

lec: 12/05/08



EASTERN CAPE PROVINCIAL LEGISLATURE

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Date: 06 May 2008

PORTFOLIO COMMITTEE ON HOUSING

Negotiating mandate on the Social Housing Bill (B29B-2007)

1. *Terms of reference*

The Social Housing Bill (B29B-2007), hereinafter referred to as the Bill, was referred to the Portfolio Committee on the Housing by the NCOP Business Committee for consideration.

2. *Consideration of the Bill*

The Portfolio Committee was briefed on the content and effect of the Bill by the officials from Department of Housing. The Committee also conducted public hearings on the Bill from 28 April 2008 to 5th May 2008.

3. *Negotiating mandate of the Committee*

The Committee supports the spirit and purpose of the Bill but wishes to raise the following concerns:

- 3.1 The Bill is not clear on what will happen if the financial status of the tenant changes or where the parents pass on and leave children in the house.
- 3.2 The process of social housing should not be separated from the programme of the government to build sustainable human settlements for the people.
- 3.3 The Bill should insert a clause wherein social housing communities can perform



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their cultural aspects within the precinct.

- 3.4 Private sector involvement should be clearly defined so that social housing tenants should not be vulnerable to exploitation.
- 3.5 The committee is of the view that a consultation process should be done with traditional leaders in areas where there is traditional leadership.
- 3.6 The identification and adoption of "restructuring zones" should not compromise the programme of building RDP houses and thereby push RDP Houses to the periphery of town or cities.



N. KIVIET

SPEAKER: EASTERN CAPE PROVINCIAL LEGISLATURE

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FREE STATE LEGISLATURE

LOCAL GOVERNMENT AND HOUSING COMMITTEE

Report on the negotiating mandate regarding Social Housing Bill [B29B-2007]

1. Terms of Reference

The Social Housing Bill [B29B-2007] has been referred to the Local Government and Housing Committee by the Speaker on the Monday, 14 April 2008

2. Briefing

- (1) On the Thursday, 24 April 2008, Mr. E. Perumal, Social Housing Foundation, briefed the Committee on the content of the Bill;
- (2) The Committee further met on Tuesday, 6 May 2008 to confer the negotiating mandate on this Bill; and
- (3) The legal advisor, Adv. T Malakoane, briefed the Committee on the legal aspects of the Bill.

3. Consultation

The Committee considered the scope of consultation on the Bill and resolved that the Public Hearings be conducted as follows:

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3 May 2008	09H00	Seisoville Community Hall (Fezile Dabi District)
3 May 2008	09H00	Allanridge Town Hall (Lejweleputswa District)
3 May 2008	09H00	Chamber: Fourth Raadsaal (Motheo District)

4. CONSIDERATION

The Committee considered the Bill, inputs and information received. The Portfolio Committee noted the inputs by the general public and further considered the Bill as follows:

- (a) that the Social Housing Regulatory Authority should have satellite offices in the Provinces;
- (b) that under the heading to clause 11, after "Functions" to insert "and Powers".
Motivation: Sub-clauses 11(4) and (5) provide for "may" to constitute "powers" rather than functions;
- (c) the Bill should provide explicit information with regard to the structures and the sizes of the houses;
- (d) The Bill should provide for the protection of temporary and contract workers;
- (d) That provision be made for a specific role of the provincial governments on the accreditation of social housing institutions;
- (e) In addition to the salary, personal expenses should be taken into consideration when determining the rent of these houses;
- (f) Primacy should be given to the local contractors with regard to the construction and maintenance of such houses;
- (g) the Minister should determine the income categories of the households for purposes of qualification to acquire social housing in terms of this Bill by means of regulations; and

- (h) the Bill should provide for an option to purchase leased houses, provided that the leased house is a "stand-alone" property;

5. **Resolution**

The Committee resolved that:

- (a) Authority be conferred to the Free State Delegation, to vote for the adoption of the Bill with the aforementioned inputs and considerations.



Mr. F. Z. MATOSA
 Speaker
 FREE STATE LEGISLATURE

07 May 2008



GAUTENG
LEGISLATURE

**HOUSING PORTFOLIO COMMITTEE
NEGOTIATING MANDATE
OF THE SOCIAL HOUSING BILL [B29B-2007]**

(Section 76)

05 May 2008

1. INTRODUCTION

The Chairperson of the Housing Portfolio Committee, Mr. C G Tsotetsi, tables the Committee's Negotiating Mandate on Social Housing Bill [B29B-2007], a Section 76 Bill.

2. PROCESS FOLLOWED

The Speaker formally referred the Social Housing Bill [B29B-2007], a Section 76 Bill to the Housing Portfolio Committee for consideration and report in terms of Rule 232 (1)(a) read with 235(4), (6) and (7) on the 22nd October 2007. The Chairperson, Mr Godfrey Tsotetsi, tables the negotiating mandate on the above-mentioned Bill as follows.

The Committee Researcher presented an analysis on the social and economic impact of the Social Housing Bill to the Committee on the 12th February 2008 followed by a briefing on the content of the Bill by the NCOP Permanent Delegate, Member Abram Mzizi on the 06th March 2007. Furthermore, the Department of Housing made its submission on the Bill during a Committee meeting on Tuesday, 11th March 2008.

In keeping with Legislature's constitutional mandate of promoting and facilitating public participation in the law making process, the Portfolio Committee invited stakeholders from Community Based and Civic Organisations, the Johannesburg Housing Company, SALGA, Women in Constructions, Housing Cooperatives, National Housing Finance Corporation, National Urban Reconstruction and Housing Agency, Women for Housing, South African Housing Cooperatives Association, Rand Water, Rural Housing Loan Fund and Peoples Housing Partnership to a Public Hearing on the

referred Bill at Rabasotho Community Hall, Tembisa on Thursday, 27 March 2008.

The Committee obtained a Legal opinion on the Bill from the Legal Unit of the GPL on the 05 May 2008.

The Committee deliberated on the Bill and adopted the negotiating mandate on Social Housing Bill [B29B-2007], Section 76 Bill on 05 May 2008.

3. PRINCIPLE OF THE BILL

In Chapter 1 of the Bill, the terminology used in the draft legislation is defined, and provision is also made for the general principles applicable to social housing. The general principles have to a large extent been gleaned from the approved national social housing policy as well as the principles contained in section 2 of the Housing Act, 1997 (Act No. 107 of 1999). These principles are binding on the national, provincial and local spheres of government.

OBJECTS OF THE BILL

- To establish and promote a sustainable social housing environment;
- To define the functions of national, provincial and local governments in respect of social housing;
- To provide for the establishment of the Social Housing Regulatory authority in order to regulate all social housing institutions obtaining or having obtained public funds;
- To allow for the undertaking of approved projects by other delivery agents with the benefit of public money;
- To give statutory recognition to social housing institutions, and
- To provide for matters connected therewith".

4. OVERVIEW OF PUBLIC HEARINGS & WRITTEN SUBMISSIONS

The stakeholders' verbal submissions/inputs are summarised as follows:

Concerns raised and responses made by the Gauteng Department of Housing:

- Acknowledgment that there is a slow roll-out of the rental stock houses in the townships as opposed to the city as affordable rental units would benefit those who are still on the Housing waiting list and that, there should be monitoring of the development of Rental stock versus RDP stock to ensure that municipalities do not pursue rental stock for revenue purposes.
- Beneficiaries of the deceased are covered by the Department of Housing's policy on Child-headed families.

- There is provision for mobilising entrepreneurs to participate in the Social Housing Programme through the Gauteng Partnership Fund (GPF) and that the Rental Housing Act, 1999 as amended will safeguard against irregular evictions by groups owning affordable rental units.
- There are sufficient procurement policies in place to ensure the engagement of SMMEs and all registered local contractors in the development of rental stock.
- The National Credit Act, 2007 should not be applicable in the allocation of the affordable rental units and thus disadvantage targeted beneficiaries.

Recommendations from the Public

- That the Bill should cover Cooperatives in-depth as there is reference to them on the Bill and to include their definition as well
- That the Gauteng Provincial Legislature (GPL) should ensure that the documentation is user-friendly for the ordinary citizens.
- The establishment of the Social Housing Regulating Board and the accreditation of Social Housing Institutions should receive speedy attention.
- Proposes additions to the "Objectives of the Bill" as follows:
 - 'Monitor, evaluate and review the quality and effectiveness of the service delivery as it unfolds'.
 - 'Involve stakeholders in the planning and implementation of the government initiatives from the initial phases/stages'.
- The Bill should better spell out the balance between regulation and compliance on the one hand and support and enablement on the other side.
- The Bill is very heavy on the regulation and compliance monitoring of social housing institutions, but very light on the support and creation of a conducive and enabling environment. The Bill should therefore be adjusted to balance the regularity aspect with the support aspect.
- If the Bill is enhanced to better balance regulation with support, the long title of the Bill will have to be enhanced to include reference to support for social housing.
- The definition of 'approved projects' may be too limiting if it is not the intention of the legislators to exclude projects outside restructuring zones that may have constructed housing through the institutional subsidy.

Conclusion

- The Bill was welcomed, with emphasis on the following:
 - Multiple storey buildings address the issue of land shortages as they accommodate more people.

- o The Bill further regulates the lessor and lessee relationship although regulation of rates and taxes is the responsibility of respective municipalities

5. FINANCIAL IMPLICATIONS AND SOCIO-ECONOMIC IMPACT ASSESSMENT OF THE BILL FOR THE PROVINCE

5.1. FINANCIAL IMPLICATIONS

In respect of the financial implications of the Bill on the province, the Gauteng Department of Housing confirmed to the Committee that there are no direct financial implications and that the Department supports the Bill as introduced.

Nonetheless, the Committee notes the provisions of Sections 18(1)(a)(b) and 18(2)(a)(b) on the financing of the SHI provides as they are inadequately/not catered for in the provisions of Section 39 of DORA and this could have serious financial implication of the province

5.2. SOCIO-ECONOMIC IMPACT

With regards to the socio-economic impact of the Bill the Gauteng Department of Housing welcomes the Bill as:

- It recognizes the importance of social housing.
- It will ensure affordable rental housing for those who could not access Social housing in the open market;
- The regulation of the sector brings about protection of the consumers. (awareness of consumers' rights and obligations);
- Secure tenure for residents in social housing institutions will be ensured as far as the provisions governing landlord tenant relationship as set out in the Social Housing Act, 1999;
- It will assist in addressing issues of rapid urbanisation and growth patterns,
- The MEC has the power to mediate in cases of conflict between a social housing institution or other delivery agent and municipality.

6. COMMITTEE COMMENTS AND CONCERNS

During the briefing by the NCOP Delegate, the Committee deliberated on the Social Housing Bill and agreed on the following:

- The Committee support that the formulation of the lease remains the responsibility of the SHA as it will prevent landlords from changing the lease arbitrarily.
- Although the Department stated that the Bill has no financial implications on the Province, the Committee still feels that there are financial implications.
- Lack of clarity and certainty on who constitutes the low to medium income strata as the determination thereof varies with time.

- There are no control mechanisms for the provision of Section 14(1)(d) that allows for the re-investment of operational surpluses generated as a result of funding provided in terms of the social housing programme as these are public funds
- The requirement as stipulated in Section 14(1)(l) that SHI must seek permission for any prescribed matters from the Regulatory Authority is unclear and could result in overregulation of the institutions with the assumption that prescribed matters would be dealt with in the Regulations.
- The reporting requirements as stipulated in Section 16(1)(a) and (b) by SHIs are contradictory.
- The Committee is of the opinion that section 16(4) is misplaced and that it is of no relevance to the bill
- The provisions of Sections 18(1)(a)(b) and 18(2)(a)(b) on the financing of the SHI are inadequately/not catered for in the provisions of Section 39 of DORA, especially Schedule B-Vote 26

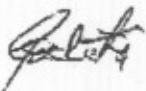
7. COMMITTEE RECOMMENDATIONS

- 1 • There should be monitoring and control of SHIs in order to prevent exploitation of the social housing affordable rental units market in order to realise surpluses for re-investment.
- 2 • After due deliberations, the Committee agreed that the Social Housing Agency (SHA) should be accountable to Parliament.
- 3 • Addition to S13(2) on Accreditation of SHIs that "Provisional Accreditation pursuant to subsection (1) lapses on the date prescribed by the Minister, such date to be prescribed within 12 months of commencement of Act.
- 4 • Provision of Section 13(3) and (4) on the accreditation of social housing institutions and municipalities are inadequately catered for in terms of Section 39 of DORA, particularly Schedule B-Vote 26, as newly accredited institutions and municipalities might be unable to obtain funds, since the said funds would have been already allocated for the accredited ones
- 5 • The Bill should clearly define the low to medium income strata as the determination is inconsistent and taking into cognisance the inflationary environment.
- 6 • Section 14(1)(d) that allows for the re-investment of operational surpluses generated should clearly state that reinvestment should be in compliance with the provisions of the PFMA.
- 7 • The requirement as stipulated in Section 14(1)(l) that SHI must seek permission for any prescribed matters from the Regulatory Authority should be clarified in so far as what exactly the purpose of the permission sought from the Regulatory Authority is.
- 8 • The reporting requirement as stipulated in Section 16(1)(a) and (b) social housing institution must report to the Regulatory Authority.
- 9 • The Committee recommends that the requirement of section 16(4) should be deleted because it has no relevance to the Bill.
- 10 • The Committee recommends that the provisions of Section 13(3) and (4) on the accreditation of social housing institutions and municipalities should be revised to take into consideration the limitations of Section 39 of DORA specifically to

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Schedule B-Vote 26. The bill must ensure that capacity exists for all newly accredited institutions and municipalities to obtain funds to avoid compromise of service delivery.

8. **NEGOTIATING POSITION ADOPTED BY COMMITTEE**
The Housing Portfolio Committee supports the principle and details of the Social Housing Bill [B29B-2007].



Godfrey Tsotetsi
Chairperson: Housing Portfolio Committee

Rec. 24/04/08

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ISISHAYAMTHETHO SAKWAZULU-NATAL

KWAZULU-NATAL WETGEWER

KWAZULU-NATAL PROVINCIAL LEGISLATURE

**TO: THE CHAIRPERSON,
NATIONAL COUNCIL OF PROVINCES**

NEGOTIATING MANDATE

PROVINCE : KWAZULU-NATAL

BILL : SOCIAL HOUSING BILL [B29B – 2007]

PROVINCIAL PROCESS :

Provincial Portfolio Committee/s	:	Housing Portfolio Committee
Portfolio Committee	:	
meeting date/s	:	<u>Tuesday, the 22nd of APRIL 2008</u>
Provincial NCOP meeting date/s	:	<u>Wednesday, the 23rd of APRIL 2008</u>
Consultation	:	Parliamentary Legal Advisors, Special & Permanent Delegates

NEGOTIATING MANDATE OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE:

The Provincial Standing Committee on National Council of Provinces Matters met today, Wednesday, the 23rd of April 2008, & agreed to mandate the KwaZulu-Natal delegation to the National Council of Provinces to **support the Social Housing Bill [B29B-2007] based on the proviso that the following amendments are effected:**

CHAPTER 1: Definitions

“accreditation” this definition should include all entities that will have access to state grants offered for social housing purposes.

“approved projects” means a social housing project in a [restructuring] demarcated zone approved.....

Definition of restructuring zone should be replaced by the following definition:

“demarcated zone” means geographical areas identified by local authorities and supported by provincial governments for targeted, focused investment and can accommodate medium density, multi-unit complexes and/or approved accommodation typologies requiring institutional management without necessarily having to meet all the three primary restructuring objectives, namely economic, spatial and social but focused to addressing specific and identified long-term housing accommodation needs within their respective environments;

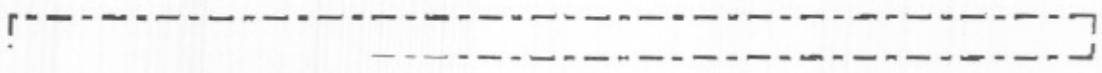
“social housing institution” means an institution or entity accredited or provisionally accredited under this Act which carries or intends to carry on the business of providing state funded rental or co-operative housing options within a state regulated social housing market primarily for low to medium income households....., on an affordable below open market and state regulated basis, ensuring quality and maximum benefits for residents, and managing its housing stock over the long term abiding by the state regulations for the sector;

SHI - is an institution.

CHAPTER 3: Social Housing Regulatory Authority (SHRA)

The critical reason for the establishment of SHRA is believed to be to protect and regulate state investment into the emerging social housing sector in South Africa and ensuring that rentals are regulated below open market rentals in order to enhance and ensure affordability and also to ensure that there is no profiteering on state funded rental stock by regulating the whole sector and all activities of its participants necessary for its growth.

However the bill is silent on the regulatory parameters it will be adopting, as well as its regulatory instruments including the specifics on the base rental rates and escalation thereof. Also the bill is silent on the regulation of other delivery agents and only puts a lot of emphasis on the regulation of social housing institutions yet it acknowledges and provides for the participation of other delivery agents.



CHAPTER 4: Social Housing Institutions

It is important to include in the bill that social housing institutions should be non-profit companies, not for gain, which means that surplus that they make should be ploughed back into the social housing sector and this should be monitored closely by SHRA.

Functions of Regulatory Authority

“11(3)(c) maintain a register of social housing institutions and other delivery agents with the prescribed details—“

Section 11(3)(e): “conduct compliance monitoring through regular inspections and....”

What is meant by 'regular inspections' is it monthly, quarterly or annually?

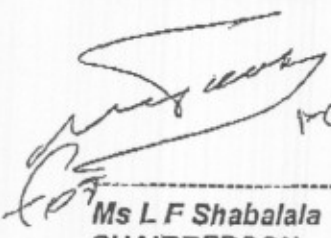
GENERAL

*The bill should also make provision for older people and the disabled who receive old-age state pensions and state grants. This means that the income bracket for people who qualify for social housing should be extended to include them as well.

The delegation is further mandated to consider any additional amendments, providing that-

- 1) the amendment/s does/do not alter the essential elements of the Bill; and
- 2) consensus is reached on the proposed amendment/s by the KwaZulu-Natal delegation.

PROVINCIAL ENDORSMENT


 M. G. TARE

Wednesday, the 23rd of April 2008

DATE

Ms L F Shabalala
 CHAIRPERSON :
 KWAZULU-NATAL STANDING COMMITTEE ON
 NATIONAL COUNCIL OF PROVINCES MATTERS

