

CAYMAN ISLANDS



Supplement No. published with [Extraordinary
Gazette] No. dated , 2012.

**A BILL FOR A LAW TO AMEND THE STRATA TITLES
REGISTRATION LAW (2005 REVISION) IN ORDER TO CHANGE THE
TYPES OF RESOLUTIONS WHICH MAY BE MADE UNDER THE
LAW; TO EMPOWER THE CORPORATION TO PURCHASE
ADDITIONAL PROPERTY FOR THE STRATA; TO PROVIDE FOR
THE VOLUNTARY DESTRUCTION OF A BUILDING IN A STRATA;
AND FOR OTHER AND CONNECTED PURPOSES**

THE STRATA TITLES REGISTRATION (AMENDMENT) BILL, 2012

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Strata Titles Registration Law (2005 Revision) (“the principal Law”) to change the types of resolution which are required for the approval of certain matters arising under the principal Law, to give a corporation the power to acquire land and to make other changes.

Clause 1 provides the short title of the Bill.

Clause 2, among other things, repeals the definition of “unanimous resolution” and provides definitions for special resolutions and super-majority resolutions.

Clause 3 amends section 3 of the principal Law by inserting after subsection (2) subsection (2A) which provides that upon registration of a strata plan, complete strata plan, phase strata plan and an amended strata plan-

- (a) the land described in such plan is divided into strata lots and common property, if any, in accordance with the plan; and
- (b) the proprietor of each strata lot is entitled to all the rights and obligations of a proprietor including the right to vote as a member of the corporation established upon registration of the plan in accordance with section 5.

Clause 4 amends section 6(1)(a) and (c) of the principal Law by deleting the word “unanimous” and substituting the word “super-majority”.

Clause 5 amends section 8(2) (a) of the principal Law by deleting the word “unanimous” and substituting the word “super-majority”.

Clause 6 amends section 14(1) of the principal Law by deleting the word “unanimous” and substituting the word “super-majority”.

Clause 7 inserts a section 14A which empowers the corporation, pursuant to a special resolution, to acquire additional property for the use of the corporation.

Clause 8 amends section 21(2)(a) of the principal Law by deleting the word “unanimous” and substituting the word “super-majority”.

Clause 9 amends section 22 of the principal Law to provide that proprietors may-

- (a) by super-majority resolution, direct their corporation to execute on their behalf a grant of easement or a restrictive agreement burdening the parcel; and
- (b) by special resolution, direct their corporation to accept on their behalf a grant of easement or restrictive covenant benefiting the parcel.

Clause 10 amends section 23 of the principal Law to provide that a building containing strata lots shall be deemed to have been destroyed when the proprietors by super-majority resolution so resolve. Clause 10 further provides that where such a resolution has been passed and the resolution relates to the voluntary destruction of a building by the corporation, the corporation shall settle the interests of the proprietors of the strata lots in that building as follows-

- (a) by paying any one or more of the proprietors the market value of his or their interest in the strata lots in the building;
- (b) by offering to any one or more of the proprietors in exchange for his or their strata lots in the building a strata lot or strata lots to be developed in the building or other strata lots located elsewhere on the parcel;
- (c) by acting in accordance with both paragraphs (a) and (b); or
- (d) in the absence of agreement under paragraph (a) or (b), by applying to the court for settlement under regulation 19 of the Strata Titles Registration Regulations (2006 Revision).”.

Clause 11 amends the First Schedule in paragraphs 30, 31 and 32 by deleting the word “unanimous” and substituting the word “super-majority”.

THE STRATA TITLES REGISTRATION (AMENDMENT) BILL, 2012

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Strata Titles Registration Law (2005 Revision)- definitions
3. Amendment of section 3- creation of strata lots
4. Amendment of section 6- duties and powers of a corporation
5. Amendment of section 8- voting rights
6. Amendment of section 14- disposition of common property
7. Insertion of new section- acquisition of additional common property; etc.
8. Amendment of section 21- bye-laws
9. Amendment of section 22- creation of easements and agreements
10. Amendment of section 23- destruction of building
11. Amendment of First Schedule

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A BILL FOR A LAW TO AMEND THE STRATA TITLES REGISTRATION LAW (2005 REVISION) IN ORDER TO CHANGE THE TYPES OF RESOLUTIONS WHICH MAY BE MADE UNDER THE LAW; TO EMPOWER THE CORPORATION TO PURCHASE ADDITIONAL PROPERTY FOR THE STRATA; TO PROVIDE FOR THE VOLUNTARY DESTRUCTION OF A BUILDING IN A STRATA; AND FOR OTHER AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Strata Titles Registration (Amendment) Law, 2012. Short title

2. The Strata Titles Registration Law (2005 Revision), in this Law referred to as the “principal Law”, is amended in section 2 as follows- Amendment of section 2 of the Strata Titles Registration Law (2005 Revision) - definitions

- (a) by renumbering section 2 as subsection (1) of section 2;
- (b) by-
 - (i) inserting in subsection (1) as renumbered the following definitions in their appropriate alphabetical sequence-

“special resolution” means-

- (a) in the case of a strata located wholly or partly in a Beach Resort/ Residential zone, Commercial zone, Hotel Tourism zone or Industrial zone, a resolution passed at a duly convened meeting of its corporation by -

- (i) not less than two-thirds of the votes cast at the meeting; and
 - (ii) the total of the unit entitlements for the strata lots for which votes are counted for the resolution is not less than two-thirds of the total of the unit entitlements for all strata lots included in the strata; and
- (b) in the case of a strata not located in the zones specified in paragraph (a), a resolution passed at a duly convened meeting of its corporation by-
- (i) not less than three-quarters of the votes cast at the meeting; and
 - (ii) the total of the unit entitlements for the strata lots for which votes are counted for the resolution is not less than three-quarters of the total of the unit entitlements for all strata lots included in the strata;

“super-majority resolution” means-

- (a) in the case of a strata located wholly or partly in a Beach Resort/ Residential zone, Commercial zone, Hotel Tourism zone or Industrial zone, a resolution passed at a duly convened meeting of its corporation by-
 - (i) not less than three-quarters of the votes cast at the meeting; and
 - (ii) the total of the unit entitlements for the strata lots for which votes are counted for the resolution is not less than three-quarters of the total of the unit entitlements for all strata lots included in the strata;
 - (b) in the case of a strata not located in the zones specified in paragraph (a), a resolution passed at a duly convened meeting of its corporation by-
 - (i) not less than nine-tenths of the votes cast at the meeting; and
 - (ii) the total of the unit entitlements for the strata lots for which votes are counted for the resolution is not less than nine-tenths of the total of the unit entitlements for all strata lots included in the strata; and
- (ii) by deleting from subsection (1) as renumbered the definition “unanimous resolution”; and
- (c) by inserting after subsection (1) the following subsection-

“(2) For the purposes of this Law, the expressions “Beach Resort/ Residential zone”, “Commercial zone”, “Hotel /Tourism zone” and “Industrial zone” have the same meanings, respectively, as in the Development and Planning Regulations (2011 Revision).”.

(2011 Revision)

3. The principal Law is amended in section 3 by inserting after subsection (2) the following subsection-

Amendment of section 3- creation of strata lots

“(2A) Upon registration of a strata plan, complete strata plan, phase strata plan and an amended strata plan-

- (a) the land described in such plan is divided into strata lots and common property, if any, in accordance with the plan; and
- (b) the proprietor of each strata lot is entitled to all the rights and obligations of a proprietor including the right to vote as a member of the corporation established upon registration of the plan in accordance with section 5.”.

4. The principal Law is amended in section 6(1)(a) and (c) by deleting the word “unanimous” and substituting the word “super-majority”.

Amendment of section 6- duties and powers of a corporation

5. The principal Law is amended in section 8(2)(a) by deleting the word “unanimous” and substituting the word “super-majority”.

Amendment of section 8- voting rights

6. The principal Law is amended in section 14(1) by deleting the word “unanimous” and substituting the word “super-majority”.

Amendment of section 14- disposition of common property

7. The principal law is amended by inserting after section 14 the following section-

Insertion of new section- acquisition of additional common property; etc.

“Acquisition of additional property

14A.(1) Proprietors may by special resolution, direct their corporation, to accept a transfer or acquire a lease of any land for the purpose of adding such land to the common property or for such other purpose of the corporation as may be determined by special resolution of the proprietors.

(2) Every such acquisition or lease under subsection (1) lodged for registration shall be endorsed with or accompanied by a certificate under the seal of the corporation that the resolution referred to in subsection (1) was duly passed, that the acquisition or lease conforms with the terms thereof and that all necessary consents were given,

and such certificate shall, in favour of vendors of the land and in favour of the Registrar, be conclusive evidence of the facts stated therein.”.

Amendment of section 21- bye-laws 8. The principal Law is amended in section 21(2)(a) by deleting the word “unanimous” and substituting the word “super-majority”.

Amendment of section 22- creation of easements and agreements 9. The principal law is amended in section 22 as follows-

(a) by repealing subsection (1) and substituting the following subsection-

“(1) The proprietors may-

(a) by super-majority resolution, direct their corporation to execute on their behalf a grant of easement or a restrictive agreement burdening the parcel; and

(b) by special resolution, direct their corporation to accept on their behalf a grant of easement or restrictive covenant benefiting the parcel.”; and

(b) in subsection (2) as follows -

(a) by repealing the words “have consented in writing to the release of those interests”; and

(b) by substituting therefor the words “have voted, consented in writing or been served in accordance with section 153 of the Registered Land Law (2004 Revision) with notice of the release of those interests.”.

(2004 Revision)

Amendment of section 23- destruction of building 10. The principal law is amended in section 23 as follows-

(a) in subsection (2)(a), by deleting the word “unanimous” and substituting the word “super-majority”; and

(b) by inserting after subsection (2) the following subsection-

“(2A) Where a resolution has been passed pursuant to subsection (2) and the resolution related to the voluntary destruction of a building by the corporation, the corporation shall settle the interests of the proprietors of the strata lots in that building as follows-

(a) by paying any one or more of the proprietors the market value of his or their interest in the strata lots in the building;

(b) by offering to any one or more of the proprietors in exchange for his or their strata lots in the building a strata lot or strata lots to be developed in the building or other strata lots located elsewhere on the parcel;

- (c) by acting in accordance with both paragraphs (a) and (b); or
- (d) in the absence of agreement under paragraph (a) or (b), by applying to the court for settlement under regulation 19 of the Strata Titles Registration Regulations (2006 Revision).” (2006 Revision)

11. The principal Law is amended in the First Schedule in paragraphs 30, 31 and 32 by deleting the word “unanimous” and substituting the word “super-majority”. Amendment of First Schedule

Passed by the Legislative Assembly this day of ,2012

Speaker.

Clerk of the Legislative Assembly