

Passed by both Houses



New South Wales

Local Court Amendment (Company Title Home Unit Disputes) Bill 2013

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2013*



New South Wales

Local Court Amendment (Company Title Home Unit Disputes) Bill 2013

Act No , 2013

An Act to amend the *Local Court Act 2007* to confer jurisdiction on the Local Court to hear and determine company title home unit disputes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Court Amendment (Company Title Home Unit Disputes) Act 2013*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

Schedule 1 Amendment of Local Court Act 2007 No 93

[1] Section 30 Conferral of jurisdiction

Insert after section 30 (1) (b):

- (b1) proceedings involving company title home unit disputes under section 34A, and

[2] Section 30 (2) (c)

Insert at the end of section 30 (2) (b):

, and

- (c) proceedings involving company title home unit disputes under section 34A.

[3] Section 34A

Insert after section 34:

34A Jurisdiction in company title home unit disputes

- (1) The Court has jurisdiction to hear and determine proceedings involving company title home unit disputes.
- (2) A *company title home unit dispute* is a dispute between interested parties about any of the following matters:
 - (a) the health, safety and security of persons occupying or visiting the land owned by a company title corporation or residential premises located on that land (including, for example, safety of children on the premises and waste disposal),
 - (b) the common property on the land owned by a company title corporation (including, for example, parking and vehicle access, repair and maintenance, design and appearance),
 - (c) the use of residential premises located on the land owned by a company title corporation occupied by a shareholder of the corporation (including, for example, external appearance of premises or the keeping of pets),
 - (d) the behaviour of persons occupying or visiting the land owned by a company title corporation or residential premises located on the land (including, for example, noise),

- (e) the refusal by a company title corporation to allow a shareholder of the corporation to grant a lease or licence to use or occupy premises located on the land owned by the corporation,
 - (f) administrative matters relating to the running of a company title corporation (including, for example, levies).
- (3) However, a **company title home unit dispute** does not include the following:
- (a) a dispute arising under a residential tenancy agreement to which the *Residential Tenancies Act 2010* applies,
 - (b) a dispute arising under a lease to which the *Landlord and Tenant (Amendment) Act 1948* applies,
 - (c) a dispute about the sale, transfer or other disposition of shares in a company title corporation or the forfeiture of such shares,
 - (d) a dispute about any matter that is a superior court matter within the meaning of the *Corporations Act 2001* of the Commonwealth.
- Note.** Section 1337E of the *Corporations Act 2001* of the Commonwealth confers jurisdiction on the Local Court in relation to civil matters (other than superior court matters) under that Act. Examples of superior court matters in relation to company title home unit disputes include the winding up of a company title corporation or the oppressive conduct of a company title corporation's affairs.
- (4) A **company title corporation** is a company registered under the *Corporations Act 2001* of the Commonwealth that is the owner of land if ownership of a share or shares in that company entitles the owner of the share or shares to the exclusive use and occupation of residential premises on that land, but does not include an owners corporation within the meaning of the *Strata Schemes Management Act 1996* or an association within the meaning of the *Community Land Management Act 1989*.
- (5) In determining proceedings involving a company title home unit dispute, the Court may make any of the following orders:
- (a) an order requiring a person to do, or refrain from doing, any act,
 - (b) an order for the payment of damages or other money,
 - (c) an order:
 - (i) declaring the rights and obligations arising under a constitution of a company title corporation or any other contract or agreement, or

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- (ii) declaring the meaning of any term of a constitution of a company title corporation, or of any other contract or agreement, or
 - (iii) declaring that any such term is or is not void, invalid or otherwise unenforceable.
 - (6) However, the Court does not have jurisdiction to make an order on a money or other claim in the proceedings that would exceed the jurisdictional limit of the Court under this Part when sitting in the Division concerned.
 - (7) A term of a constitution of a company title corporation, or of any other contract or agreement, that purports to exclude, limit or modify the jurisdiction of the Court in relation to company title home unit disputes is void to the extent that it would otherwise have effect.
 - (8) The provisions of this section are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth in relation to the provisions of that Act generally.

Note. Section 5G of the *Corporations Act 2001* of the Commonwealth provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.
 - (9) In this section, *interested party* means any of the following:
 - (a) a company title corporation,
 - (b) a shareholder or former shareholder of a company title corporation,
 - (c) a resident or former resident of premises on land owned by a company title corporation.

[4] Section 35 Procedure generally in Small Claims Division

Insert after section 35 (1):

- (1A) However, the jurisdiction of the Court in proceedings involving company title home unit disputes under section 34A may only be exercised by a Magistrate.

[5] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

[6] Schedule 4

Insert at the end of the Schedule (with appropriate Part and clause numbering):

**Part Provision consequent on enactment of
Local Court Amendment (Company Title
Home Unit Disputes) Act 2013**

Jurisdiction in company title home unit disputes

Section 34A extends to any company title home unit dispute that involves or relates to conduct by an interested party that occurred before the commencement of that section.