**Report of the Portfolio Committee on Human Settlements on the Housing Consumer Protection Bill [B 10 - 2021], dated 30 November 2022**

The Portfolio Committee on Human Settlements (the Committee), having considered the Housing Consumer Protection Bill [B10 - 2021] (National Assembly – section 76), referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 76 Bill, reports the Bill with amendments [B 10A – 2021] as follows:

1. The Housing Consumer Protection Bill (HCPB) [B 10 - 2021] was tabled in Parliament and referred to the Committee on 18 May 2021.
2. The Housing Consumer Protection Bill seeks to provide for the protection of housing consumers; to provide for the continuance of the National Home Builders Registration Council as the National Home Building Regulatory Council; to provide for the registration of homebuilders; to provide for the enrolment of homes in order to be covered by the home warranty fund; to provide for the regulation of the conduct of homebuilders; to provide for the continuance of the home warranty fund; to provide for claims against the fund; to provide for the funds of the Council and for the management of those funds; to provide for procurement and contractual matters in relation to the building of a home; to provide for the enforcement of this Act; to repeal the Housing Consumers Protection Measures Act, 1998; and to provide for matters connected therewith.
3. The Committee received its first briefing on the Housing Consumer Protection Bill from the Department of Human Settlements on 01 June 2021.
4. In facilitating effective public participation on the Housing Consumer Protection Bill, the Committee conducted nationwide, in person public hearings in three districts per province in all nine provinces, from 22 April to 6 November 2022. The public hearings were attended by 5 659 members of the public and various stakeholders across 27 district municipalities. A total of 894 oral submissions were heard by the Committee during these hearings.
5. Additionally, the Committee conducted virtual public hearings on 9 November 2022. The Committee received oral submissions from the Master Builders South Africa (MBSA) and Development Action Group (DAG).
6. The Committee received responses from the Department of Human Settlements on the issues raised regarding the Bill during the public hearings on the 11 November 2022.
7. The Committee during its deliberations on the Bill agreed to the rejection of clause 39 in its entirety. The rationale for the deletion of this clause was that this section was not mandatory. In addition, the Committee was of the view, that if the need arose, the contents of this clause may be better placed in the regulations.
8. The Committee agreed to the following amendments to the Bill:

**CLAUSE 1**

1. On page 6, after line 13, to insert the following definition:

“ **‘head of department’** means the head of department responsible for human settlements in a province;”.

2. On page 7, after line 25, to insert the following definition:

“ **‘municipal manager’** means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);”.

**CLAUSE 2**

1. On page 8, from line 17, to omit subsection (5) and to substitute the following subsection:

“(5) Notwithstanding the provisions of this Act, the Minister may, after consultation with the Council, in exceptional circumstances—

*(a)* on application in the prescribed manner, exempt a person or home from the provisions of this Act ; or

*(b)* in the public interest, by notice in the *Gazette,* exempt certain persons or homes belonging to a category or class specified in the notice, from the provisions of this Act,

either generally or subject to such conditions as may be specified.”.

**CLAUSE 7**

1. On page 9, in line 29, after “office” to insert “, taking into consideration representivity, expertise and previous performance”.

2 On page 9, in line 42, after “expiry”, to insert “, within which period the Minister must appoint the replacement”.

**CLAUSE 11**

1. On page 11, from line 2, to omit subsection (1) and to substitute the following subsection:

“(1) The Board—

1. holds meetings at such times and places as may from time to time be determined by the Board; and
2. must hold a minimum of four meetings annually.”.

**CLAUSE 15**

1. On page 13, in line 29, after “Council” to insert “as determined in terms of a job evaluation system approved by the Board”.

**CLAUSE 16**

1. On page 13, in line 34 after “for” to insert “only”.

**CLAUSE 32**

1. On page 18, from line 2, to omit subsection (1) and to substitute the following subsection:

“(1) A head of department or municipal manager or his or her delegate may not release any funds in relation to any housing project, unless the requirements of this Act have been met in relation to that project.”.

2. On page 18, after line 13, to add the following subsection:

“(4) A MEC or MMC or his or her delegate must ensure, through oversight, compliance with this Act in relation to a subsidy or social housing project.”.

**CLAUSE 39**

1. Clause rejected.

**CLAUSE 40**

1. On page 20, in line 29, to omit “enrolment”.

**CLAUSE 41**

1. On page 20, in line 53, after “must” to insert “, subject to section 40(2),”.

**CLAUSE 80**

1. On page 33, from line 34, to omit section 80 and to substitute the following section:

“**80.** If an agent of a person is liable in terms of this Act for anything done or omitted in the course of that agent’s activities on behalf of their principal, that principal is jointly and severally liable with that agent.”.

**CLAUSE 88**

1. On page 36, from line 52, to omit “; and” and to substitute a semi colon.

2. On page 36, after paragraph *(h)* to insert the following paragraph:

“*(i)* prescribing the manner of service of notices or any documents required to be served in terms of this Act; and”.

3. On page 36, in line 4, to renumber paragraph *(i)* to be *(j)*.

4. On page 36, in line 5, to omit “Council” and to substitute “Board”.

5. On page 36, in line 6, to omit “Council” and to substitute “Board”.

6. On page 36, in line 10, to omit “Council” and to substitute “Board”.

7. On page 36, in line 12, to omit “Council” and to substitute “Board”.

The Democratic Alliance objected to the adoption of the report.

Report to be considered.