

Explanation of draft Statutes Amendment (Community and Strata Titles) Bill 2022

The draft Bill would make the following changes to the *Community Titles Act 1996* (CTA) and *Strata Titles Act 1988* (STA):

- amend CTA section 78D and STA section 27D to address the practice of 're-invoicing' by body corporate managers by requiring that a body corporate manager must clearly disclose the amount of any fee or commission being charged to the corporation for arranging a contract with another service provider;
- amend the CTA and STA to make it clear that the caps on fees that apply to corporations also apply to a manager providing information and copy documents on behalf of the corporation to an owner or prospective owner under STA section 41 and CTA section 139;
- amend the CTA and STA to require the plan of division for a community or strata title scheme to be supplied to owners or prospective purchasers under CTA section 139 and STA section 41 as part of strata and community title property searches;
- amend STA section 33(5) for consistency with the CTA by adopting the formula for achieving a quorum at general meetings of corporations contained in CTA section 83;
- amend the CTA and STA to require the statement of expenditure (or 'sinking fund plan') required to be prepared and reviewed by corporations under CTA section 113 and STA section 33A to be supplied to owners or prospective purchasers under CTA section 139 and STA section 41 as part of strata and community property searches;
- amend the CTA and STA to increase the prescribed minimum amount of mandatory public liability insurance that must be held by a corporation under STA section 31(2) and CTA section 104(2) from \$10 million to \$20 million;

- amend the CTA and STA to ensure that the pamphlet required under CTA section 78B and STA section 27B explaining owners' rights under a proposed contract with a body corporate manager (including to inspect corporation documents held by the manager, to apply to the Magistrates Court to resolve disputes and the rights to terminate the contract) be required to be supplied to owners rather than merely 'being made available for inspection' prior to a meeting at which it is proposed to vote to appoint the manager;
- amend STA section 34 for consistency with CTA section 84 to provide that an owner in arrears may not vote at strata corporation meetings;
- amend the CTA and STA to address the problem of inquorate corporation meetings by adopting an approach recently introduced in Western Australia, whereby a quorum may be declared from those present after 30 minutes of the appointed time for a duly convened meeting, avoiding the need to adjourn and reconvene the meeting at a later date. However, only matters listed on the meeting agenda may be voted on;
- amend the STA, for consistency with the CTA, to adopt the CTA position on which officers can call a general meeting of the corporation;
- amend the STA, for consistency with the CTA, to adopt the CTA position on who may vote at a corporation meeting if there is more than one owner of a lot and they disagree. Under the STA currently the first named person on the certificate of title may vote, whereas neither votes under CTA section 84(7). The STA position is arbitrary and body corporate managers prefer the CTA position;
- amend the CTA to increase the threshold for mandatory audits for community titled corporations to align the CTA more closely to the Victorian approach to audits, such that self-managed community corporations will be required to have their accounts audited where contributions exceed \$100,000 per year or there are over 100 lots in the group. Other community titled groups can still resolve to have their accounts audited if they wish, after balancing perceived risk against audit costs. The requirements for body corporate manager trust accounts to be audited are unchanged;

- amend the CTA and STA to remove the requirement for corporations to have a common seal, consistent with changes previously made under the Corporations Law;
- amend the CTA to extend the prescribed time for lodgement of amendments to by laws with the Registrar-General from 14 to 21 days since 14 days has proved difficult to achieve and to create discretionary powers for the Registrar-General to dispense with the requirement for the consent of certain parties to minor prescribed technical amendments of, or to correct clear errors in, a scheme description for a staged development. This will improve efficiency and reduce the significant costs that can arise from the need to obtain consents from a broad range of parties to minor changes to the scheme description; and
- amend the CTA to explicitly empower a community corporation to agree to make by-laws to regulate smoking of tobacco and related products on the shared common property and to prevent smoke drift from private lots onto other lots or common property (noting that strata corporations are already able to make articles to this effect under the existing STA provisions but the existing power of community corporations to make by-laws in this respect are currently more limited).