

REAL ESTATE LAW ALERT

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CLIFFE DEKKER HOFMEYR

INCORPORATING
KIETI LAW LLP, KENYA

IN THIS ISSUE

Sectional Title Amendment Bill

The Sectional Title Amendment Bill was introduced by the Minister of Agriculture, Land Reform & Rural Development to the National Assembly on 2 November 2020. The [Bill was passed by the National Assembly and transmitted to the National Council Of Provinces for concurrence](#) on 16 November 2021. The Bill was passed by the National Council of Provinces and sent to the President for assent on 27 October 2022.



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The Sectional Title Amendment Bill aims to amend the Sectional Titles Act of 95 1986 (Sectional Titles Act) so as to:

- amend certain definitions;
- provide for the developer to answer questions put to it by the agents of lessees;
- provide that a certificate issued by an architect or a land surveyor must also comply with section 26(2) of the Spatial Planning and Land Use Management Act 16 of 2013;
- further provide for the amendment of sectional plans in respect of exclusive use areas;
- further provide for the amendment and cancellation of a sectional plan upon an order of the court;
- to provide for the noting of a title deed in respect of the lapsing of a reservation in terms of section 25;
- provide for a lease of part of the common property to be subjected to the rights of the holders of real rights and it shall be necessary to obtain consent of the holders of registered real rights;
- amend the provisions relating to the alienation of common property;
- further provide for the cancellation of a mortgaged section and mortgaged exclusive use area;
- also provide for a developer to submit a plan for subdivision or consolidation to the Surveyor-General for approval to subdivide, consolidate or to extend a section prior to the establishment of a body corporate;
- extend the registration of subdivision of a section, the consolidation of sections, and the extension of sections to a developer;



Sectional Title Amendment Bill

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- provide for the filing of replacement documentation in respect of lost or destroyed documentation;
- amend the provisions relating to the extension of a scheme and to include reference to exclusive use areas where reference was previously omitted;
- amend the provisions relating to participation quotas of sections and cross reference the Sectional Titles Act with the newer Sectional Titles Schemes Management Act 8 of 2011; and
- regulate the membership of the sectional titles regulations board;

The Bill effectively seeks to 'fill' the gaps which the Sectional Titles Act currently has, especially to make it more comprehensive without the need to refer back to the Deeds Registries Act 47 of 1937. This act will be called the Sectional Titles Amendment Act of 2020, and comes into operation on the date of publication in the Government Gazette.

In due course, CDH will publish a comprehensive exposition of the terms of the Bill.

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BAND 1
Real Estate



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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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