

**REPUBLIC OF SOUTH AFRICA**  
**HOUSING SECOND AMENDMENT BILL**

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(As introduced in the National Assembly as a section 76 Bill) (The English text is the official text of the Bill)  
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(MINISTER OF HOUSING)

[B - 99]

GENERAL EXPLANATORY NOTE:

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

**BILL**

**To amend the Housing Act, 1997, so as to authorise a Member of the Executive Council of a provincial government to approve the sale or other alienation of welfare facilities under certain circumstances; and to provide for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:C

**Amendment of section 14 of Act 107 of 1997**

1. Section 14 of the Housing Act, 1997, is hereby amended by the substitution for paragraph (g) of subsection (4) of the following paragraph:

"(g) (i) If any juristic person provided any welfare facility using money lent to such juristic person by the former Board or a municipality out of any loan, advance or other finance which was approved under any law referred to in paragraph (b), the provincial housing development board to which the right to recover such loan has passed or the municipality, as the case may be, may, with the approval of the MEC in consultation with the member of the Executive Council responsible for welfare in the province in question, absolve such juristic person from its obligation to repay the loan or any part thereof.

(ii) Where the sale or other alienation of any welfare facility provided or acquired out of any loan, advance or other finance approved under any law referred to in paragraph (b) is subject to the approval of the Minister, the MEC in consultation with the member of the Executive Council responsible for welfare in the province in question may grant such approval on such conditions as he or she may determine."

**Short title**

3. This Act is called the Housing Second Amendment Act, 1999.

**MEMORANDUM ON THE OBJECTS OF THE SECOND HOUSING AMENDMENT BILL, 1999**

**Content of Bill**

1. In terms of section 14(4)(g) of the Housing Act, 1997 (Act No. 107 of 1997) ("the Housing Act"), provincial housing development boards or municipalities may, with the approval of the MEC responsible for housing in consultation with the MEC responsible for welfare, absolve a juristic person from its obligations to repay a loan or any part thereof where the juristic person provided welfare facilities with loan finance obtained in terms of the following Acts:

- i. The Housing Act, 1966 (Act No. 4 of 1966);
- ii. the Development and Housing Act, 1985 (Act No. 103 of 1985);
- iii. the Housing Act (House of Representatives), 1987 (Act No. 2 of 1987);
- iv. the Development Act (House of Representatives), 1987 (Act No. 3 of 1987);
- v. the Housing Development Act (House of Delegates), 1987 (Act No. 4 of 1987).

2. In many cases the awarding of such loans was subject to a condition that the property acquired or developed may not be disposed of without the prior approval of the national Minister responsible for the function. Upon repeal of the abovementioned legislation by the Housing Act the various MEC's responsible for housing were not authorised to consider applications of this nature.

3. In light of the fact that the right to recover the said loans has passed to the provincial housing development boards or municipalities it is proposed that the Housing Act be amended to authorise the MEC's for housing, in consultation with the MEC's for welfare, to consider applications in this respect.

#### **Financial implications**

4. None

#### **Implications for Provinces**

5. Where the sale or other alienation of a welfare facility acquired from finance approved under the laws mentioned in paragraph 1 is subject to the approval of the Minister of Housing, the various MEC's responsible for housing will now have the same power.

6. The need for the recommended amendment was brought to the attention of the Department of Housing by the Head of the Housing Department of the Western Cape. Since the amendment in essence addresses an oversight in the original drafting process and will serve the interests of affected parties, further comments were not solicited.

#### **Parliamentary procedure**

7. In the opinion of the Department of Housing and the State Law Advisers, the Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), since it falls within the functional area of "Housing", listed in Schedule 4 to the Constitution.