

done

**LIMPOPO**PROVINCIAL GOVERNMENT  
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF

**LOCAL GOVERNMENT & HOUSING**

**TO : DIRECTOR -GENERAL**

**DEPARTMENT OF HUMAN SETTLEMENTS**

**CC : PHINDILE P FAKUDE/ NTULI**

**FROM : LEGAL SERVICES**

**DATE : 24 AUGUST 2010**

**IN RE : INFORMATION SESSION ON RENTAL HOUSING  
AMENDMENT BILL, 2010 HELD AT THE RANCH HOTEL ON  
THE 20<sup>TH</sup> AUGUST 2010; LIMPOPO LOCAL GOVERNMENT  
AND HOUSING.**

THE BILL seeks to address certain interpretation and implementation issues that have arisen since the promulgation of the Rental Housing Act of 1999 and to rectify certain technical issues in the Bill. The technical issues to be addressed include: the definition of Minister; to bring the Act in line with the recent name change from the Department of Housing to the Department of Human Settlements; the application of the provisions pertaining to the establishment of Rental Housing Tribunals and Rental

Housing Information Offices; and to extend the powers of the Rental Housing Tribunals to rescind any of its ruling; and to provide for matters connected therewith.

#### **Amendment of section 1 of Act 50 of 1999**

In principles of legislative drafting; your definitions must be concise, accurate and simple. The definition of Rental Housing Property must be reworked. I suggest the it be substituted to read as follows:

**"Means property owned by a landlord built for the purpose of renting out and includes one or more dwellings"**

#### **Amendment of section 13 of Act 50 of 1999**

It is suggest that regulations as contemplated in section 15 of chapter 5 of this Amendment bill be expedited as soon as possible by virtue of the following:

(i) failure to comply with the order of the tribunal can only be effected as if it is an magistrate court order, but without regulations one can only lay a criminal charge against the tenant or landlord.

How is the tribunal going to rescind its own rulings?

It is suggested that the legality of this provisions be looked at. Establishment of a body to deal with the rescission of such decision solely made tribunal. Section 13 of the principal Act provides that the rulings of the tribunal are equivalent to that of the Magistrate Court Act. – are we

empowering the quasi- judicial structure (tribunal) with the same powers that applies before the judicial arena? If the answer is affirmative, we must be explicitly clear but guard against over legislating.

#### **Amendment of section 14 of Act 50 of 1999**

I suggest that that section 14 (2) of the Act is hereby substituted as follows:

**[A] Every Local authority must, subject to the laws governing the appointment of local government officials appoint to carry out any duties pertaining to such Rental Housing Information Office.**

NB: There should be time frame for appointment of Rental Housing Information Office.

Local municipalities must scrutinize their organizational structure to locate where rental housing officers may be placed. It is of vital importance for municipalities to canvass the idea of adding responsibilities to the helpdesk officer in order for same to serve and designated as rental housing information officers.

#### **Amendment of section 15 of Act 50 1999**

Taking into cognizance that the Act applies in the entire country, won't this delay the process of finalization and implementation of uniform regulations. Limpopo Provincial Government, Local Government to be precise in conjunction with the Provincial State Law Advisers had already drafted

regulations that were to be applied in the province. What is the time frame set by the minister for the consultative process?

One aspect that the drafters of this legislation must take into cognizance is the arrangement of section 13 of the principal Act. It will take a person time to find the functions of the tribunal due to the fact that they are combined or bungled together with complaints. Section 13(7) (8) (9) (10) (11) is contradictory to each other. One must check at the correct flow of the functions of the tribunal as this might grant the estate agents loopholes to downtrodden tenants.

The drafters must consider bringing the by-in of the magistrate courts in order for this Act to be enforced without hindrance.

**MANAGER: LEGISLATIONS AND BY-LAWS**

**MNGOMEZULU PM**

**TEL : (015 ) 294 2392**

**CELL: 0731761862**