

2007

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning)

Unit Titles Amendment Bill 2007

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Unit Titles Amendment Bill 2007

A Bill for

An Act to amend the *Unit Titles Act 2001*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Unit Titles Amendment Act 2007*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

5 *Note* The naming and commencement provisions automatically commence on
6 the notification day (see Legislation Act, s 75 (1)).

7 **3 Legislation amended**

8 This Act amends the *Unit Titles Act 2001*.

9 **4 Unit title applications—general requirements**
10 **Section 17 (5)**

11 *substitute*

12 (5) The application must include—

13 (a) a certificate from a registered surveyor describing the degree to
14 which any building (including an attachment to a building) on,
15 or being constructed on, the parcel is situated in accordance
16 with the application; and

17 (b) if any existing or proposed attachment to a building on the
18 parcel encroaches, or would encroach, on a public place—a
19 plan prepared by a registered surveyor that shows—

20 (i) the nature and extent of the encroachment; and

21 (ii) whether the encroachment is for use with a unit or the
22 common property; and

23 (iii) if the encroachment is for use with a unit—the unit to
24 which the encroachment relates.

25 *Note* **Attachment, encroachment** and **public place**—see the dictionary.

1 **5 Unit title applications—approval**
2 **New section 20 (1) (d)**

3 *insert*

4 (d) if the application shows an encroachment on a public place by
5 an attachment to a building—

6 (i) if the attachment exists on the day the application is
7 lodged with the authority—the attachment is an
8 authorised existing attachment; or

9 *Note* **Authorised existing attachment**—see s (7).

10 (ii) in any other case—

11 (A) the encroachment would not endanger public safety
12 or unreasonably interfere with the amenity of the
13 neighbourhood; and

14 (B) it is not in the public interest to refuse to approve
15 the application because of the encroachment.

16 **6 Section 20 (7), new definition of *authorised existing***
17 ***attachment***

18 *insert*

19 ***authorised existing attachment***, in relation to a unit title
20 application, means—

21 (a) if the application includes the cancellation of a units plan (the
22 ***old plan***) that was registered before 1 January 2002—the old
23 plan shows the attachment; or

24 (b) in any other case—the attachment was lawful when it was
25 constructed.

1 **7 Endorsement of units plan for registration**
2 **Section 27 (1) (a)**

3 *substitute*

- 4 (a) diagrams showing the subdivision as approved (including the
5 nature and extent of any encroachment mentioned in
6 section 20 (1) (d) (Unit title applications—approval));

7 **8 New division 4.3**

8 *insert*

9 **Division 4.3 Encroachments on public places**

10 **37A Effect of registration of units plan with encroachment on**
11 **public place**

- 12 (1) This section applies if—
13 (a) a units plan is registered for a parcel; and
14 (b) the plan shows an encroachment on a public place by an
15 attachment to a building on the parcel.

16 *Note Attachment and encroachment—see the dictionary.*

- 17 (2) This Act and the *Land Titles (Unit Titles) Act 1970*, other than the
18 provisions relating to ownership of interests and certificates of title,
19 apply to the encroachment—
20 (a) if the units plan shows the encroachment is for use with a
21 unit—as if it were part of the unit; and
22 (b) in any other case—as if it were common property.

23 *Note* The *Land Titles (Unit Titles) Act 1970*, s 4 (1) provides that it is
24 incorporated with and must be read as one with the *Land Titles*
25 *Act 1925*.

1 **9 Dictionary, new definitions**

2 *insert*

3 ***attachment***, in relation to a building, means—

4 (a) an eave, gutter or downpipe; or

5 (b) an awning; or

6 (c) anything attached to the building prescribed by regulation.

7 ***encroachment*** includes a projection at, above or below ground
8 level.

9 ***public place***—see the *Roads and Public Places Act 1937*,
10 dictionary.

1 **Schedule 1 Other amendments**

2 (see s 3)

3 **[1.1] Section 11 (2), note**

4 *omit*

5 any projection or encroachment, whether above or below ground level

6 *substitute*

7 any encroachment, whether at, above or below ground level

8 **[1.2] Sections 18 (2) and 19 (3)**

9 *omit*

10 any projection above, or encroachment below, ground level

11 *substitute*

12 any encroachment at, above or below ground level

13 **[1.3] Section 127 (4)**

14 *omit*

15 section 7

16 *substitute*

17 section 8

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2007.

2 Notification

Notified under the Legislation Act on 2007.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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