

FREE STATE - NEGOTIATE MANDATE

Responses:

1. The role of the Department of Human Settlements, NHBRC and municipalities should be clearly defined on the Bill so that the beneficiaries of social houses should not be confused.

Response: The role of the MMC and MEC is clarified in the Bill in terms of section 32 and 33 of the Bill. The MEC and MEC or their delegate must ensure through oversight, compliance with the Bill in relation to a subsidy or social housing project (s32(4)). In addition, the HOD or MM or their delegate may not release any funds in relation to any housing project, unless the requirement of this Act have been met in relation to that project (s32(1)). Failure to comply with these duties the NHBRC is obliged to report the non-compliance to the Minister (s33(1)).

2. Clause 1 (b) should clearly state the responsibilities of the MEC, Minister and MMC and should also include conveyancers as they also play an important role on the Bill.

Response: The same as above, in addition the conveyancer's role is covered under section 83 of the Bill as it covers the duties of conveyancers when transferring property. The conveyancer must before finalising the transfer of the property determine whether or not the property relates to a home that has to be enrolled with the NHBRC and must inform the Council if the home is not enrolled with the NHBRC.

3. Inspectors should be appointed in all areas to ensure that all houses are approved before the beneficiaries could move in

Response: We note the comment in respect of appointment of inspectors in all areas. The NHBRC will ensure that it will be sufficiently capacitated to implement the Bill and that all enrolled houses will be inspected.

4. Clause 32 (2) should ensure that the builders are qualified and use prescribed building materials when building the subsidy or social housing project.

Response: Clause 26 provides that Council in consultation with the Minister must determine the level of competency of a home builder/developer taking into account the financial, technical, construction and management requirements that are necessary to build a home. Clause 85(3) provides that the Home Building Manual may require a plan and associated documents to be approved by a competent person, and different requirements may be determined in respect of different categories of homes, or different types of building techniques or materials.

5. The Bill should also address and have timeframe when all incomplete subsidy or social housing project will be completed.

Response: The blocked and incomplete projects do not fall within the objects of the Bill. In the 2022 / 2023 Financial Year, the Minister of Human Settlements indicated that blocked and incomplete projects needs to be unblocked and incomplete projects needs to be completed within the three financial years. The Department has then developed an implementation Plan in 2022/2023 financial year which the Department is currently overseeing that all provinces implement accordingly.

6. The Bill should also address the challenges of issuing title deeds to the communities.

Response: The purpose of the Bill is to ensure product quality and provide a measure of protection for consumers where the quality standards have not been met by contractors. The Title Restoration project is governed and determined by the Spatial Planning and Land Use Management Act, 16 of 2013 insofar as township establishment is concerned, and the Deeds Registries Act, 47 of 1937 with regards to property registration, and its primary purpose is security of tenure.

It is therefore not advisable to incorporate land tenure matters into quality assurance matters, where such provisions have already been provided for in legislation.

7. The Bill should also address the areas where houses were declared a disaster.
Response: The application of the Bill is limited in terms of clause 41(4) and the Department has Emergency Housing Program that covers disasters. The object of the Bill is to ensure quality assurance on newly constructed homes to ensure that they comply with technical requirements.

Emergency Housing Program is contained in part 3 vol.4 of the National Housing Code established in terms of section 3(4)(g) of the Housing Act and Division of Revenue Act, 2023 (DORA) that puts funding for emergency response in the direct control of the Department of Human Settlements. In terms of this program the Department may intervene by supplying building material and can also provide vouchers for home owners to repair their homes.

8. The Bill should address the infrastructure issues where subsidy or social housing projects are taking place. The Bill should also address the social housing projects where two people are given one house.

Response: The issues raised are not within the objects of this Bill and it is not advisable to include them. The Social Housing Programme is an affordable rental housing programme. Therefore, there would be no possibility of double allocation of a unit to 2 people at the same time. As individual tenants sign rental agreements with the Property Managers (Social Housing Institutions) for a single household.

9. The Bill should ensure that the child headed families are also included in the Bill.

Response: The issue of child headed families does not fall within the ambit of the Bill and cannot be regulated in terms of the Bill.

10. Clause 43 (3) should also hold homebuilders liable for all social housing projects that are not good qualities, used unapproved building materials and have defects five years after the beneficiaries have moved in the house.

Response: It is assumed that the reference clause 43(3) meant for clause 42(3) which hold home builders liable for all subsidy and non-subsidy houses. However, The NHBRC warranty is limited to five years and not beyond five years. Clause 40(3)-(5) of the Bill provides that the Minister may by notice in the Gazette extend the period of the warranty cover subject to availability of funds, actuarial assessment and enrolment fee proportionally adjusted in accordance with extended period of the warranty cover.

11. The Bill should address all dilapidated social housing project. The Bill should also address, protect the people and rectify all houses that have asbestos roofing. (Points 12- 13)

Response: The Bill does not seek to apply retrospectively. These issues are covered under the programs or interventions of the Department and cannot be included in the Bill since it is not within its objects.

The Housing Code of 2001 specifically banned the use of asbestos in construction. The Department is committed to the eradication and correct disposal of asbestos roofs in old township properties across all nine provinces. The Human Settlements Removal of Asbestos intervention is a Ministerial programme that commenced during the 2022/23 financial year and will be implemented over a period of three (3) years.

12. The NHBRC should extent the years for renovations. (Point 14)

Response: Renovations (in terms of Clause 2(3)) are a new concept to be regulated by the NHBRC, enrolment and inspection of additions, alterations, extensions and repairs including warranty will further be dealt with in terms of the Regulations (Clause 86).

13. The Bill must protect the consumers from allowing unregistered builders to build their houses.

Response: Clause 63 provides that failure to register as a home builder or developer, or to apply for enrolment of a home, or to pay the enrolment fee is an administrative non-compliance. Clause 77 classifies such failure as a criminal offence that can attract a fine or imprisonment

14. The Bill should ensure that in rural areas the Local Chiefs communicates and have a level agreement with municipalities when issuing a stand and building social housing projects to consumers.

Response – The three spheres of government usually enter in to an agreement to clarify the roles and responsibilities of the parties when services are provided in rural land (traditional council, Department, Municipalities). The relationship will be regulated through SLA or MOU. This cannot be included in the Bill as it is not within its objects.

15. The Bill should ensure that the consumers do not sign a letter to move in their houses because the inspector sign and issue a certificate that says the house is in good condition.

Response: Clause 70(3) provides that an inspector or employee may not engage in any activity that may undermine the integrity of the Council.

NHBRC Inspectors' duties is to ensure that the home is constructed in accordance with the technical requirements. The NHBRC inspector conducts a minimum of four inspections during construction at the following stages: 1. Foundation, 2. Super-structure, 3. Practical completion, and 4. Stormwater. Once a house is completed a final unit report is issued by the NHBRC for subsidy houses.

Clause 64(1)(f) provides that wilful or gross negligent, making of a determination by a competent person regarding the structural integrity of a home, which determination causes, or fails to prevent, a major structural defect it will be a substantive non-compliance which may trigger an administrative fine and other sanctions which may be imposed by CEC.

The certification is issued by competent person who are engineers responsible for the design of the home.

16. The Bill should ensure that the social housing project that are built for disabled people are using prescribed description when foundation is done. (Point 18)

Response: Social Housing Norms and Standards include specifications for people living with disabilities and this is taken into consideration when subsidy and social houses are constructed. This cannot be included in the Bill as it does not fall within its objects.