

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
HOUSING DEVELOPMENT
AGENCY BILL**

[B 1—2008]

*(As agreed to by the Portfolio Committee on Housing
(National Assembly))*

[B 1A—2008]

ISBN 978-1-77037-

No. of copies printed 800

AMENDMENTS AGREED TO

HOUSING DEVELOPMENT AGENCY BILL
[B 1—2008]

CLAUSE 1

1. On page 3, in line 28, to omit “2” and to substitute “3”.
2. On page 3, in line 29, to omit “8” and to substitute “9”.
3. On page 3, in line 31, to omit “16” and to substitute “17”.
4. On page 3, in line 33, to omit “16” and to substitute “17”.
5. On page 3, after line 33, to insert the following definitions:

“develop” means improving or undertaking the development of land acquired by the Agency or the Agency giving subcontracts to developers to improve, or to undertake the development of the acquired land by erecting buildings or structures for the purposes of housing delivery;

“Director-General” means the Director-General in the national department responsible for housing;
6. On page 3, after line 34, to insert the following definition:

“landed property” means land with improvements including buildings, structures and services;
7. On page 3, in line 36, to omit “7” and to substitute “8”.
8. On page 3, in line 38, to omit “of Housing”, and to substitute “responsible for housing”
9. On page 3, from line 39, to omit the definition of “municipal entity”.
10. On page 3, after line 45, to insert the following definition:

“priority housing development areas” means land identified by the Agency for housing purposes where buildings or structures will be built for the purpose of housing delivery;
11. On page 3, from line 48, to omit the definition of “provincial government enterprise”.
12. On page 3, from line 50, to omit the definition of “provincial public entity”.

NEW CLAUSE

1. That the following be a new Clause after clause 1:

Purpose of Act

2. The purpose of this Act is to provide for the—
 - (a) establishment of the Agency which will facilitate the acquisition of land and landed property, in a way that complements the capacities of Government across all spheres;
 - (b) objects, roles, powers and duties of the Agency; and
 - (c) fast tracking of land acquisition and housing development services for the purpose of creating sustainable human settlements.

CLAUSE 2

Clause rejected.

1. That the following be a new Clause:

Establishment of Agency

3. (1) The Housing Development Agency is hereby established as a juristic person.
- (2) The Agency operates as a national public entity with its executive authority vested in the Minister.

CLAUSE 3

Clause rejected.

1. That the following be a new Clause:

Objects of Agency

4. (1) The objects of the Agency are to-
 - (a) identify, acquire, hold, develop and release state and privately owned land for residential and community purposes and for the creation of sustainable human settlements;
 - (b) project manage housing development services for the purposes of the creation of sustainable human settlements;
 - (c) ensure that there is centrally coordinated planning and budgeting of all infrastructure required for housing development; and
 - (d) monitor the provision of all infrastructure required for housing development.

CLAUSE 4

Clause rejected.

1. That the following be the new Clause:

Role of Agency

5. (1) The Agency must, after consultation with the relevant owner, identify, acquire, hold, develop and release state or privately owned land for residential and community purposes for the creation of sustainable human settlements.

(2) The Agency must ensure that there is funding for the provision of all infrastructure that is required for housing development in which it is involved.

(3) The Minister may, where there is lack of capacity in any organ of state to identify, acquire, hold, develop and release land for residential and community purposes for the creation of sustainable human settlements—

- (a) advise the organ of state to conclude an agreement with the Agency to offer assistance in terms of the Agency's skill and expertise; or
- (b) direct the Agency to engage with the organ of state with a view to conclude the agreement contemplated in paragraph (a).

(4) Nothing in this Act detracts from the power of a province and municipality to identify, acquire, hold, develop and release land for residential or community development without recourse to the Agency, in terms of their functions under the Housing Act, 1997 (Act No. 107 of 1997).

CLAUSE 5

Clause rejected.

1. That the following be the new Clause:

Land which may be acquired

6. (1) The Agency may, after consultation with the land owner, identify, acquire and hold land—

- (a) registered or vested in the State or any organ of state and which it is prepared to dispose of; or
- (b) privately owned,

for residential or community development purposes.

(2) Subject to section 25 of the Constitution of the Republic of South Africa, 1996, the Agency may expropriate land for the purposes of creating sustainable human settlements.

(3) Sections 6 to 23 of the Expropriation Act, 1975 (Act No. 63 of 1975), apply with the changes required by the context to the expropriation of land, and a reference in that Act to—

- (a) Minister must be construed as a reference to the Minister responsible for housing; and
- (b) section 2 must be construed as a reference to subsection (2).

(4) Any consultation between organs of state in terms of this Act must be done in terms of Chapter 3 of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005).

CLAUSE 6

Clause rejected

1. That the following be a new Clause:

Functions of Agency

7. (1) The Agency must—

- (a) develop a development plan to be approved by the Minister after consultation with the relevant authorities in the provinces and municipalities;
- (b) develop strategic plans with regard to the identification and acquisition of state and privately owned land which is suitable for residential and community development;

- (c) prepare necessary documentation for consideration and approval by the relevant authorities as may be required in terms of any other applicable law;
 - (d) monitor progress of the development of land and landed property acquired for the purposes of creating sustainable human settlements;
 - (e) enhance the capacity of organs of state including skills transfer to enable them to meet the demand for housing delivery;
 - (f) ensure that there is collaboration, and intergovernmental and integrated alignment for housing development services;
 - (g) identify, acquire, hold, develop and release state and privately owned land for residential and community development;
 - (h) undertake such project management services as may be necessary, including assistance relating to approvals required for housing development;
 - (i) contract with any organ of state for the purpose of acquiring available land for residential housing and community development for the creation of sustainable human settlement;
 - (j) assist organs of state in dealing with housing developments that have not been completed within the anticipated project period;
 - (k) assist organs of state with the upgrading of informal settlements; and
 - (l) assist organs of state in respect of emergency housing solutions.
- (2) In performing its functions, the Agency must—
- (a) ensure that residential and community developments are sustainable, viable and appropriately located;
 - (b) establish compliance and fraud prevention mechanisms to ensure the integrity of the Agency;
 - (c) ensure that job creation is optimised in the process of residential and community development;
 - (d) introduce and manage a land inventory and information system; and
 - (e) ensure that community participation takes place.
- (3) In performing its functions the Agency may—
- (a) declare priority housing development areas for residential and community purposes;
 - (b) develop and submit a development plan for such priority housing development areas as contemplated in subsection 1(a); and
 - (c) implement measures to fast-track housing development in the declared priority housing development areas.

CLAUSE 7

1. On page 5, in line 10, to omit “document” and to substitute “contain”.
2. On page 5, in line 16, to omit “at least”.

CLAUSE 8

1. On page 5, in line 22, to omit “including” and to substitute “which must include”.
2. On page 5, in line 23, to omit “of” and to substitute “responsible for”.
3. On page 5, in line 35, to omit “Minister” and to substitute “Board”.

CLAUSE 9

1. On page 5, in line 40, to omit “7” and to substitute “8”.
2. On page 5, in line 49, to omit “may” and substitute “must”.
3. On page 5, in line 49, after the second “the” to insert “adverse”.

CLAUSE 10

1. On page 6, in line 1, to omit “ill” and to substitute “unfit”.

CLAUSE 11

1. On page 6, in line 46, to omit “any” and to substitute “more than”.

CLAUSE 12

1. On page 7, in line 9, to omit “appointed by the Minister”.

CLAUSE 18

1. On page 9, in line 13, after “must,” to insert “in consultation with the Minister and”.

CLAUSE 20

1. On page 9, in line 38, to omit “organise and control” and to substitute “recruit”.
2. On page 9, in line 39, after “efficient” to insert “transparent”.
3. On page 9, in line 39, to omit “administration” and to substitute “administrative systems”.

CLAUSE 21

1. On page 9, from line 50, to omit “waste and extravagance” and to substitute “fruitless and wasteful expenditure”.
2. On page 9, in line 53, to omit “and”.
3. On page 9, in line 54, to omit “.” and to substitute “and”.
4. On page 9, after line 54, to insert the following paragraph:
 - (i) to provide sound financial control systems for the Agency.

CLAUSE 22

1. On page 10, after line 10, to add the following subsection:
 - (3) Notwithstanding a delegation or assignment contemplated in subsection (1), the chief executive officer or the chief financial officer, as the case may be, is not divested of any power or duty so delegated or assigned.

CLAUSE 23

1. On page 10, in line 12, to omit “chief executive officer” and to substitute “Board”.
2. On page 10, in line 30, to omit “overseen by” and to substitute “reporting to”.

CLAUSE 24

1. On page 10, in line 44, to omit “to municipalities”.
2. On page 10, in line 45, after “subsidies” to insert “and grants”.

CLAUSE 30

1. On page 11, in line 43, to omit “difficulties” and to substitute “difficulty”.

CLAUSE 31

1. On page 12, in line 25, to omit “and the Minister for the Public Service and Administration”.
2. On page 12, in line 40, after “Agency” to insert “ and Parliament”

MEMORANDUM ON OBJECTS

1. On page 14, in paragraph 3, to omit “supplements” and to substitute “complements”.
2. On page 14, in paragraph 4, to omit “by agreement with Municipalities,”
3. On page 14, in the first line of paragraph 4, after “to” to insert “identify”.
4. On page 14, in paragraph 4, after “release” to insert “state and privately owned”.
5. On page 14, in paragraph 5, to omit “a municipality” and to substitute “any organ of state”.
6. On page 14, in paragraph 5, to omit “which has been identified by a municipality”.
7. On page 14, in the first line of paragraph 6, to omit “only”.
8. On page 14, in paragraph 6, to omit “a municipality lacks the capacity to” and to substitute “there is a lack of capacity to identify,”.
9. On page 14, in the third line of paragraph 6, to omit “municipality to” and to substitute “province and municipality to identify,”.
10. On page 14, in paragraph 7, to omit “municipalities” and to insert “any organ of state”.
11. On page 14, in paragraph 8, to omit “document” and to substitute “contain”.
12. On page 14, in paragraph 10, to omit “9-22” and to substitute “10-23”.

13. On page 14, in paragraph 11, to omit “23” and to substitute “24”.
14. On page 14, in paragraph 13, to omit “difficulties” and to substitute “difficulty”.
15. On page 14, in paragraph 13, to omit “30” and to substitute “31”.

PREAMBLE

1. On page 2, after the seventh line, to insert the following paragraph :

AND WHEREAS there is a need to establish the Housing Development Agency which must fast-track the processes of housing development;
2. On page 2, after the twelfth line, to insert the following paragraph:

AND FURTHER ACKNOWLEDGING that there are serious challenges that hinder the realisation of housing for all, that there is a need to accelerate the service delivery of housing, to enhance and secure the required skills;”

ARRANGEMENT OF SECTIONS

1. That the following be a new Arrangement of Sections:

Sections

1. Definitions
2. Purpose of Act
3. Establishment of Agency
4. Objects of Agency
5. Role of Agency
6. Land which may be acquired by Agency
7. Functions of Agency
8. Mandate
9. Governing Board
10. Functions of Board
11. Persons disqualified from membership of Board
12. Appointment and removal of members of Board
13. Resignation, removal from office and vacancies
14. Fiduciary duty and disclosure
15. Committees
16. Delegation and assignment of functions by Board

17. Appointment of chief executive officer and chief financial officer
18. Conditions of appointment of chief executive officer and chief financial officer
19. Vacating of and removal from office of chief executive officer and chief financial officer
20. Acting chief executive officer and chief financial officer
21. Functions of chief executive officer
22. Functions of chief financial officer
23. Delegation by chief executive officer and chief financial officer
24. Staff of Agency
25. Funds of Agency
26. Application of Public Finance Management Act
27. Tabling in Parliament
28. Delegation by Minister
29. Additional functions
30. Provision of information
31. Intervention by Minister
32. Regulations
33. Dissolution
34. Security of information
35. Documents relating to litigation
36. Limitation of liability
37. Offences and penalties
38. Short title and commencement

Printed by Creda Communications

ISBN 978-1-77037-