this option would be supported by government. Although the Ministry of Environment and Local Government declined to comment on the basis that it is a private Act, any proposed amendments would require government to actively approve legislation that keeps NB out of step with the rest of the country.

COST

Costs for amending the Act have been estimated at \$160,000-\$250,000, including consultation initiatives, legal fees, publication, and translation costs. In addition to these costs, NBAREA would likely need to increase staffing, as the workload demands would likely exceed the capacity of NBAREA's one employee (20 hours per week).

ALTERNATIVE 3 – REPEAL THE ACT

The third alternative for consideration is to propose that government repeal the Act. Members of the public would rely on the complaint resolution processes through AIC and CNAREA and/or the courts to address concerns regarding the conduct and competence of real estate appraisers, as in all other provinces except NS.

EFFECTIVENESS

OUTDATED ACT

This alternative would effectively address concerns about outdated provisions in the Act by eliminating it altogether.

SUSTAINABILITY

This alternative would effectively address concerns about NBAREA's ability to continue to administer the Act, by eliminating it altogether. NBAREA would be dissolved as a corporate body with legal responsibilities set out in the Act and NB appraisers would be regulated through the complaints resolution processes of larger, more sustainable national organizations.

AIC members living in NB would be able to work with AIC to re-establish a provincial affiliate. The staffing, office space, and volunteers required to establish and maintain an AIC provincial affiliate office would be less than what is required to administer the NBAREA Act.

NB OUT OF STEP WITH THE REST OF THE COUNTRY

Removing the Act and relying on the complaints resolution processes of AIC and CNAREA would bring NB in to alignment with the rest of the country.

PUBLIC INTEREST

If NBAREA and the government are of the opinion that the public interest is sufficiently protected in other provinces through the existing complaints resolution process administered by the two national associations (AIC/CNAREA), it may be worth asking the question whether adding this additional layer of regulation to NB appraisers is in the public interest. Even if NBAREA and government find some deficiencies in the AIC and CNAREA complaints processes, if NBAREA cannot confidently demonstrate that it provides better public protection, then regulation under the Act may serve only to hinder labour mobility and increase the costs for NB consumers.

GOVERNMENT SUPPORT

Given the responses received from government officials, it is unclear whether this option would be supported by government. This option would be unlikely to provoke a political response from other organizations and professions (e.g. AIC, CNAREA, SNB, realtors, engineers, and other professions listed under section 29 of the Act). In the absence of any concerns raised by the public or the profession itself, government appears unlikely to oppose this option. The fact that it would bring NB in line with the rest of the country could be the argument that garners government support.

COST

The costs associated with this option have been estimated at \$35-\$60,000. The process would be similar to that required to amend the Act (consultation, drafting a bill proposing the repeal, translation and publication). The main difference would be a significant reduction in legal and translation fees, as the proposed bill would be significantly shorter than amendments to the existing act. In addition, the cost and time associated with the consultation process (with members and external stakeholders) would likely be lower than for amending the Act.

ALTERNATIVE 4 – INVESTIGATE ALTERNATIVE REGULATORY SCHEMES

The final alternative for consideration is to investigate alternative regulatory schemes. Changes to the Act could be introduced to provide for alternative administrative structures (amalgamation with a larger profession or falling under an existing government agency like FCNB), which would help reduce the costs of administering the Act, while still permitting the profession to be involved in the development of policies and administration of the complaint and discipline processes.

EFFECTIVENESS

OUTDATED ACT

By definition, this alternative would be very effective in addressing concerns about the Act being outdated. Amendments would be proposed to either eliminate or revise any provisions of the Act which are outdated or not aligned with current best practices in professional regulation.

SUSTAINABILITY

This option offers the potential for increased sustainability compared to options 1 and 2. Economies of scale can be achieved by tapping into the existing administrative structure of a partner or parent organization for functions like application and registration, annual renewal, monitoring compliance with continuing education requirements, administration of complaints and discipline processes, and policy and administrative support for the Board. Volunteer input would still be required for governance, policy development and complaint and discipline matters, but amendments to the Act could reduce the number of volunteers required.

As with Alternative 2, however, this alternative is not a one-time solution. As regulatory practices continually evolve, the Act would eventually become outdated again, at which point NBAREA members would again be responsible for the costs associated with the process for making amendments. Depending on the arrangements for the alternative regulatory scheme, it is possible that the impact of these future costs on sustainability could be less significant than under alternative 2, but it will still be greater than for alternatives 1 or 3.

NB OUT OF STEP WITH THE REST OF THE COUNTRY

This alternative would not address the concern about NB being out of step with the rest of the country. NB would remain one of only two provinces with legislation governing the regulation of the profession.

PUBLIC INTEREST

Any amendments to the Act would reflect recent changes in best practices in regulation which have been introduced with the intention to promote/preserve the public interest (appointed vs elected board; exclusion of members of association board from regulatory body board; increased participation of public on board and complaints/discipline committees; exclusion of board from complaints/discipline process).

NBAREA may still want to consider whether this type of regulation is truly in the public interest. Even if NBAREA and government find some deficiencies in the AIC and CNAREA complaints processes, if NBAREA cannot confidently demonstrate that it provides better public protection, then regulation under the Act may serve only to hinder labour mobility and increase the costs for NB consumers.

GOVERNMENT SUPPORT

Given the responses received from government officials, it is unclear whether this option would be supported by government. Although FCNB has advised that they would not be interested in assuming responsibility for regulating real estate appraisers, government did not provide comment on any of the other alternative regulatory schemes.

Two factors suggest that government may not be supportive of this option. First, NB would remain out of line with the rest of the country by being one of only two provinces to regulate appraisers in this way. Second, this option would likely provoke a political response from other organizations and professions (e.g. AIC, CNAREA, SNB, realtors, engineers, and other professions listed under section 29 of the Act.)

COST

This alternative would still require amendments to the Act to create the alternative administration and governance model, as well as addressing the issues related to scope and practice of the profession and alignment with best practices in regulation.

NBAREA could rely more heavily on reserves to fund amendments if the eventual outcome would be amalgamation with another organization. In addition, government and/or the other organization may be willing to contribute to the costs.

SUMMARY OF ASSESSMENT

Tables 1 and 2 provide a summary of the analysis of the alternatives for ease of reference. Table 1 provides a summary of the estimated costs of each alternative, while Table 2 provides a summary of the analysis of each alternative against the evaluation criteria.

Table I. Summary of Costs for Each Alternative

Alternative	Cost
Status Quo	<p>Review and revise NBAREA by-laws and rules – \$50,000-\$100,000</p> <p>Risks associated with appeals and court challenges related to outdated provisions of the Act (e.g. see New Brunswick Court Opens up Lawyers' Discipline Hearings - Centre for Constitutional Studies)</p>
Amend the Act	<p>Total cost estimated at \$160,000 - \$250,000</p> <p>Breakdown of costs:</p> <ul style="list-style-type: none"> • Repeal and replace the Act <ul style="list-style-type: none"> ○ Legal fees \$80,000-\$100,000 ○ Consultation initiatives (mandatory) \$10,000-\$20,000 ○ Publication (mandatory) - \$10,000-\$15,000 ○ Translation (mandatory) - \$10,000-\$15,000 • Amend existing by-laws and rules to align with new Act \$50,000-\$100,000 <p>Additional staffing – process for amending and implementing changes to the Act will likely require an increase in hours for the ED (or hiring of an external consultant).</p>
Repeal the Act	<p>Total Costs estimated between \$35,000-\$60,000</p> <p>Breakdown of costs:</p> <ul style="list-style-type: none"> • Legal fees \$15,000-\$20,000 • Consultation initiatives (mandatory) \$10,000-\$20,000 • Publication (mandatory) - \$5,000-\$10,000 • Translation (mandatory) - \$5,000-\$10,000 <p>Additional staffing – process for amending the Act may require an increase in hours for the ED (or hiring of an external consultant).</p>
Alternative Regulatory Scheme	<p>Requires amendments to the Act, by-laws and rules.</p> <p>Total cost estimated at \$160,000 - \$250,000+</p> <p>Breakdown of costs:</p> <ul style="list-style-type: none"> • Repeal and replace the Act <ul style="list-style-type: none"> ○ Legal fees \$80,000-\$100,000 ○ Consultation initiatives (mandatory) \$10,000-\$20,000 ○ Publication (mandatory) - \$10,000-\$15,000 ○ Translation (mandatory) - \$10,000-\$15,000 • Amend existing by-laws and rules to align with new Act \$50,000-\$100,000 • Additional staffing – process for amending and implementing changes to the Act will likely require an increase in hours for the ED (or hiring of an external consultant).

Table 2. Summary of Analysis of Alternatives Against Evaluation Criteria

Alternative	Effectiveness	Public Interest	Government Support	Cost
Status Quo	Negative	Negative	Neutral (with caution)	Neutral (with caution)
Amend the Act	Partially positive	Positive	Neutral (with caution)	Negative
Repeal the Act	Positive	Positive	Neutral	Positive
Alternative Regulatory Scheme	Partially positive	Positive	Negative	Negative

COMMITTEE RECOMMENDATION

After thorough review and analysis of the issues and proposed alternatives, the Committee unanimously recommends that the NBAREA Board proceed with Alternative 3: Repeal the Act. It is the opinion of the members of the Committee that repealing the Act is the only alternative which effectively addresses all of the issues and concerns identified. Additionally, it is the least costly alternative in terms of initial implementation and long-term sustainability.

FUNDING

The Committee discussed options for funding the implementation of the recommended alternative. The Committee identified \$46,300 in funding for the project as follows:

- \$6300 already approved in the 2023 budget (\$500 for Committee to Review the Act and \$5800 for legal fees related to changes to the Act)
- \$10,000 to be allocated in the 2024 budget
- \$10,000 to be allocated in the 2025 budget
- \$20,000 to be drawn from the Association’s unrestricted reserves

Should the costs of the project exceed \$46,300, the Association could choose to reallocate some funds from the Discipline reserve or consider a special levy.

LONG-TERM FUNDING CONSIDERATIONS

Because repealing the Act would mean that NBAREA would cease to exist as an organization, the Committee also considered how to fund a provincial association for members of the profession in NB after the Act has been repealed. A new organization would need to be created to serve as provincial affiliate to serve AIC members living in NB. The Board would need to consult legal counsel about the requirements for implementing such a transition, however it is likely that some or all of the remaining reserves could be used for the establishment of a new association/provincial affiliate of AIC.

The Committee also prepared a sample budget to ensure that a new association, once established, could be self-sustaining (see Appendix B). Assuming NBAREA provides transitional funding and assuming the current fee structure was maintained, a new Association would likely be able to generate enough revenue to maintain operations. Although repealing the Act would result in a loss of revenue due to the loss of membership fees from out of province and non-AIC members, it would also result in decreased expenses, mainly due to the elimination of expenses related to the complaints and discipline processes set out in the Act.

Moving forward, the new association would be able to explore alternative arrangements in terms of staffing and office space, including virtual office space and shared staffing resources with other provinces (e.g. Quebec, PEI, and NL). Additionally, the new Association would want to review the fee structure, as currently SNB members pay significantly less than other members.

Terms of Reference

Committee for Review of the Act

Purpose

The purpose of the Committee for Review of the Act is to undertake a detailed review of the *Act to Incorporate the New Brunswick Association of Real Estate Appraisers, 1994* (the Act), and make recommendations to the Board regarding possible amendments.

Scope

The Committee's scope is to undertake a review of the Act for the purposes of identifying and clarifying issues related to the provisions and/or administration of the Act, and preparing recommendations for addressing any issues or concerns identified. In addition to recommending changes to the Act, it is within the scope of this committee to consider and recommend alternative approaches for addressing identified issues (for example, through the development or amendment of by-laws, rules, and/or policies).

Functions

The Functions of the Committee to Review the Act are:

- To investigate and understand the processes involved in amending an Act of Legislature in the province of New Brunswick.
- To critically review the Act with respect to:
 - Intended objective of the legislation
 - Provisions that may be outdated as a result of:
 - Changes in the practice of the profession
 - Changes in the education standards/requirements
 - Changes in the standards of practice
 - Changes to laws or best practices in professional regulation (administrative justice)
 - Provisions that are considered to be unfair, or unduly complex
 - Provisions that are ineffective or inefficient
- To consult with members and other stakeholders as required

Authority

The Committee is established by the Board under sections 6(r), 6(s), 10(4), 12(1) and 12(2) of the Act, and Article VIII (sections 1-4) of the bylaws.

The authority of the committee is to review and consult for the purpose of developing recommendations for the Board's consideration in the form of a written report.

Membership

The Committee membership will consist of:

- 7 members in total
- at least 4 members of the Board

Meetings

Frequency: Meetings will be scheduled in advance, at regular intervals, ensuring adequate time for members to complete assigned tasks

Minutes: Minutes will be recorded by the ED

Quorum: 4 members of the Committee shall constitute a quorum

Decision Making Process

Committee decisions will be made by consensus

Accountability/Reporting

The Committee will provide a (written/verbal) report, including recommendations, to the Board for consideration at their January 2023 meeting.

APPENDIX B – SAMPLE BUDGET FOR ASSOCIATION WITH NO ACT

Budget 2023		
REVENUE	Current Requirements	Estimated Requirements No Act
Professional Dues and Application Fees	\$ 99,125	\$ 60,970
Courses	\$ 14,970	\$ 6,875
Annual Conference	\$ 12,000	\$ 14,000
Interest	\$ 1,500	\$ 1,000
TOTAL PROJECTED REVENUE	\$ 127,595	\$ 82,845
EXPENSES	Current Requirements	Estimated Requirements No Act
Accounting Services		
Accounting	\$ 4,990	\$ 4,990
Bookkeeping	\$ 3,900	\$ 2,700
Annual Meeting and Conference	\$ 8,865	\$ 8,865
Board of Directors	\$ 6,700	\$ 5,900
Committees:		
Education	\$ 100	\$ 100
Executive	\$ 100	\$ 100
Membership & Public Relations	\$ 500	\$ 500
Nominations & Elections	\$ 100	\$ 500
Staff Travel	\$ 1,592	\$ 1,592
Courses	\$ 11,000	\$ 8,750
Processing fees (AIC + Credit Card)	\$ 3,783	\$ 2,485
Insurance	\$ 3,707	\$ 3,707
Bank Charges	\$ 300	\$ 300
Legal Services (General)	\$ 8,700	\$ 2,900
Legal Services (Complaints and Discipline)	\$ 9,860	\$ -
Office Equipment	\$ 1,540	\$ 1,540
Office Expenses	\$ 1,340	\$ 1,340
Professional Development	\$ 1,500	\$ 1,500
Rent	\$ 7,200	\$ 3,600
Salaries & Taxes	\$ 44,781	\$ 34,143
Telephone	\$ 1,500	\$ 1,500
Translation Services	\$ 2,000	\$ 2,000
Website Design and Support	\$ 1,500	\$ 500
Donations	\$ 300	\$ 300
TOTAL EXPENSES	\$ 125,858	\$ 89,813
REVENUE - EXPENSES	\$ 1,737	-\$ 6,968

The following assumptions were used to draft a sample budget for a new association after the Act has been repealed:

- Membership fees would remain at their current level in the first year or two after the transition.
- Membership revenues would be decreased due to the loss of out of province AIC members and non-AIC members
- Course revenues would be decreased because Appraising in New Brunswick would be discontinued (this loss could be recouped by offering other events)

- A new provincial association would be in a position to explore options with AIC regarding staffing and rent. This proposed budget assumes reduce hours for the ED and reduced rent.
 - ED's hours reduced to 15 hours per week as a result of the removal of regulatory functions (e.g. complaints and discipline processes, committee of examiners)
 - Rent costs reduced. A move to a virtual office could provide the new association more flexibility regarding the staffing arrangement. Alternatively, the Association may wish to rent a smaller space.
- Expenses related to credit card processing decreased in line with decreased revenues.
- Repeal of the Act could permit the new association to eliminate the NBAREA website and use the NB Section of the AIC website exclusively.
- Legal services reduced due to removal of expenses related to complaints and discipline; need for other legal services is likely to decrease with the removal of the Act.

APPENDIX C – COMMITTEE MEMBERSHIP

Joel LaPointe, P.App, AACI, (member since May 2021; Chair from March 2023)

Jerry Iwanus, P.App, AACI (member and Chair from May 2021 to March 2023)

David Babineau, P.App, AACI

Miranda Burnett, Candidate (from April 2022)

Julie Clarke, P.App, AACI

A. Budd Lynch, P.App, AACI

Louis Poirier, P.App, AACI

Roxanne Wood, P.App, CRA (from May 2021-April 2022)

The Committee (CTRA) wishes to acknowledge Executive Director Carolyn Lordon's invaluable knowledge, support, and contribution to the work of this Committee.