

12 things to know about the new Sectional Title legislation



31 October 2016

The legislation governing the Sectional Title industry was updated in 2016

Parts of the old Sectional Title Act 95 of 1986 are still in force, but two new acts were promulgated on 7 October this year - namely the Sectional Title Schemes Management Act (STSMA) and the Community Services Ombuds Service Act (CSOSA).

The STSMA will deal with the operational requirements around the management of Body Corporate schemes, while the CSOSA will assist with any disputes which may arise. The CSOS (the Ombud offices) will also act in a compliance capacity for other communal residential complexes, such as security estates (where a Home Owners Association manages the complex), [retirement villages](#) and share block schemes.

Below is an outline of what this new legislation means for you, whether you own a sectional title unit or a property in an estate/complex (governed by a Home Owners Association):

1. Registration of the complex

Body Corporates and Home Owners Associations need to register the [property development](#) with the Ombud's offices. They also need to ensure that all complex management and conduct rules, together with any changes which have historically been made to these rules, are filed with the Ombud.

In addition, complexes need to provide their domicilium address to the Ombud, the local municipality and local registrar of deeds so that in the event of cases being brought against a Body Corporate or Home Owners Association, there is one address at which to serve notices.

2. Assistance with conduct rules

The office of the Ombud must approve and certify all Body Corporate rules which have been substituted, added or changed.

3. Annual audited financials

All complexes need to file their audited financials with the Ombud's offices together with their budget for the following year.

The following rule changes apply only to sectional title units:

4. Reserve Fund

Body Corporates are now required by law to establish a reserve fund to cover the cost of future maintenance and repairs to common property. The suggested amount for the reserve fund is 25% of the annual levy. So, for example, if the levies total R150 000 for the year, then the additional reserve amount to be collected from owners would be R37 500.

5. Decisions require special resolutions

In future, Body Corporates will need a special resolution to make decisions such as the purchase, transfer, sale or letting of units. In cases where a special or unanimous resolution can't be reached, the chief Ombud can be approached to provide assistance.

6. Assistance in recovering arrear levies

Body Corporates can now request assistance from the regional Ombud where trustees are struggling to recover payments from Sectional Title owners.

7. Additional levy to fund the Ombud's offices

In order to properly serve the sectional title community, the Ombud's offices will be funded with an additional levy which each owner will have to pay. The regulated amount is the lesser of R40.00 or 2% of levies in excess of R500.00.

8. Limited proxies

No more multiple proxies per person. This new legislation limits the number of proxies held by a single Body Corporate member, to two.

9. Counting of votes

The way in which votes are counted at meetings has now been amended. Quorums and resolutions are now reached by counting the percentages required by number and value and each owner gets to vote only once in order to reach the required number as opposed to having multiple votes if more units are owned.

10. Building extensions in sectional complexes

Developers, who still own a unit and/or Body Corporates (where the developer has sold all the units) could request that the Ombud allow an extension to their right to build on in the complex. This was previously not allowed.

11. Insurance

All Body Corporates now need to review their all-risk insurance policy every three years. Moreover, sectional title owners may now take out additional insurance for their unit, in addition to the complex all-risk policy.

12. New complexes

In order to register a new sectional title [property development](#), a certificate must be obtained from the Ombud's office in which the Ombud confirms that the new complex is registered with the Ombud and that changes to the standard management and conduct rules are reasonable and acceptable.

In order to be compliant with the above changes, your Body Corporate needs to register the scheme with the CSOSA within 30 days after 7 October and submit the scheme's governance documentation to the Ombud Service within 90 days.

This new legislation aims to improve and streamline the governance of your Body Corporate. A positive move forward for trustees, owners and tenants alike.