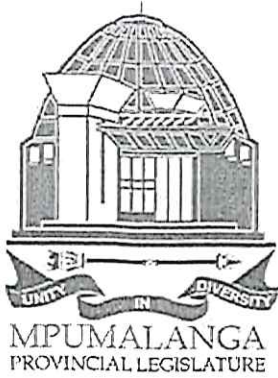


OFFICE OF THE SPEAKER

Enq: Adv. B Mdluli
Tel: 013 766 1038



Private Bag X 11289
Mbombela 1200
Tel +27 13 766 1038
Fax + 27 13 766 1469
Building No 1, Mpumalanga
Government Complex
Riverside Park, Mbombela,
Mpumalanga Province
Republic of South Africa
www.mpuleq.gov.za

FINAL MANDATE

To : The Chairperson of the National Council of Provinces

Name of the Bill : Communal Property Associations Amendment Bill

Number of the Bill : [B 12B-2017]

Date of Deliberation: 26 November 2018

Vote of the Legislature: The delegation representing the province of Mpumalanga in the National Council of Provinces is hereby conferred with a mandate to vote in favour of the Communal Property Associations Amendment Bill [B12B – 2017].

HON. VS SIWELA
SPEAKER: MPUMALANGA
PROVINCIAL LEGISLATURE

26/11/2018

DATE

REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS ON THE COMMUNAL PROPERTY AMENDMENT BILL, [B 12B-2017]

1. INTRODUCTION

The Speaker referred the Communal Property Associations Amendment Bill, [B 12B-2017] (the bill) to the Portfolio Committee on Agriculture, Rural Development, Land and Environmental Affairs (the Committee) for consideration and report back to the House in accordance with the Rules and Orders of the Mpumalanga Provincial Legislature.

In terms of Section 118(1) of the Constitution of the Republic of South Africa, 1996, the Legislature has a mandate to facilitate public involvement in the legislative and other processes of the Legislature and its committees. It is against this background that the Committee conducted public hearings to solicit inputs and views from members of the public on the above-mentioned Bill.

2. OBJECTIVES OF THE BILL

The purpose of the Bill is mainly for the:

- Establishment of the CPA Office within the Department of Rural Development and Land Reform
- Creation of the post of the Registrar in the CPA Office
- Provision for the functions of the Registrar (CPA Office)
- Provision for checks and balances relating to disposal of CPA land
- Strengthening of provisions relating to dispute resolution
- Strengthening of the offices to ensure compliance
- Strengthening of the reporting mechanisms

3. METHOD OF WORK

The Committee met with the NCOP permanent delegate, Hon AJ Nyambi, officials from the national and provincial Department of Rural Development and Land Reform and the Department of Agriculture, Rural Development, Land and Environmental Affairs on 17 August 2018 for a briefing on the Bill. The Committee then decided to conduct public hearings after publishing an invitation in the print media: Lowvelder, Mpumalanga Press (covering Ehlanzeni District), Linda Shabalala Publishers (covering the Nkangala District) and Provincial Media Economist (covering the Gert Sibande District) in order to solicit inputs/comments from interested stakeholders and members of the public. The Bill was also uploaded on the Mpumalanga Provincial Legislature website. The Public hearings were conducted on Friday, 24 August 2018 in the following Districts.

- Ehlanzeni District: Nkomazi Local Municipality – Mbuzini Tribal Hall
- Nkangala District: Thembisile Hani Local Municipality – Thembisile Council Chamber
- Gert Sibande District: Dr. Pixley Ka Isaka Seme Local Municipality – Sinqobile Community Hall – Dagaakraal

Subsequently, the committee met on 12 September 2018 to consider the draft report and the negotiating mandate on the bill.

The Committee had another meeting on the 26 November 2018 to consider the final report and Final Mandate on the Bill.

4. INTERACTION BY THE COMMITTEE WITH THE NCOP PERMANENT DELEGATE AND THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

4.1. The Permanent Delegate gave a brief political overview on the bill, which amongst others reported that:

- The bill will assist in amending the actual Act as everyone is aware of the historical injustices when it comes to issues of land and challenges when dealing with communal property;
- It will assist in dealing with the definitions as some may not still be relevant;

- The bill will assist on administration of land, coordination and management of Associations;
- The issue of transitional processes will be addressed.

4.2. Briefing by the Department of Rural Development and Land Reform (DRDLR)

The Department of Rural Development and Land Reform made a presentation to the Committee on the bill. The presentation covered amongst others the following:

4.2.1. Background on the bill

- The Communal Property Associations Amendment Bill, 2017, seeks to amend the Communal Property Associations Act, 1996 (Act No. 28 of 1996).
- Communal Property Associations (CPAs) are regulated by Act No. 28 of 1996. CPAs are legal entities established to hold land on behalf of beneficiary communities.
- Since the promulgation of the Communal Property Associations Act, about 1 502 CPAs have been registered.
- The overwhelming majority of CPAs are facing operational as well as compliance challenges.
- Despite interventions by the DRDLR over the years, challenges continue to plague CPAs.

4.2.2. Proposed Amendments

- **Definitions**
 - CPA office
 - Registrar
- **Application of Act**
 - Community whose land was restituted by any competent court
 - The decision to establish a CPA must be a community's decision
- **Registration of property**
 - Property to be duly registered
 - General plans to be prepared and duly approved
- **Establishment of CPA Office**

- Office established within Department
 - Office headed by Registrar
 - Registrar appointed by the Minister
- A CPA acts on behalf of a beneficiary community
 - A CPA constitution must be adopted by 60% of beneficiary community members;
 - A decision to *amend the Constitution* of the CPA or *dispose of land* held by the CPA must be approved by 60% of beneficiary community members;
 - When disposing of CPA land, such land must first be offered for sale to the Minister (to purchase for further redistribution);
 - The Registrar appoints a person experienced in dispute resolution to assist CPA communities in resolving disputes;
 - The Registrar may dissolve a CPA management structure (committee) or dismiss its member and require the CPA to elect a new committee or member;
 - The Registrar may appoint an interim committee pending the election of a new committee;
 - Disposal of movable property of CPAs may occur with the approval of a simple majority of members;
 - The affairs of a CPA placed under administration may be run by the Registrar as directed by the Court or the Minister;
 - **Offences**
 - Contravening provisions of Constitution relating to financial matter
 - Destruction of documents
 - Interfering with the work of a dispute resolution person
 - **Reporting**
 - The Registrar prepares annual report and submits to Minister
 - Minister submits report to Parliament.

5. INTERACTION BY THE COMMITTEE WITH STAKEHOLDERS ON THE BILL

The following stakeholders were invited by the Committee to attend the public hearings held on 24 August 2018:

- Community Members
- CPA Communities
- Department of Agriculture, Rural Development, Land and Environmental Affairs
- Chairperson of Mpumalanga House of Traditional Leaders (HTL) and local houses
- Speakers of the local municipalities in the Districts
- Ward Committees
- Community Development Workers
- Headmen of traditional villages
- AFASA
- Religious Leaders
- Trade Unions

During the public hearings, members of the Committee, assisted by the Legal Section of the Legislature, explained the Bill thoroughly in the local languages spoken in each of the communities where the public hearings took place. The legislative processes and timeframes for processing the Bill through the relevant channels of the National Council of Provinces (NCOP) were also explained. The public was made to understand their Constitutional rights in relation to them making inputs in the processing of bills by the Legislature. The Committee also reported that the Bill under review had some implementation challenges hence the proposed amendments. The Committee also responded to the questions of clarity raised thereafter. The community members and stakeholders who were present at the public hearing unanimously supported the Bill. Most people raised concerns which were also related to the Bill as follows:

- The public requested that the registrar's office should be brought closer to the people i.e. at the municipalities or district offices and not at the provincial departments. Furthermore, members of the public requested that the Registrar must have fully fledged offices with sufficient staff compliment.
- The public wanted to know if the bill addressed the issue of how CPA rights will be sold.
- Request for public education on CPA operations: the public needed knowledge on issues such as one party selling her/his rights when they no longer wish to be part of the CPA.

- A concern was raised that the South African Government passes many laws which ends up contradicting each other such as SPLUMA and CLARA. Members of the public requested that the laws must be reconciled.
- The public requested guarantees to protect people under CPA's who are currently not using land due to non-availability of funds and resources. The guarantee should state that their land should not be taken away from them with reasons that they are not using it. Because they are currently not using the land due to constrains of resources.
- Community members requested that the words "in consultation with the community" be included when the Registrar is dissolving the management of a CPA.
- A suggestion was made that the Bill should stipulate the time frame before CPA members can sell CPA land. Fifty (50) years was proposed as the timeframe.
- Members of the public requested that the Minister must consult traditional leaders when dealing with CPAs that are within Traditional Leadership.
- A request was made that after a CPA is launched, members of the CPA must be trained.
- A concern was raised that the community is suffering because most CPAs do not want to disband and people do not benefit from their land.
- Members of the public reported that land issues had caused a lot of infightings amongst the community and the CPAs do not represent the views of the community and the community do not benefit from their own land. The community would like for the government to engage the tribal authorities in this regards to avoid victimization.

6. OBSERVATIONS AND FINDINGS MADE BY THE COMMITTEE

- 6.1. The Bill deals with technical amendments relating to the provision for the establishment of a Communal Property Associations Office and the appointment of a Registrar of Communal Property Associations; to provide for general plans for land administered by an association; to provide improved protection of the rights of

- communities in respect of movable and immovable property administered by an association.
- 6.2. The provincial Department of Rural Development and Land Reform did not attend the public hearings.
 - 6.3. Oral submissions that were made by the public were considered accordingly. Other submissions that do not talk to the content of the Bill will be processed by the Department of Agriculture, Rural Development, Land and Environmental Affairs and local municipalities and through the Petitions process of the Legislature.
 - 6.4. Members of the public were unanimously in support of the Bill.
 - 6.5. The Select Committee on Land and Mineral Resource of the NCOP met to consider the proposed amendments emanating from the Negotiating Mandates from provinces. The Select Committee on Land and Mineral Resources did not agree to the amendments that were proposed. This then resulted in the non-amendment of the Bill [B12B – 2017].

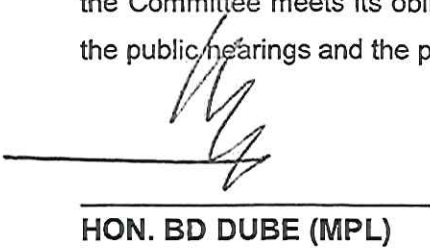
7. RECOMMENDATIONS

- 7.1. The provincial Department of Rural Development and Land Reform must in future attend Committee public hearings when dealing with Legislation that directly affects them.
- 7.2. The Portfolio Committee on Agriculture, Rural Development, Land and Environmental Affairs after considering the Bill confers on the permanent delegate representing the Province of Mpumalanga in the NCOP, the mandate to vote in favor of the Bill.

8. CONCLUSION

The Chairperson wishes to thank all members of the public for their worthwhile participation in the public hearings and for the inputs or comments they have made. A word of gratitude to the Members of the Portfolio Committee, the NCOP Permanent Delegate, Hon Nyambi, the officials from the national and provincial Department of Rural Development and Land Reform, Mpumalanga Department of Agriculture, Rural Development, Land and Environmental Affairs, Speakers of the Local Municipalities for their efforts in ensuring that

the Committee meets its obligation and the support staff who contributed to the success of the public hearings and the production of this report.



HON. BD DUBE (MPL)

26/11/28
DATE

**CHAIRPERSON: PORTFOLIO COMMITTEE ON
AGRICULTURE, RURAL DEVELOPMENT,
LAND AND ENVIRONMENTAL AFFAIRS**

