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No. 29066

THE PRESIDENCY

No. 747

25 July 2006

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 6 of 2006: Sectional Titles Amendment Act, 2006.

DIE PRESIDENSIE

No. 747

25 Julie 2006

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 6 van 2006: Wysigingswet op Deel-titels, 2006.

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.
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*(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registration thereof; to provide for the deletion of a proviso; to provide for the substitution of references to the repealed Land Survey Act, 1927; and to provide for matters connected therewith.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 5

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);”;
 - (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—
(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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ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeningen aan.
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- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeningen aan.
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*(Engelse teks deur die President geteken.)
(Goedgekeur op 20 Julie 2006.)*

WET

Om die Wet op Deeltitels, 1986, te wysig ten einde sekere woordomskrywings te wysig; voorsiening te maak vir die registrasie van 'n deelverband oor 'n uitsluitlike gebruiksgebied; voorsiening te maak dat medehouers van sekere regte aansoek kan doen om 'n sertifikaat van saaklike regte ten opsigte van hulle onverdeelde aandele in 'n uitsluitlike gebruiksgebied of 'n reg beoog in artikel 25(1) van die Wet; die wyse uit te brei waarop 'n regpersoon grond vir die uitbreiding van gemeenskaplike eiendom kan verkry, en vir die registrasie daarvan te voorsien; voorsiening te maak vir die skraping van 'n voorbehoudsbepaling; voorsiening te maak vir die vervanging van verwysings na die herroep Opmetingswet, 1927; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 95 van 1986, soos gewysig deur artikel 1 van Wet 63 van 1991, artikel 1 van Wet 7 van 1992, artikel 1 van Wet 15 van 1993, artikel 1 van Wet 44 van 1997, artikel 1 van Wet 29 van 2003 en artikel 1 van Wet 7 van 2005

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1. Artikel 1 van die Wet op Deeltitels, 1986 (Wet No. 95 van 1986) (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur in subartikel (1) die woordomskrywing van "deelverband" deur die volgende woordomskrywing te vervang:
- "deelverband" 'n verband wat—
- (a) 'n eenheid of 'n [onverdeelde aandeel in 'n eenheid] uitsluitlike gebruiksgebied, [of] grond of 'n onverdeelde aandeel in sodanige eenheid, gebied of grond wat kragtens 'n afsonderlike deeltitelbewys besit word; of
- (b) 'n geregistreerde huurkontrak of onderverhuring van enige sodanige eenheid, uitsluitlike gebruiksgebied of grond of 'n onverdeelde aandeel in 'n sodanige eenheid, gebied of grond [; of] wat, toe dit aangegaan is, aangegaan is vir 'n tydperk van nie minder nie as 10 jaar of vir die lewensduur van die huurder of enige ander persoon in die huurkontrak genoem, of wat na die keuse van die huurder van tyd tot tyd hernu kan word vir 'n onbepaalde termyn of vir termyne wat tesame met die eerste termyn altesame nie minder nie as 10 jaar beloop; of

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Act No. 6, 2006

SECTIONAL TITLES AMENDMENT ACT, 2006

- (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);”.

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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

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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.”.

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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).

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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.”.

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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.”.

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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.”.

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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

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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

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

- (c) 'n ander geregistreerde saaklike reg in of oor enige sodanige eenheid of onverdeelde aandeel in 'n eenheid of gemeenskaplike eiendom of regte bedoel in artikels 25 en 27,
beswaar;"; en
- (b) deur in subartikel (1) die woordomskrywing van "Hooflandmeter-generaal" 5
deur die volgende woordomskrywing te vervang:
"‘**Hooflandmeter-generaal**’ die Hooflandmeter-generaal aangestel ingevolge artikel [1] 2 van die [**Opmetingswet, 1927 (Wet No. 9 van 1927)**] Grondopmetingswet, 1997 (Wet No. 8 van 1997);";
- (c) deur in subartikel (1) die woordomskrywing van "Landmeter-generaal" deur 10
die volgende woordomskrywing te vervang:
"‘**Landmeter-generaal**’ 'n Landmeter-generaal aangestel ingevolge artikel [4] 5 van die [**Opmetingswet, 1927 (Wet No. 9 van 1927)**] Grondopmetingswet, 1997 (Wet No. 8 van 1997);".

**Wysiging van artikel 15B van Wet 95 van 1986, soos ingevoeg deur artikel 10 van 15
Wet 63 van 1991 en gewysig deur artikel 10 van Wet 44 van 1997**

2. Artikel 15B van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

- "(5) (a) Iemand wat—
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| (i) die mede-eienaar van 'n eenheid; of | 20 |
| (ii) die medehouer van 'n reg op 'n uitsluitlike gebruiksgebied; of | |
| (iii) die medehouer van 'n reg bedoel in artikel 25(1),
is, wat deur daardie persoon en een of meer ander persone kragtens een deeltitelbewys, sertifikaat van saaklike reg of notariële akte van sessie, na gelang van die geval, besit word, kan, op aansoek by die registrateur op die voorgeskrewe wyse, 'n sertifikaat van geregistreerde deeltitel of 'n sertifikaat van saaklik reg in die voorgeskrewe vorm ten opsigte van sy of haar onverdeelde aandeel in sodanige eenheid, reg op 'n uitsluitlike gebruiksgebied of reg bedoel in artikel 25(1), verkry. | 25 |
| (b) Geen oordrag of sessie van 'n breukdeel van 'n onverdeelde aandeel— | |
| (i) in 'n eenheid; of | 30 |
| (ii) reg op 'n uitsluitlike gebruiksgebied; of | |
| (iii) reg bedoel in artikel 25(1),
en geen verband of huurkontrak oor die geheel of 'n breukdeel van sodanige onverdeelde aandeel word in 'n registrasiekantoor geregistreer nie, tensy 'n sertifikaat van geregistreerde deeltitel of 'n sertifikaat van saaklike reg ten opsigte van sodanige onverdeelde aandeel aan die registrateur voorgelê word.". | 35 |

Wysiging van artikel 26 van Wet 95 van 1986, soos gewysig deur artikel 16 van Wet 63 van 1991, artikel 19 van Wet 44 van 1997 en artikel 7 van Wet 29 van 2003

3. Artikel 26 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
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| "(1) 'n Regspersoon, skriftelik daartoe gemagtig deur al sy lede kan grond aankoop <u>of andersins verkry</u> om die gemeenskaplike eiendom uit te brei <u>en</u> sodanige grond moet in die naam van die regspersoon <u>ingevolge hierdie Wet en die Registrasie van Aktes Wet, geregistreer word.</u> "; en | 40 |
| (b) deur subartikel (2) deur die volgende subartikel te vervang: | |
| "(2) Grond aangekoop <u>of andersins verkry</u> deur en geregistreer in die naam van <u>[deur]</u> 'n regspersoon ingevolge subartikel (1), word geag besit te word deur die eienaars van die dele in die betrokke gebou in dieselfde verhouding as hulle deelnemingskwota soos op die toepaslike deelplan aangetoon." | 45 |
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Wysiging van artikel 36 van Wet 95 van 1986, soos gewysig deur artikel 9 van Wet 7 van 1992 en artikel 4 van Wet 7 van 2005

4. Artikel 36 van die Hoofwet word hierby gewysig deur die voorbehoudsbepaling by subartikel (2) te skrap.

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.

Vervanging van uitdrukking

5. Die Hoofwet word hierby gewysig deur die uitdrukking “Opmetingswet, 1927 (Wet No. 9 van 1927)”, waar dit ook al voorkom, deur die uitdrukking “Grondopmetingswet, 1997 (Wet No. 8 van 1997)” te vervang.

Kort titel

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6. Hierdie Wet heet die Wysigingswet op Deeltitels, 2006.