



FIRST RESORTS

360° Service

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Dear Directors and Trustees

**Community Schemes Ombud Services ACT 9 OF 2011 (CSOS) AND
Sectional Title Schemes Management ACT 8 OF 2011 (STSM)**

We need to bring to your attention some important changes to legislation. The above mentioned Acts were first signed by the President in 2011. When the Regulations to the Acts are approved and published, the Acts come into operation.

The Community Schemes Ombud Services ACT 9 OF 2011 (CSOS) and Sectional Title Schemes Management ACT 8 OF 2011 (STSM) became operational on 7 October 2016.

There are items contained in these Acts that must be addressed immediately and brought to shareholders' and sectional title owners' attention. These include BUT are NOT limited to the following:

CSOS (Community Schemes Ombud Services Act)

Is applicable to all community schemes – Sectional Title Bodies Corporate, Share Block Companies, Home Owners Associations, etc.

1. The Body Corporate, Share Block Companies and HOA have 30 days from 7 October 2016 to register with CSOS. This involves the completion of a four page registration form for each entity. When submitted, this application must be accompanied by many documents including rules, plans, constitution, Directors/Trustees information and other documentation. First Resorts, your Managing Agents, will assist with the process in consultation with board members.
2. From 1 January 2017 all shareholders/owners will be required to pay a monthly service levy to the office of the Ombud. If you own in a sectional title scheme within an HOA, you will be required to pay two contributions. The amount of the contribution will be the BC or HOA monthly levy – less R500 (as this is exempt) based on 2% of the balance to a maximum of R40. Therefore, if your HOA levy is R2750, your contribution will be $R2750 - R500 = R2250 \times 2\% = R45$: Therefore the levy will be R40.

The service levy is charged in order to fund the services offered by the office of the Ombudsman which include *inter alia* –

- Assisting schemes to recover arrear levies. The regional Ombudsman can be approached to help in cases where management is finding it difficult to recover arrear owner contributions.

Directors: SE Lamont, JJ Jordaan, TT Spencer, JH Jordaan



- Remedying an inability to obtain either a special or a unanimous resolution. In future the chief Ombudsman can be approached to assist in cases where there is a stalemate in achieving either a special or unanimous resolution.
- Assisting in dispute resolutions and control sectional title governance. The service will be available to all with a minimal administration fee and it will also be funded via a small stipend attached to the scheme's levy payments. The amounts payable will be proportionate to the levy amounts paid.
- Shareholders/owners can apply for the CSOS to assist them in disputes and this will include assistance in finding resolution. The CSOS will, however, refer matters that cannot be resolved to either conciliation or adjudication services.

STSMA (Sectional Title Schemes Management Act)

Is applicable only to Sectional Title Bodies Corporate.

Reserve Fund and Administrative Fund

1. In terms of the STSMA Regulations the BC must draw up a 10 year maintenance plan. This involves anything and everything that is included in the structure, e.g. wiring, piping, roofs, painting, tarring, etc. The plan must give the item, its age and current state, what will have to be spent per year on maintaining the item over the next 10 years and the cost of eventually replacing said item.
2. The BC must create a **Reserve Fund** and have a MINIMUM of 25% of the previous years' levy income in the Reserve Fund.

If it is less than 25% they must, in the next budget, raise 15% of the previous year's levy income.

If the amount in the Reserve Fund at the end of the previous financial year is equal to or more than 100% of the contributions to the Administrative Fund there is no minimum contribution to the Reserve Fund.

If the amount in the Reserve Fund at the end of the previous financial year is more than 25% but less than 100% of the contributions to the Administrative Fund, the Reserve Fund must be at least the amount budgeted to be spent in the Administrative Fund on repairs and maintenance of common property in the financial year being budgeted for.

3. The budget must also include an **Administrative Fund** which is the budgeted amount for the administration, operations, repairs and maintenance, etc for the year budgeted for.
4. The trustees will have to report at each AGM on what has been attended to in respect of the 10 year maintenance plan, what not and, if not, why not.

There is no doubt that the above requirements will have a financial impact on the budget.

Proxies

5. No person may hold more than the **proxy of 2 owners**. The days of the Chairman holding enough proxies to ensure a quorum are GONE. Owners are going to have to start taking responsibility for their investment in sectional title and participate at least in the AGM.

Quorum at a general meeting

6. A quorum is no longer a number **BUT 33.3% of the total votes of members in VALUE** of the scheme.

These are the items that will make an immediate impact on owners but, of course, there are more and as these are identified they will be brought to your attention.

Yours faithfully

FIRST RESORTS MANAGEMENT TEAM