



ANGUILLA

**A BILL FOR
CONDOMINIUM (AMENDMENT) ACT, 2012**

Published by Authority

I Assent

Governor

Date

ANGUILLA

No. /2012

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An Act to amend the Condominium Act, R.S.A. c. C80.

[Gazetted: _____, 2012] [Commencement: Assent under section 57 of the Constitution]

ENACTED by the Legislature of Anguilla

Interpretation

1. In this Act, the “Principal Act” means the Condominium Act, R.S.A. c. C80.

Insertion of Part Heading

2. The following Part Heading is inserted immediately before section 1 of the Principal Act—

“PART 1-STRATA LOTS”

General Amendment

3. The Principal Act is amended—

- (a) by replacing the words “mortgage or charge”, wherever they appear in the Act, with the word “charge”;
- (b) by replacing the words “mortgagee or chargee”, wherever they appear in the Act, with the word “chargee”;
- (c) by replacing the words “mortgage”, “mortgages”, “mortgagee” and “mortgagees”, wherever they appear in the Act, with the words “charge”, “charges”, “chargee” and “chargees” respectively;
- (d) by replacing the words “convey” and “conveyance”, wherever they appear in the Act, with the word “transfer”, and

- (e) by replacing the word “conveyed”, wherever it appears in the Act, with the word “transferred”.

Amendment of section 1

4. Section 1 of the Principal Act is amended—

- (a) by repealing and replacing the definition of “building” with the following—
““building” means a structure or structures containing one or more units and comprising a part of the property that is or is to be included in a Declaration;”
- (b) by inserting the following definition in its appropriate alphabetical order—
““charge” has the meaning ascribed thereto by section 1 of the Registered Land Act;”;
- (c) by deleting the definition of ““mortgage”;
- (d) by repealing and replacing the definition of ““property” with the following—
““property” means land and interests appurtenant to the land which is or is to be included in the plan and/or Declaration;”;
- (e) by repealing and replacing the definitions of “strata lot” and “unit” with the following—
“strata lot” or “unit” means a horizontal and/or vertical division of a parcel which is designated on a registered strata plan as a strata lot, comprising the space enclosed by the boundaries and all the material parts of the land within the space at the time that the declaration and strata plans are registered, and includes—
- (i) detached buildings, divisions or subdivisions of one or more buildings; or
- (ii) divisions or subdivisions of a parcel with or without a building thereon;
- (f) in the definition of “unit owner” by replacing the words “owner in fee simple” with the words “proprietor with absolute title or leasehold proprietor”.

Insertion of new sections 2A to 2C

5. The following sections 2A to 2C are inserted immediately after section 2 of the Principal Act—

“Specified use of the Unit

2A. Subject to sections 2B the unit may be used for residential, dwelling or business purpose.

In this section business purpose includes office accommodation, shops and ware houses.

Permit for development

2B. (1) The Governor in Council upon the application of any proprietor, may grant permission for the issue of a permit for the registration of a strata plan over a parcel of land being used or intended to be used wholly or partially as a tourism development. Such permit may be used by the Registrar subject to such terms and conditions as the Governor in Council may think fit.

(2) The Governor in Council may make regulations relating to the manner of making application under subsection (1).

Authorised use

2C. Where the purpose for which a strata lot is intended to be used is shown expressly or by implication on or by the approved strata plan the proprietor of such strata lot shall not use it or permit it to be used for any other purposes.”

Amendment of section 3

6. Section 3 of the Principal Act is amended as follows—

(a) subsection (1) is repealed and replaced with the following—

“ (1) Subject to this Act, the proprietor of a parcel upon which a building is or is to be constructed may apply to the Registrar, in the manner provided by or under this Act and prescribed under the Registered Land Act, R.S.A. c R30, for the registration of horizontal and/or vertical subdivisions of the parcel, to be known as strata lots or units, in accordance with a plan, to be known as a strata plan which shall accompany the application.”

(b) subsection (2) is amended—

(i) in paragraph (b) by deleting the words “the building” and substituting the words “any building or buildings”;

(ii) in paragraph (c)—

(A) in subparagraph (ii) by deleting the word “the” and substituting the word “any”;

(B) by inserting the following new subparagraph after subparagraph (ii)—

“(iia) define the boundaries of each strata lot not contained within any building by reference to the survey markers and not by reference to the floors, walls or ceilings of a building; and

(C) in subparagraph (iii) by inserting after the words “ floor area” the words “ or land area”.

(c) subsection (4) is amended by inserting the words “or boundary line” after the word “ceiling”.

Amendment of section 5

7. Section 5(2) of the Principal Act is repealed and replaced with the following—

“(2) A strata lot is deemed for the purposes of this Act—

- (a) to be land; and
- (b) to be a parcel.”.

Amendment of section 6

8. Section 6 of the Principal Act is amended—

(a) in subsection (1)—

- (i) by deleting all the words from “under seal” to the end of the words “in fee simple” and substituting the following words—

“by the person or persons having the legal, equitable or leasehold title;

- (ii) in paragraph (c) by deleting the words “the building, including its location” and substituting the words “any building or buildings including its or their location”; and
- (iii) in paragraph (d) by deleting the words “the building” and substituting the words “any building or buildings”;

(b) in subsection (3)—

- (i) by deleting the words “the building” and substituting the words “any building or buildings”; and
- (ii) by inserting after the word “ceiling” the words “or boundary line”

(c) in subsection (4)—

- (i) by inserting before the words “the Unit Entitlement”, the words “Unless otherwise declared in the Declaration” ;
- (ii) in paragraph (b) by inserting after the words “floor area” wherever it appears, the words “or land area”.

Amendment of section 7

9. Section 7(1) of the Principal Act is repealed and replaced with the following—

“(1) With every Declaration there shall be a complete set of drawings and plans of each floor, basement and cellar of the relevant building or buildings showing the layout, locations, designations and approximate dimensions of the units which shall be accompanied by a certificate of a licensed surveyor practicing in Anguilla, certifying that the drawings and plans are accurate copies of the drawings and plans of the building or buildings as approved by such proper authority as has power to approve plans for the construction of buildings.”.

Amendment of section 8

10. Section 8 of the Principal Act is amended—

- (a) in subsection (1) by inserting the words “or strata lots” after the word “units”; and
- (b) in subsection (3) by deleting the words “a freehold estate in real property” and substituting the words “absolute title to land”;

Amendment of section 9

11. Section 9 of the Principal Act is amended in subsection (1) by replacing the words “tenant in common” with the words “proprietor in common”.

Amendment of section 10

12. Section 10 of the Principal Act is amended—

- (a) in the marginal note by replacing the words “deed of unit” with the words “certificate of unit”;
- (b) by replacing the word “deed” with the word “certificate”.

Amendment of section 12

13. Section 12(1) of the Principal Act is amended by deleting the words “the building” and replacing them with the words “any building or buildings”.

Amendment of section 15

14. Section 15(1) of the Principal Act is amended—

- (a) in paragraph (1) by inserting after the words “to this Act” the following—
“and those by-laws which have been adopted by the strata lot corporation”.
- (b) in paragraph (3) by inserting after the words “by this Act” the following—
“or those by-laws which have been adopted by the strata lot corporation”.

Amendment of section 16

15. Section 16 (2)(c) of the Principal Act is repealed and replaced with the following—

- “(c) to establish a fund for payment of common expenses to which fund the unit owners shall contribute in proportions specified in the Declarations;”

Amendment of section 17

16. Section 17(1)(g) of the Principal Act is amended by inserting after the word “property” the following—

- “and use of the common property;”.

Amendment to section 18

17. Section 18(1) of the Principal Act is amended by inserting after the words “under this Act” the following—

“or the by-laws of the strata lot corporation”.

Amendment of section 25(2)

18. Section 25(2) of the Principal Act is amended by replacing the words “deed of title” with the words “Land Register”.

Amendment to section 27

19. Section 27 of the Principal Act is amended—

- (a) by replacing the terms “mortgages charged upon” and “mortgage charged upon” wherever they appear in this section with the terms “charges attached to” and “charge attached to” respectively;
- (b) by replacing the term “sub-mortgage” wherever it appears in this section with the term “sub-charge”.

Insertion of Part 2

20. The following Part 2 is inserted immediately after section 37 of the Principal Act—

**“Part 2
Phased Development**

Interpretation

38. In this Part—

“complete strata plan”, in relation to a subdivision of land into strata lots in phases, means a strata plan specifying all the strata lots (and the whole of the common property) of a proposed development in relation to a building or buildings;

“future development strata lot”, in relation to a subdivision of land into strata lots in phases, means a strata lot that is proposed to be developed at a later phase of the development, and that is shown on a phase strata plan as a future development strata lot;

“phase strata plan”, in relation to a subdivision of land into strata lots in phases, means a strata plan specifying each strata lot and each part of the common property that has so far been completed showing that every building shown on the plan has been erected, and all other development work has been carried out, to the extent necessary to enable all the boundaries of every strata lot and the common property shown on the plan to be physically measured at the date of the lodgement of the plan, the balance being specified as one or more future development strata lots; and

“proposed strata lot development plan”, in relation to a subdivision of land into strata lots in phases, means a plan specifying all the strata lots, and the whole of the common property, proposed to be included in the development when it is completed.

Subdivision of land into strata lots in phases

39. Every person who applies to register subdivisions of land under this Act, may, in accordance with this Part, register those subdivisions in two or more phases.

Procedure for subdivision in phases

40. The subdivision of land so as to provide for strata lots in two or more phases shall be effected by the successive registration of—

- (a) a proposed strata lot development plan, which shall specify all the strata lots, and the whole of the common property, proposed to be included in the development when it is completed;
- (b) one or more phase strata plans each of which shall, in addition to satisfying the requirements of section 4, specify-
 - (i) each part of any common property that has been completed, in relation to any building forming part of the development which has also been completed; and
 - (ii) any area (designated on the plan as a future development strata lot) in which further development subdivision and other operations are required to complete the development; and
- (c) a complete strata plan.

Proposed strata lot development plan

41. (1) A proposed strata lot development plan shall not be registered unless it is accompanied by a phase strata plan in respect of the same development.

(2) When a proposed strata lot development plan has been registered, the proposed strata development shall not be further altered in any way, unless a further proposed strata lot development plan has been registered, incorporating the proposed changes, in accordance with subsections (3) and (4).

(3) The applicant for registration of a further proposed strata lot development plan must have obtained the unanimous consent—

- (a) of every proprietor of a strata lot (including a future development strata lot) shown on the latest phase strata plan registered in respect of the development;
- (b) of every other person who has a registered interest in any such strata lot; and
- (c) of every cautioner claiming any interest in any such strata lot.

(4) The applicant for registration of the further proposed strata lot development plan must have assigned to every strata lot shown on the plan its unit entitlement.

Phase strata plans

42. (1) Every successive phase strata plan after the first, and the complete strata plan, relating to a development shall be deposited in substitution for, and under the same number as, the phase strata plan previously registered in respect of that development.

(2) On each phase strata plan (including the first), and on the complete strata plan, the unit entitlement to be assigned to each strata lot shall be that shown on the proposed strata lot development plan in respect of that strata lot.”.

Citation

18. This Act may be cited as the Condominium (Amendment) Act, 2012.

Speaker

Passed by the House of Assembly this day of , 2012

Clerk of the House of Assembly
