

GENERAL EXPLANATORY NOTE:

- [Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 20 July 2006.)

ACT

To amend the Sectional Titles Act, 1986, so as to amend certain definitions; to provide for the registration of a sectional mortgage bond over an exclusive use area; to provide that joint holders of certain rights may apply for a certificate of real rights in respect of their undivided shares in an exclusive use area or a right contemplated in section 25(1) of the Act; to extend the manner in which a body corporate may acquire land for the extension of common property and to provide for the registration thereof; to provide for the deletion of a proviso; to provide for the substitution of references to the repealed Land Survey Act, 1927; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 95 of 1986, as amended by section 1 of Act 63 of 1991, section 1 of Act 7 of 1992, section 1 of Act 15 of 1993, section 1 of Act 44 of 1997, section 1 of Act 29 of 2003 and section 1 of Act 7 of 2005

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1. Section 1 of the Sectional Titles Act, 1986 (Act No. 95 of 1986) (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in subsection (1) for the definition of “Chief Surveyor-General” of the following definition:

“**‘Chief Surveyor-General’** means the Chief Surveyor-General appointed in terms of section [1] 2 of the Land Survey Act, [1927 (Act No. 9 of 1927)] 1997 (Act No. 8 of 1997);”;

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(b) by the substitution in subsection (1) for the definition of “sectional mortgage bond” of the following definition:

“**‘sectional mortgage bond’** means a mortgage bond hypothecating—

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(a) a unit or an [undivided share in a unit or] exclusive use area, land or an undivided share in such unit, area or land held under a separate sectional title deed; or

(b) a registered lease or sub-lease of any such unit, exclusive use area or land or an undivided share in [a] such unit, area or land; or], which when it was entered into, was for a period of not less than 10 years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period amount in all to not less than 10 years; or

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- (c) any other registered real right in or over any such unit or undivided share in a unit or common property or the rights referred to in sections 25 and 27;” and

- (c) by the substitution in subsection (1) for the definition of “Surveyor-General” of the following definition:

“**‘Surveyor-General’** means a Surveyor-General appointed in terms of section [4] 5 of the Land Survey Act, [1927 (Act No. 9 of 1927)] 1997 (Act No. 8 of 1997);”.

Amendment of section 15B of Act 95 of 1986, as inserted by section 10 of Act 63 of 1991 and amended by section 10 of Act 44 of 1997

2. Section 15B of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) (a) Any person who is—

- (i) the joint owner of a unit; or
- (ii) the joint holder of a right to an exclusive use area; or
- (iii) the joint holder of a right referred to in section 25(1), held by such person and one or more other persons under one sectional title deed, certificate of real right or notarial deed of cession, as the case may be, may, upon application to the registrar in the prescribed manner, obtain a certificate of registered sectional title or a certificate of real right in the prescribed form in respect of his or her undivided share in such unit, right to an exclusive use area or right referred to in section 25(1).

(b) No transfer or cession of a fraction of an undivided share—

- (i) in a unit; or
 - (ii) right to an exclusive use area; or
 - (iii) right referred to in section 25(1),
- and no hypothecation or lease of the whole or fraction of such undivided share shall be registered in a deeds registry unless a certificate of registered sectional title or certificate of real right in respect of such undivided share is produced to the registrar.”.

Amendment of section 26 of Act 95 of 1986, as amended by section 16 of Act 63 of 1991, section 19 of Act 44 of 1997 and section 7 of Act 29 of 2003

3. Section 26 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) A body corporate, authorized thereto in writing by all of its members, may purchase or otherwise acquire land to extend the common property and such land must be registered in the name of the body corporate in terms of this Act and the Deeds Registries Act.”; and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) Land purchased or otherwise acquired by and registered in the name of [by] a body corporate in terms of subsection (1) shall be deemed to be owned by the owners of the sections in the building concerned in the same proportion as their participation quota as reflected on the relevant sectional plan.”.

Amendment of section 36 of Act 95 of 1986, as amended by section 9 of Act 7 of 1992 and section 4 of Act 7 of 2005

4. Section 36 of the principal Act is hereby amended by the deletion of the proviso to subsection (2).

Substitution of expression

5. The principal Act is hereby amended by the substitution for the expression “Land Survey Act, 1927 (Act No. 9 of 1927)”, wherever it occurs, of the expression “Land Survey Act, 1997 (Act No. 8 of 1997)”.

Short title

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6. This Act is called the Sectional Titles Amendment Act, 2006.