

1992

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

UNIT TITLES (AMENDMENT) BILL 1992

EXPLANATORY MEMORANDUM

**Circulated by authority of Bill Wood MLA
Minister for the Environment, Land and Planning**

UNIT TITLES (AMENDMENT) BILL 1992

The Unit Titles Act 1970 provides for and regulates the subdivision of land and buildings into units. The Unit Titles (Amendment) Bill 1992 amends that Act to enable parcels of land containing a minimum of two units to be unit titled. Further changes to the Act are required as a result of this amendment.

Details of the Unit Titles (Amendment) Bill are set out in the Attachment.

Financial Impact

There is no direct cost to the Government.

Gender Specific Language

The Act contains numerous gender specific terms. The Bill does not correct these terms, however, a major review of the Act is being conducted and gender specific language will then be removed.

NOTES

Clause 1 : Short Title

Clause 2 : Commencement

Clause 3 : Principal Act

Clauses 1, 2 and 3 are mechanical clauses that deal with the identification, application and commencement of the Bill.

Clause 4 : Substitution

Clause 4 repeals section 8 of the Principal Act and substitutes the following section. Section 8 provides that a special resolution is a resolution passed at a general meeting by a certain number of votes. Specifically:

References to special resolutions

Section 8 provides that a special resolution shall:

- (a) where the total number of units is more than two, refer to a resolution, passed at a general meeting, by votes representing not less than two thirds of the total number of units and not less than half of the aggregate unit entitlement of the units; or
- (b) where the total number of units is two, refer to a resolution passed unanimously at a general meeting.

Clause 5 : Proposals for subdivision

Clause 5 amends section 11 of the Principal Act. Subsection 11(2) establishes the minimum number of units that a parcel of land can be subdivided into under the Act. Specifically,

- (a) by omitting from subsection (2) "four" and substituting "2"; and
- (b) by omitting from subsection (2) "one" (wherever occurring) and substituting "1".

Clause 6 : Chairman of Committee

Clause 6 will amend section 54 of the Principal Act to provide that a chairman of a committee of 2 will not have a second or casting vote.

Clause 7 : Voting of Committee

Clause 7 amends section 55 of the Principal Act. Section 55 provides that matters before the committee shall be decided by a majority of the votes. The amendment provides that where there is a committee of two, all matters shall be decided by a unanimous vote.

Clause 8 : Substitution

Clause 8 repeals section 65 of the Principal Act and substitutes the following. Section 65 provides that business shall not be conducted at a general meeting unless a quorum, as provided, exists. Specifically:

Quorum at a general meeting

Subsection 1 provides that no business shall be transacted at a general meeting unless a quorum is present.

Subsection 2 provides that if, within half an hour after the time appointed for a general meeting, under section 63, a quorum is not present, the meeting shall be adjourned to the same day in the next week at the same time and place.

Subsection 3 provides that, subject to subsection 4, a quorum at a general meeting is constituted by:

- (a) where the number of members of the corporation is more than 2, persons that are entitled to exercise voting rights in respect of not less than half the total number of units; and
- (b) where the number of members of the corporation is 2, both members of the corporation.

Subsection 4 provides where a meeting is adjourned under subsection 2, and a quorum is not present within half an hour after the time fixed for the adjourned meeting, a quorum is constituted by:

- (a) where the number of members of the corporation is more than 2, the persons who are present and entitled to vote; or
- (b) where the number of members of the corporation is 2, a person who is then present and entitled to vote.

Clause 9 : Voting by members

Clause 9 amends section 66 of the Principal Act. Section 66 specifies the voting entitlements of members at a general meeting. The amendment provides that where the corporation has only two members, all matters shall be decided by a unanimous vote.

Clause 10 : Voting by chairman

Clause 10 amends section 72 of the Principal Act. Section 72 provides that the chairman can exercise a deliberative vote and in the case, where there is an equality of votes on an ordinary resolution, the chairman is entitled to a second or casting vote. The amendment provides that where there is a corporation of two members and there is an equality of votes on an ordinary resolution, the chairman is not entitled to a second or casting vote.

Clause 11 : Substitution

Clause 11 repeals section 78 of the Principal Act and substitutes a new section 78 to provide that on or after the establishment of a corporation, the articles set out in the Schedule to the Act, subject to alteration, shall be the articles of the corporation. Specifically:

Articles of corporation

The articles of a corporation constituted under section 29 shall consist of:

- (a) the articles in the Schedule, subject to any alteration under section 80; and
- (b) where the corporation consists of two members, such articles relating to voting procedures and dispute resolution as are prescribed by regulation.

Clause 12 : Alteration of Articles

Clause 12 amends section 80 of the Principal Act. Section 80 provides for the alteration of articles. Specifically:

- (a) by inserting after subsection (1) that where the corporation consists of two members, the articles relating to voting procedures and dispute resolution cannot be amended by the corporation;
- (b) by omitting from subsection (2) "the next succeeding subsection" and substituting "subsection 3";
- (c) by omitting from subsection (2) "under the last preceding subsection"; and
- (d) by omitting from subsection (3) "made under the last two preceding subsections"