

## CHAPTER 74

## Strata Titles Amendment Act, 1975

[Assented to 26th June, 1975.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

S.B.C.  
1974  
c. 89  
s. 1 (1).

1. Section 1 (1) of the *Strata Titles Act* is amended
  - (a) by inserting the following after the definition of "common property": "contingency reserve fund" means a fund for the non-annual expenditures of the strata corporation for repair, maintenance, and replacement of the common property, common facilities, and other assets of the strata corporation, including where applicable, without limiting the generality of the foregoing, the roof, exterior of the buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators, laundry, and recreational facilities; ,
  - (b) by repealing the definition of "municipality",
  - (c) in the definition of "owner", by adding at the end " , and includes a purchaser as defined by this section; ",
  - (d) in the definition of "special resolution", by striking out "who may vote on the resolution in person or by proxy;" and substituting "present at the meeting in person or by proxy at the time the resolution is passed; ",
  - (e) in the definition of "strata plan", by inserting "or consolidation" after "resubdivision", and
  - (f) by repealing the definition of "unit entitlement" and substituting the following:

"unit entitlement" means the unit entitlement of a strata lot and indicates the share of an owner in the common property, common facilities, and other assets of the strata corporation and is the figure by reference to which the owner's contribution to the common expenses of a strata corporation is calculated.

S. 1 (2)  
to (6).

2. Section 1 (2) and (3) is repealed and the following substituted:
  - (2) A schedule of unit entitlement that is acceptable to the Superintendent of Insurance is required for each strata plan.
  - (3) In the case of a residential strata plan, the owner-developer may submit
    - (a) a schedule of unit entitlement based on the following formula:

unit entitlement of strata lot	square footage of strata lot expressed as the nearest whole number
total unit entitlement of all strata lots in the strata plan	total square footage of all strata lots in the strata plan expressed as the nearest whole number

and the unit entitlement so calculated shall be expressed as the nearest whole number resulting from the application of the formula, or

- (b) an alternative schedule of unit entitlement not based on the formula set out in paragraph (a).

(4) Where the owner-developer

- (a) submits a schedule under subsection (3) (a), the Superintendent of Insurance may require the owner-developer to submit an alternative schedule under subsection (3) (b), or
- (b) submits an alternative schedule under subsection (3) (b), the Superintendent of Insurance may require the owner-developer to submit a schedule under subsection (3) (a),

and he may accept the schedule submitted under subsection (3) (a), or the alternative schedule submitted under subsection (3) (b), whichever, in his opinion, would result in a more equitable contribution by the owners to the common expenses of the strata corporation.

(5) In the case of a non-residential strata plan, the Superintendent of Insurance may accept a schedule of unit entitlement if, in his opinion, it equitably reflects the relative square footage of the strata lots as set out in subsection (3) (a), the location of the strata lots, their proximity to the common property, and any other factors relevant to their contribution to the common expenses.

(6) In the case of a strata plan consisting partially of residential and partially of non-residential strata lots, or of various types of non-residential strata lots, the Superintendent of Insurance may accept a schedule of unit entitlement if, in his opinion, it takes into account the criteria set out in subsections (3) and (5) and reflects an equitable relationship between the various types of strata lots in respect of their contribution to the common expenses.

S. 3 (1). 3. Section 3 (1) (h) is amended

- (a) by striking out "not entirely for residential use," and substituting "non-residential or partially residential,"
- (b) by striking out "non-residential" in the fifth line, and
- (c) by repealing subparagraph (ii) and substituting the following:

(ii) the non-residential strata lots as a group and the residential strata lots as a group, and, in order to achieve the relationship required by subparagraphs (i) and (ii) of this paragraph, the Superintendent of Insurance may approve a schedule of voting rights in which the votes allocated to the non-residential strata lots are not expressed in whole numbers, .

- S. 3 (5). 4. Section 3 (5) is amended
- (a) in paragraph (d), by inserting “, mortgagee,” after “owner-developer”, and
  - (b) in paragraph (f), by inserting “, or shall be certified as being a new development by a British Columbia land surveyor pursuant to section 4 (1)” after “authority”.

- S. 4. 5. Section 4 is repealed and the following substituted:
4. (1) Where a proposed strata plan consists of a new building to be constructed and developed and does not form part of a phased strata plan, a British Columbia land surveyor shall, at the time of filing the strata plan, certify in the prescribed form that the building is a new development and has not been previously occupied, and the certificate shall be filed with the Registrar by the owner-developer upon the deposit of the strata plan.

(2) In the case of a phased strata plan, the approving officer

- (a) shall approve each phase separately at the time approval is sought for the construction of buildings in that phase if it substantially complies with the requirements for that phase as set out in Form E of the Fourth Schedule, and
- (b) shall issue a certificate of approval in the prescribed form for each separate phase,

and the certificate shall be filed with the Registrar by the owner-developer upon the deposit of that phase of the strata plan.

- S. 9. 6. Section 9 is amended
- (a) by inserting the following after subsection (10):
 

(10a) The strata corporation may sue on its own behalf and on behalf of any owner in respect of matters affecting the common property, common facilities, and other assets of the strata corporation, and in respect of matters affecting individual strata lots notwithstanding that the strata corporation was not a party to the contract in respect of which the action is brought, and the legal and court costs in an action brought in whole or in part on behalf of any owners in respect of a matter affecting their strata lots shall be borne by the individual owners in the proportion in which their interests are affected. , and
  - (b) in subsection (11) (b), by striking out the reference “9 (10),”.

- S. 12.**        7.        Section 12 (1) is repealed and the following substituted:  
**Dispositions of common property and assets.**        (1) The owners, by special resolution, may direct the strata corporation to transfer or charge common property and other assets of the strata corporation or any part thereof.
- S. 17.**        8.        Section 17 is amended  
                  (a) in subsection (2), by striking out "principally" and substituting "partially", and  
                  (b) in subsection (3), by striking out "principally".
- S. 18.**        9.        Section 18 (2) is amended by striking out "principally" and substituting "wholly or partially".
- S. 21.**        10.       Section 21 is amended by adding the following after subsection (5):  
                  (6) Where a strata corporation has filed a certificate under subsection (2) or (4), it may add the land registry fee and the legal and administrative costs of filing the certificate to the amount owing by the owner to the strata corporation.
- S. 24.**        11.       Section 24 (1) is amended  
                  (a) by inserting "or between 2 or more owners" after "owner" in the second line, and  
                  (b) by striking out "and" at the end of paragraph (b), by adding "and" at the end of paragraph (c), and by inserting the following after paragraph (c):  
                  (d) decisions of the strata council or the strata corporation where the strata corporation consists of 2 strata lots, .
- S. 26.**        12.       Section 26 is amended  
                  (a) in subsection (1), by striking out "or special",  
                  (b) in subsection (1), by inserting "or to a convenient date" after "one week", and  
                  (c) by repealing subsection (2) (a).
- S. 27.**        13.       Section 27 is amended by inserting "which was not set out in the annual budget" after "dollars".
- S. 27A.**       14.       The Act is further amended by inserting the following after section 27:  
**Fines exceeding \$25.**        27A. Where a strata corporation wishes to impose a fine of more than \$25 for a breach of a by-law, rule, or regulation, it shall amend the by-laws of the Second Schedule and the resolution shall recite the by-law, rule, or regulation and the amount of the fine.

S. 28.  
Special  
interest  
sections.

15. Section 28 is repealed and the following is substituted:

28. (1) A group of owners may petition the strata corporation for permission to form a separate section within the strata corporation consisting of the strata lots within a defined area.

(2) The petition shall include

- (a) such additions or amendments to the by-laws of the strata corporation as are necessary for the formation and administration of, and which will apply to, the special section, and
- (b) if applicable, an application to have an area designated as limited common property.

(3) Where the petition is signed by 75% of the owners whose strata lots would be included within the proposed separate section, the strata corporation may approve the formation of the section and the additions or amendments to the by-laws, and may designate an area as limited common property.

(4) Where the strata council and the members of the proposed separate section cannot agree on

- (a) the formation of the section, or
- (b) the strata lots that are to be included within the section, or
- (c) the by-law changes, or
- (d) the designation as limited common property, or
- (e) any other matter,

the question may be referred to arbitration pursuant to section 24.

(5) Notwithstanding any other provision of this Act, the by-laws of the First and Second Schedules may be amended in respect of the strata lots within the special section by a special resolution passed by the members of the separate section and approved by the strata council.

(6) A special resolution passed under subsection (5)

- (a) shall be deemed to be passed if it receives the affirmative votes of 75% of the owners of the strata lots within the separate section, and
- (b) shall be filed by the strata council in the land registry office and shall specify the strata lots to which the resolution applies.

(7) Upon the formation of a separate section, the members may elect an executive, call and hold meetings, and pass resolutions in the same manner as the strata corporation, and the by-laws set forth in the First Schedule apply with the necessary changes and so far as they are applicable.

(8) The special section may pass rules and regulations binding upon members of the section in respect of

- (a) matters of common interest to the section, and
- (b) the use of the limited common property.

(9) The separate section has the same power as the strata corporation

- (a) to levy contributions upon the members of the section for any expenditure authorized by them,
- (b) to collect the contributions,
- (c) to employ staff, and
- (d) to acquire and dispose of real and personal property.

(10) The special section shall not enter into a contract in the name of the strata corporation, and the strata corporation has no liability for debts incurred or contracts made by the section.

(11) The strata council shall dissolve a special section upon

- (a) a petition of 50% of the owners within the section, or
- (b) a special resolution of the strata corporation,

and, in the event of dissolution, all by-laws, rules, and regulations of the section are thereupon repealed, and any property acquired by the section shall be transferred to the strata corporation or disposed of by the section.

s. 29. 16. Section 29 is amended

(a) by inserting the following before the present subsection (1):

(1) The strata council may designate an area as limited common property for the use of some but not all of the owners of strata lots if

- (a) the designation as limited common property does not inequitably exclude other owners from the use and enjoyment of this common property, and
- (b) the limited common property is subject to the rights of ingress, egress, and any other uses necessary to members of the strata corporation, and

(b) by renumbering the present subsection (1) as subsection (1a),

(c) in subsection (1a) as renumbered, by striking out "corporation" and substituting "council",

(d) in subsection (1a) (a) as renumbered, by striking out "designated for the use of certain strata lot owners",

(e) in subsection (2), by striking out "corporation" and substituting "council",

(f) in subsection (3), by striking out "corporation" and substituting "council", and

(g) by adding the following after subsection (3):

(4) Where a resolution is filed under subsections (1a), (2), and (3), the Registrar shall note the resolution on the page of the appropriate strata plan that refers to dealing with the common property.

s. 30. 17. Section 30 (9) is amended by adding at the end "against the strata corporation or any owner or tenant of a strata lot."

S. 31.

Resubdi-  
vision of  
strata  
lots.

18. Section 31 is repealed and the following is substituted:

31. (1) Subject to the provisions of this section, this Act applies to the resubdivision of a strata lot into 2 or more strata lots and to the consolidation of 2 or more strata lots by the deposit in the land registry office of another strata plan covering the strata lot being divided or the strata lots being consolidated.

(2) A strata lot may be divided, or may be consolidated with one or more other strata lots, by the unanimous resolution of the owners of the strata lots being divided or consolidated.

(3) Upon deposit of a strata plan of resubdivision or consolidation of strata lots included in a strata plan on deposit in the land registry office, accompanied by a certificate under the seal of the strata corporation that the resolution referred to in subsection (2) was duly passed, the Registrar shall amend the strata plan on deposit as prescribed by regulation.

(4) The schedule of unit entitlement and the schedules of interest upon destruction and of voting rights, if any, shall apportion among the new strata lot or lots the unit entitlement, the interest upon destruction, and the voting rights of the strata lot or lots in the original strata plan, and, subject to acceptance by the Superintendent of Insurance, these schedules shall be filed in the land registry office at the time of deposit of the strata plan of resubdivision or consolidation, and, thereupon, the Registrar shall amend the schedules filed with the original strata plan in the manner prescribed by regulation.

(5) The owners of strata lots in a strata plan of resubdivision or consolidation are, upon deposit of the strata plan of resubdivision or consolidation, members of the strata corporation formed on deposit of the original strata plan.

(6) On deposit of a strata plan of resubdivision or consolidation, strata lots comprised therein become subject to the burden and have the benefit of any easements affecting the strata lots in the original strata plan that are included in the plan of resubdivision or consolidation.

S. 31A.

Removal of  
common  
boundary.

19. The Act is further amended by inserting the following after section 31:

31A. Where a strata lot owner owns adjoining strata lots, he may remove all or any part of an intervening wall constituting the common boundary between the strata lots, subject to the written permission of the strata council; but that permission shall not be withheld unless the proposed alterations would weaken a bearing wall or column or would interfere with the provision of utilities to any other strata lot or to the common property.

S. 36.

20. Section 36 (4) is amended by striking out "lease, sublease, or assignment of lease for a term of three years or more," and substituting "proprietary lease,".

- s. 37. 21. Section 37 (1) is amended by striking out "at or near the front building alignment of the parcel," and substituting "at a place convenient for postal delivery,".
- S. 48A. 22. The Act is further amended by inserting the following after section 48:  
No mechanics' lien on phased strata plan. 48A. Notwithstanding the *Mechanics' Lien Act* or any other Act, in a phased strata plan a lien may be filed only against the strata lots in the phase in which the materials were supplied or the work was done.
- s. 49. 23. Section 49 (1) is amended by striking out "deposit of that phase of the strata plan." and substituting "first conveyance of title to a strata lot in that phase."
- s. 51. 24. Section 51 (2) is repealed.
- s. 53. 25. Section 53 (2) is amended  
(a) by inserting " , premium, or other consideration" after "rent", and  
(b) by striking out all the words after "regulations".
- s. 62. 26. Section 62 (2) is amended by inserting "or other lessor" after "Crown".
- s. 63. 27. Section 63 (2) is repealed.
- s. 66. 28. Section 66 (2) is amended  
(a) in paragraph (a), by inserting " , unless it is varied pursuant to paragraph (c), (d), and (e)," after "unit entitlement" , and  
(b) by adding the following after paragraph (b):  
(c) notwithstanding paragraph (a), a strata corporation may, by special resolution, amend its schedule of unit entitlement, and, if it does not have a schedule of interest upon destruction, it shall at the same time adopt such a schedule;  
(d) the schedules shall be submitted to the Superintendent of Insurance for his acceptance, based on the criteria set out in sections 1 (2) to (6) and 3 (1) (g) of this Act, and, upon the acceptance of the schedules, the strata corporation shall deposit them in the appropriate land registry office;  
(e) the Registrar shall amend the strata plan by deleting the previous schedule, and substituting the schedules filed pursuant to paragraph (d).
- First Sch. 29. The First Schedule is amended  
(a) by adding the following after section 1 (g):  
(h) receive the written permission of the strata council before undertaking any alterations to his strata lot; but permission shall not be refused unless the proposed alterations would weaken a bearing wall or column or interfere with pipes, wires, cables, chutes, or ducts serving other strata lots or the common property. ,



- (b) in section 2 (g), by inserting "or credit union or financial institution established by the Government" after "trust company",
- (c) in section 3 (j), by inserting "not less than" after "fund which shall be",
- (d) in section 6, by striking out "registration of the strata plan." and substituting "the conveyance of the first strata lot in that strata plan.",
- (e) in section 8, by inserting "shall be elected by and from among the purchasers and" after "permanent strata council", and
- (f) by inserting the following after section 8:

8A. Where a strata corporation consists of less than 4 strata lots, the strata council shall consist of all owners.

8B. Except where the strata council consists of all owners, where a strata lot is owned by more than one person, only one owner of the strata lot shall be a member of the strata council at any one time.,

- (g) in section 10, by inserting "for cause" after "remove",
- (h) in section 19, by inserting "and shall make available upon request to an owner or a person authorized by him," after "one person,"
- (i) by inserting the following after section 21:

21A. No member of a strata council shall be personally liable for any act done in good faith in carrying out his duties as a member of the strata council.,

- (j) in section 25, by inserting "within two weeks after the requisition is made" after "lots",
- (k) in section 49, by renumbering the section as subsection (1), and by adding the following:

(2) Where a strata plan includes limited common property, expenses attributable to the limited common property which would not have been expended if the area had not been designated as limited common property shall be borne by the owners of the strata lots entitled to use the limited common property in proportion to the unit entitlement of their strata lots., and

- (l) in section 50 (e), by striking out "calendar" and substituting "fiscal".

Third  
Sch.

30. The Third Schedule is amended by striking out "Strata Plan No. -----" and substituting "Leasehold Strata Plan No. -----".

Fourth  
Sch.

31. Section 2 (e) of Form E of the Fourth Schedule is amended by inserting "or other structure" after "residence".

Commence-  
ment.

32. This Act comes into force on a day to be fixed by Proclamation.