

2009

CHAPTER 10

An Act to amend *The Condominium Property Act, 1993* and to make related amendments to *The Land Titles Act, 2000*

(Assented to May 14, 2009)

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

Short title

1 This Act may be cited as *The Condominium Property Amendment Act, 2009*.

S.S. 1993, c.C-26.1 amended

2 *The Condominium Property Act, 1993* is amended in the manner set forth in this Act.

Section 2 amended

3 Subsection 2(1) is amended:

(a) by adding the following clauses after clause (s):

“(s.1) **‘parking space’** means an area of the common property or services unit used for parking;

“(s.2) **‘parking unit’** means a unit used for parking”;

(b) by adding the following clauses after clause (y):

“(y.1) **‘sector’** means a sector of a corporation established in the bylaws of that corporation made pursuant to the authority conferred in clause 47(1)(m.1);

“(y.2) **‘services unit’** means any unit owned by a corporation and described as a unit in a condominium plan and includes any laundry room, recreational facility, landscaping area, roadway, hallway or other area intended for the benefit and use of all owners”; **and**

(c) in clause (bb) by adding the following subclauses before subclause (i):

“(0.i) a parking unit;

“(0.ii) a services unit”.

New section 3.1

4 The following section is added after section 3:**“Non-application of Act**

3.1 All or any prescribed portion of any prescribed provision of this Act does not apply:

- (a) to any prescribed unit or any prescribed class of units;
- (b) to any prescribed sector or any prescribed class of sectors;
- (c) to any prescribed person or any prescribed class of persons; or
- (d) in any prescribed circumstance”.

Section 5 amended

5 Subsection 5(3) is amended by striking out “After” and substituting “Subject to section 11, after”.

Section 5.1 amended

6 Subsection 5.1(2) is amended:

- (a) by striking out “and” after clause (d); and
- (b) by adding the following after clause (d):

“(d.1) designate a parking unit for each unit intended for residential purposes, if required by section 11; and”.

Section 11 amended

7(1) Subsection 11(1) is repealed and the following substituted:

“(1) A condominium plan that is submitted for approval must indicate in the prescribed manner that the developer has designated:

- (a) at least one parking space as an exclusive use area for each unit; or
- (b) at least one parking unit for each unit”.

(2) Subsection 11(2) is amended:

- (a) in clause (a) by adding “or parking units” after “parking spaces”; and
- (b) in clause (c) by striking out “space” and substituting “area”.

(3) The following subsection is added after subsection 11(2):

“(2.1) A parking unit designated for a unit pursuant to clause (1)(b) remains with the unit unless:

- (a) an application, in the prescribed form, to transfer title to the parking unit is submitted to the registrar in the prescribed manner; and
- (b) the application mentioned in clause (a) is accompanied by an application, in the prescribed form, to transfer title to another parking unit, and that parking unit is to be designated for the unit from which the parking unit mentioned in clause (a) was transferred”.

(4) **Subsection 11(4) is amended by adding “, or a parking unit,” after “for providing a parking space”.**

(5) **The following subsection is added after subsection 11(6):**

“(7) A parking space may become a parking unit in the prescribed manner”.

Section 14 amended

8 Subsection 14(11) is amended by adding “, or a change from a parking space to a parking unit pursuant to subsection 11(7),” after “a redesignation pursuant to clause 11(3)(a)”.

Section 15.1 amended

9 The following subsection is added after subsection 15.1(1):

“(1.1) For the purposes of this section, a change from a parking space to a parking unit pursuant to subsection 11(7) does not constitute an amendment to the unit factors”.

Section 22 amended

10 Section 22 is amended:

(a) **by renumbering it as subsection 22(1); and**

(b) **by adding the following after subsection (1):**

“(2) The minister may delegate his or her authority regarding the granting of certificates of acceptance and waivers of the requirement to obtain security to the registrar or deputy registrar.

“(3) In subsection (2), ‘**deputy registrar**’ means Deputy Registrar as defined in *The Land Titles Act, 2000*”.

Section 23 amended

11 The following clause is added after clause 23(3)(f):

“(f.1) designate a parking unit for each additional unit described in clause (f) that is intended for residential purposes, if required by section 11”.

Section 25 amended

12(1) Subsection 25(4) is amended:

(a) **by striking out “and” after clause (a);**

(b) **by adding “and” after clause (b); and**

(c) **by adding the following clause after clause (b):**

“(c) specify the parking space or parking unit that is designated for each new unit intended for residential purposes, if required by section 11”.

(2) **Clause 25(6)(b) is amended:**

(a) **by striking out “and” after subclause (ii);**

(b) **by adding “and” after subclause (iii); and**

(c) by adding the following subclause after subclause (iii):

“(iv) either:

(A) a description, in the prescribed form, of the parking space that is designated for each new unit intended for residential purposes, if required by section 11; or

(B) a description, in the prescribed form, of the parking unit that is designated for each new unit intended for residential purposes, if required by section 11”.

(3) Clause 25(7)(b) is amended:

(a) by striking out “and” after subclause (i);

(b) by adding “and” after subclause (ii); and

(c) by adding the following subclause after subclause (ii):

“(iii) references the parking space or parking unit designated for each unit, if required by section 11”.

Section 26 amended**13 Subsection 26(1) is amended:**

(a) in clause (b) by adding “and of any sector” after “corporation”;

(b) in clause (g):

(i) by striking out “and” after subclause (i); and

(ii) by adding the following after subclause (ii):

“(iii) the number and type of parking units that are included in the purchase price; and

“(iv) whether there are additional parking spaces available or additional parking units for sale”;

(c) by adding the following clause after clause (k):

“(k.1) a statement that identifies all services units shown on the condominium plan and indicates the intended use for each of the services units”; **and**

(d) by repealing clause (l) and substituting the following:

“(l) a statement that:

(i) indicates whether any of the units are designed for non-residential use and, if so, the number of units and the unit factors that are allocated for non-residential use; and

(ii) contains any other additional prescribed information concerning units designed for non-residential use”.

Section 30 amended**14 Section 30 is amended:**

(a) by striking out “and” after clause (b); and

(b) by adding the following after clause (c):

“(d) an easement for access to any parking space or parking unit designated for the unit;

“(e) an easement for access to any services unit, subject to any restrictions contained in the bylaws of the corporation”.

Section 31 amended**15 Subsection 31(1) is amended:**

(a) by striking out “and” after clause (b); and

(b) by adding the following clause after clause (c):

“(d) an easement for access to and maintenance of any parking space or parking unit designated for the unit”.

Section 46 amended**16 The following subsection is added before subsection 46(1):**

“(0.1) This section does not apply to bylaws of a corporation made pursuant to clause 47(1)(m.1)”.

Section 47 amended**17 Subsection 47(1) is amended:**

(a) in the portion preceding clause (a) by striking out “A corporation” and substituting “Subject to the regulations, a corporation”; and

(b) by adding the following clause after clause (m):

“(m.1) subject to section 47.1 and any limitations prescribed in the regulations, for the establishment of sectors within a corporation, the allocation of units, common facilities and common property to a sector, and the control, management, administration, use and enjoyment of the units, common property and common facilities within a sector”.

New section 47.1**18 The following section is added after section 47:****“Bylaws respecting sectors**

47.1(1) A bylaw made pursuant to clause 47(1)(m.1) may, with respect to the sector to which it applies:

(a) provide for the management, control, administration, use and enjoyment of the units, common property and common facilities in the sector;

(b) provide for the maintenance of the common property, common facilities and services units in the sector;

(c) specify the duties of the corporation;

(d) provide for the assessment and collection of contributions towards the common expenses;

(e) provide for the establishment of exclusive use areas within the sector;

(f) provide for:

(i) meetings of the owners of units constituting the sector;

(ii) the manner of conducting a vote at meetings of owners of units constituting a sector;

(iii) the making of sector bylaws by the owners of units constituting a sector with respect to matters for which the corporation may make a bylaw pursuant to clause 47(1)(m.1); and

(iv) the delegation to persons selected by owners of units constituting a sector of powers of the board with respect to the enforcement of bylaws in relation to units, common property and common facilities within the sector; and

(g) provide for carrying out anything required or permitted to be done by the corporation pursuant to this Act.

(2) Subject to subsection (3), a bylaw made pursuant to subclause (1)(f)(iii) by the owners of units constituting a sector is deemed to form part of the corporation's bylaws and is enforceable by and against the corporation in accordance with its terms.

(3) A resolution made by the owners of units constituting a sector to make a sector bylaw pursuant to subclause (1)(f)(iii):

(a) is valid if:

(i) it is passed at a properly convened meeting of the owners constituting the sector by a majority of not less than two-thirds of the votes cast by persons who:

(A) are present personally or who cast their votes by proxy;

(B) vote with respect to that resolution; and

(C) are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation in relation to the sector; or

(ii) it is approved by the signature on the resolution of not less than two-thirds of all the persons who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation in relation to the sector; and

(b) is not valid if it conflicts with a bylaw made by the developer or the corporation pursuant to this Act.

(4) A bylaw made pursuant to clause 47(1)(m.1) may only be made, amended or repealed:

- (a) by a resolution that receives unanimous approval:
 - (i) at a properly convened meeting of a corporation, from 100% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation and who vote, in person or by proxy, in favour of the resolution;
 - (ii) by the signature on the resolution of 100% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation; or
 - (iii) from 100% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation by some combination of the processes set out in subclauses (a)(i) and (ii); or
- (b) subject to subsection (5), by a resolution that receives 80% approval:
 - (i) at a properly convened meeting of a corporation, from 80% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation and who vote, in person or by proxy, in favour of the resolution;
 - (ii) by the signature on the resolution of 80% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation; or
 - (iii) from 80% of owners of units who are entitled to exercise the powers of voting conferred by this Act or the bylaws of the corporation by some combination of the processes set out in subclauses (b)(i) and (ii).

(5) If a corporation passes or approves a resolution in accordance with clause (4)(b), the corporation shall serve the following on every owner who did not vote or who voted against the resolution, and who did not approve the resolution in writing:

- (a) notice of the resolution mentioned in clause (4)(b); and
- (b) a description of the owners' right to object to the resolution pursuant to this section.

(6) An owner may apply to the court within 30 days after being served with the notice mentioned in subsection (5) to object to the resolution.

(7) An applicant mentioned in subsection (6) shall serve notice of the application on:

- (a) the board of directors of the corporation; and
- (b) the owners of units.

- (8) On an application pursuant to subsection (6), the court may:
- (a) accept any evidence that the court considers appropriate; and
 - (b) make one or more of the following orders:
 - (i) an order confirming the bylaw;
 - (ii) an order directing the corporation to file the bylaws that are the subject of the resolution, including ordering the corporation to make any changes to those bylaws before filing as the court may direct;
 - (iii) any other order that the court considers fair and equitable.
- (9) No bylaw made, amended or repealed in accordance with this section is effective until the corporation files a copy of the bylaw, amendment or repeal with the Director in the prescribed manner.
- (10) Notwithstanding subsection (9), no bylaw made, amended or repealed using a resolution mentioned in clause (4)(b) shall be filed with the Director:
- (a) if no application is made pursuant to subsection (6), until 30 days have passed since the notice of resolution was served in accordance with subsection (5); or
 - (b) if an application is made pursuant to subsection (6), until the court directs the bylaws to be filed in an order made pursuant to clause (8)(b)".

Section 70 amended

19 The following subsection is added after subsection 70(4):

“(5) This section does not apply to parking spaces that become parking units pursuant to subsection 11(7)”.

Section 72 amended

20 Subsection 72(1) is amended by adding “or one or more services units” after “common property”.

Section 72.1 amended

21 Section 72.1 is amended in the portion preceding clause (a) by adding “or a services unit” after “common property”.

Section 104 amended

22 Subsection 104(2) is amended in the portion preceding clause (a) by adding “, subsection 47.1(5) or clause 47.1(7)(b)” after “section 80”.

Section 112 amended

23 Section 112 is amended:

(a) by adding the following clause after clause (c):

“(c.1) exempting specified units, sectors or any person or any class of persons from all or any prescribed portion of any provision of this Act and, as a condition of the exemption, requiring any exempted person or class of persons to comply with any prescribed term or condition, and prescribing any circumstance in which all or any portion of any provision of this Act does not apply”;

(b) by adding the following clause after clause (e):

“(e.01) for the purposes of subsection 11(7), prescribing the manner in which a parking space may become a parking unit”;

(c) by adding the following clause after clause (h.1):

“(h.11) prescribing any additional information concerning units allocated for non-residential use that must be delivered to a purchaser pursuant to clause 26(1)(l)”;

(d) by adding the following clauses after clause (j):

“(j.1) respecting the bylaw-making powers of a corporation;

“(j.2) respecting the establishment of sectors within a corporation, the allocation of units, common facilities and common property to a sector, and the control, management, administration, use and enjoyment of the units, common property and common facilities within a sector;

“(j.3) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary in relation to the creation or governance of sectors of a corporation”; **and**

(e) by adding the following clause after clause (l.5):

“(l.6) respecting the control, management, administration, use and enjoyment of common property, common facilities and services units, including prescribing circumstances in which a services unit may be sold”.

S.S. 2000, c.L-5.1, section 85 amended

24 Section 85 of *The Land Titles Act, 2000* is amended:**(a) by striking out “or” after clause (p);****(b) by adding “or” after clause (q); and****(c) by adding the following clause after clause (q):**

“(r) occasioned by the transfer of title to a parking unit or the redesignation of a parking space contrary to section 11 of *The Condominium Property Act, 1993*”.

Coming into force

25 This Act comes into force on proclamation.

