

1969 Bill 36

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Second Session, 16th Legislature, 18 Elizabeth II

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THE LEGISLATIVE ASSEMBLY ~~OF~~ ALBERTA

**BILL 36**

**An Act to amend The Condominium Property Act**

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THE ATTORNEY GENERAL

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First Reading .....

Second Reading .....

Third Reading .....

# BILL 36

1969

An Act to amend The Condominium Property Act

(Assented to \_\_\_\_\_, 1969)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Condominium Property Act* is hereby amended.
2. Section 2 is amended
  - (a) by adding the following clause after clause (a) :
    - (a1) "building" means one or more buildings on the same parcel;
  - (b) as to clause (d)
    - (i) in subclause (iii) by striking out the words "section 4" and by substituting the words "section 7",
    - (ii) by striking out the words "of any units in a condominium plan registered under this Act" and by substituting the words "registered pursuant to section 9 and a replacement plan registered pursuant to section 8a".
3. Section 4, subsection (1) is amended by striking out the words "upon the condominium plan and not".
4. Section 6 is struck out and the following is substituted:
  6. Except to the extent that any interest endorsed on a certificate of title relates to that particular unit, the owner of the unit is only liable in respect of any such interest in proportion to the unit factor for his unit.
5. The following heading and section are added after section 8:

## Explanatory Notes

- 1.** This Bill amends chapter 19 of the Statutes of Alberta, 1966.
- 2.** Definition added for clarification.
- 3.** Section 4 (1) presently reads:
  4. (1) Upon registering a condominium plan the Registrar
    - (a) shall cancel the certificate of title to the parcel described in the plan, except as to any mines and minerals comprised therein, and
    - (b) shall issue a separate certificate of title for each unit described in the plan,and any interests affecting the parcel that are notified on the certificate of title cancelled under clause (a) shall be endorsed upon the condominium plan and not upon the certificates of title issued under clause (b).
- 4.** Section 6 presently reads:
  6. (1) An owner holds his unit and his share in the common property subject to any interests affecting the unit or the common property notified on the condominium plan.
  - (2) Except to the extent that any interest notified on a condominium plan relates to a particular unit, the owner of a unit is only liable in respect of any such interest in proportion to the unit factor for his unit.
- 5.** Provision is made for the stage development of a condominium scheme.

## Future Development

8a. (1) In this section,

- (a) "additional unit" means a unit not described in an original plan but described in a replacement plan, whether in an additional building or as an extension to a building shown on the original plan;
- (b) "developer" means a person who signs a condominium plan as owner of the property as required by section 7;
- (c) "original plan" means a condominium plan against which a caveat is registered pursuant to subsection (2);
- (d) "replacement plan" means a condominium plan attached to a caveat as provided in subsection (3).

(2) When a condominium plan is registered the developer may, at any time before he transfers title to any unit to any person, reserve the right to construct additional units

- (a) on the common property, or
- (b) on additional land

to be brought into the condominium scheme on completion of construction by registering a caveat against the condominium plan and the certificate of title of each unit described in the plan.

(3) The caveat shall have attached thereto a replacement plan complying with sections 7 and 8, except for the certificate of an architect, and showing the parcel, building and units as on the original plan and the additional units and land, if any, intended to be brought in.

(4) If a certificate of a registered architect that the additional units exist as shown on the replacement plan is not registered within

- (a) two years after the date of registration of the caveat, or
- (b) any period of extension allowed under subsection (5),

the caveat lapses and all rights reserved to the developer thereunder cease.

(5) When completion of the additional units is delayed

- (a) the owners, by unanimous resolution, or
- (b) the Supreme Court, on application of the developer by originating notice and on such terms and conditions as the Court considers just,

may grant a period of extension for completion of the additional units, not exceeding six months.



(6) If a certificate of a registered architect that the additional units exist as shown on the replacement plan is registered before the caveat lapses, the Registrar shall register the replacement plan and cancel the original plan and the certificate of title to the additional land being brought in, if any, and

- (a) cancel the certificates of title to the units described in the original plan and issue to the owners thereof certificates of title for the same units as described in the replacement plan subject to all interests affecting those units that are endorsed on the cancelled certificates of title, and
- (b) issue to the developer certificates of title to the additional unit subject to the interests affecting those units that are endorsed on the certificates of title issued under the original plan,

and, except to the extent that any interest so endorsed on a certificate of title relates to the particular unit, the owner of an original unit or the owner of an additional unit, as the case may be, is only liable in respect of any such interest in the proportion that his unit factor bears to the total of unit factors for the original units or the additional units, as the case may be.

(7) For the purpose of settling its assets and liabilities and winding up its affairs, the corporation constituted on the registration of the original plan continues in existence after the registration of the replacement plan and the board of management and by-laws of that corporation become the first board of managers and the first by-laws of the corporation constituted on the registration of the replacement plan.

(8) The developer

- (a) is responsible for all expenses and liabilities whatsoever (including property taxes, local improvement charges and fire and public liability insurance) on or in connection with the additional units and any land to be added to the common property incurred up to the date of registration of an architect's certificate pursuant to subsection (6),
- (b) shall indemnify and save harmless the owners of the units described in the original plan and the corporation for and from all costs, damages, claims and demands of any kind arising out of or resulting from the exercise of any of the rights reserved to him under the caveat,
- (c) shall, before commencing construction of any additional unit, provide to the owners of the units described in the original plan and the corporation the bond of an insurance company registered under *The Alberta Insurance Act* guaranteeing the payment of any liability of the developer under this subsection, and



(d) is responsible for the fees of the Registrar for his services under subsection (6).

(9) Section 144 of *The Land Titles Act* does not apply to a caveat registered under this section.

**6.** Section 19 is amended by adding the following subsection:

(4) A corporation may acquire, hold and alienate real property.

**7.** Sections 37, 38 and 39 are struck out and the following sections are substituted:

**37.** For the purpose of assessment and taxation by an assessing authority,

- (a) each unit and the share in the common property appurtenant thereto constitutes a separate parcel of land and improvements, and
- (b) the common property does not constitute a separate parcel of land or improvements,

and the provisions of an assessing Act or any other Act authorizing or affecting

- (c) the assessment or valuation of land and improvements by an assessing authority, or
- (d) the imposition of rates, charges or taxes by an assessing authority in respect of land and improvements for municipal, school, hospital or other purposes authorized by statute, or
- (e) the collection and recovery of rates, charges or taxes by an assessing authority by proceedings against an assessed owner and his property or the land and improvements against which the rates, charges or taxes are charged,

apply *mutatis mutandis* to each unit and the share in the common property appurtenant thereto.

**38.** The corporation is not liable in relation to the parcel for any rate, charge or tax levied by an assessing authority.

**8.** Section 46 is amended

- (a) as to clause (a) by striking out the words “and any statement of lien filed in respect thereof shall be registered against the title to that unit”,
- (b) by striking out clause (d).

**9.** This Act comes into force on the day upon which it is assented to.

**6.** Authority to own land is given.

**7.** The assessment provisions are revised to provide that each unit is to be assessed separately for taxation purposes. Under the present provisions the entire property is assessed and the assessment divided among the units in accordance with the unit factors. This is inequitable when one owner makes extensive improvements to his unit as the increased assessment and taxation resulting therefrom is not borne solely by him but is divided among all unit owners.

**8.** Section 46 (a) and (d) presently read:

46. For the purposes of The Mechanics Lien Act, 1960:

(a) where on the request of the owner of a unit

(i) work is done upon or in respect of that unit, or

(ii) material is furnished to be used in that unit,

any lien that arises under that Act in consequence thereof is upon the estate of the owner in that unit and his share in the common property and any statement of lien filed in respect thereof shall be registered against the title to that unit;

(d) where a statement of lien is filed with respect to any lien referred to in clause (b) or (c) the statement of lien shall be registered against the condominium plan and not against the title to any unit.