



NEGOTIATING MANDATE

To: The Chairperson of the Select Committee on Public Service

Name of the Bill: Sectional Titles Schemes Management Bill

Number of the Bill: [B 20B-2010]

Date of Deliberation: 25 March 2011

Vote of the Legislature:

The Portfolio Committee on Human Settlement; Cooperative Governance and Traditional Affairs resolved that authority be conferred on the permanent delegation to the NCOP, to negotiate in favour of the Bill. Please refer to the attached report for more details.

SIGNATURE

HON SPD SKHOSANA

CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON HUMAN

SETTLEMENT, COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

25/03/2011
DATE



NEGOTIATING MANDATE

TO: The Chairperson of the Select Committee on Public Service

Hon M P Sibande

NAME OF BILL: Sectional Titles Schemes Management Bill

(Section 76)

NUMBER OF BILL: [B20B-2010]

DATE OF DELIBERATION: 25 March 2011

VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and the detail of the bill and therefore votes in favour of the -

- Sectional Titles Schemes Management Bill



HON. M MADLALA

Acting Chairperson of Local Government & Housing Committee

GAUTENG PROVINCIAL LEGISLATURE

Date: 25/03/2011



GAUTENG LEGISLATURE

LOCAL GOVERNMENT AND HOUSING PORTFOLIO COMMITTEE NEGOTIATING MANDATE ON THE:

SECTIONAL TITLES SCHEMES MANAGEMENT BILL [B20B-2010]

25 MARCH 2011

1. INTRODUCTION

The Acting Chairperson of the Local Government and Housing Portfolio Committee, Mr. Mike Madlala, tables the Negotiating Mandate on the Sectional Titles Schemes Management Bill [B20B-2010] Section 76 as follows:

2. PROCESS FOLLOWED

The Bill was formally referred to the Portfolio Committee by the Speaker of the Gauteng Provincial Legislature on 24 February 2011.

On 09 March 2011, the National Council of Provinces (NCOP) Permanent Delegate Hon D Feldman made a brief presentation to the Portfolio Committee on the Bill.

On 18 March 2011, the Committee Researcher for Local Government and Housing presented an in-depth analysis of the Bill with emphasis on the socio-economic impact of the Bill. This was followed by presentations from the Gauteng Provincial Legislature's NCOP and Legal Unit as well as the National Department of Human Settlements. All these presentations were made in the presence of the Gauteng Department of Local Government and Housing.

On 23 March 2011, the Portfolio Committee convened a Public Hearing on the Bill. This public participation process was advertised in both the Daily Sun and Sowetan newspapers. This process assisted the Portfolio Committee in obtaining valuable inputs, which were indeed taken into consideration and informed this Negotiating Mandate.

On 25 March 2011, the Portfolio Committee deliberated and adopted its draft Negotiating Mandate on the Sectional Titles Schemes Management Bill [B20B-2010] Section 76.

3. OBJECTIVES OF THE BILL

- The main aim of the Bill is, in respect of the management of sectional title schemes, to give effect to Cabinet's strategy to bring all housing-related legislation currently administered by other Departments under the administration of the Department of Human Settlements ("the Department"). In terms of the Breaking New Ground (BNG) Strategy, the mandate of the Department has been expanded to include the entire residential market. One of the Department's tasks is to ensure that all housing matters reside with the Department.
- The Department of Rural Development and Land Reform is at present responsible for the administration of the Sectional Titles Act, 1986 (Act No. 95 of 1986) ("the Act"), that deals with the survey and registration of sectional plans and the registration of real rights in sectional title units as well as the management and administration of sectional title schemes. The Department of Rural Development and Land Reform deals primarily with registration and survey issues. Its mandate does not extend to dealing with complaints from the public or dealing with problems arising from scheme governance.
- The aim of the Sectional Title Scheme Management Bill is to remove the scheme governance provisions currently contained in the Sectional Title Act from that Act and to incorporate these provisions in the proposed Bill.

4. DETAILS OF THE BILL

The following are the details of the Bill clause by clause:

Clause 1 provides for Definitions, adopted as introduced.

Clause 2 to 9 relates **Bodies Corporate** in as far as their Establishment; Functions, powers and additional powers; Membership; Name; Capacities and first meetings of Bodies Corporate; Trustees and their fiduciary position and proceedings on behalf of Body Corporate.

Clause 10 to 11 provides for the **Rules** applicable to Bodies Corporate and Sectional Owners as well as the effect of **Quotas** and the variation thereof.

Clause 12 to 16 provides for various legal transactions with regard to the common property and units such as the Alienation and letting of common property; the Expropriation of Common Property; Duties of Owners; Insurance by Owners; Recovery from owners of unsatisfied judgement against Bodies Corporate and non-liability of Bodies Corporate for debts and obligations of developers; Appointment of Administrators; and Destruction of or damage to buildings.

Clause 18 to 22 provides for the **Establishment of the Sectional Title Scheme Management Advisory Council** to advise the Minister; the Appointment of its Members

and the procedure thereof; the making of Regulations; and Transitional arrangements and short title and commencement.

5. COMMITTEE DELIBERATIONS

All concerns raised by the Portfolio Committee were adequately addressed by the National Department of Human Settlements and the NCOP and Legal Unit.

6. OVERVIEW OF THE PUBLIC HEARING

The public hearing was attended by a variety of stakeholders and included, Civil Society, Non-Governmental Organisations (NGOs), Representatives of Housing Cooperatives, Municipalities, Property Management companies, Property Developers and Political Parties.

The presentation on the Bill was welcome by the participants, with no concerns raised. The City of Johannesburg declared its stance of fully supporting the Bill.

7. LEGAL IMPLICATIONS/OPINION ON THE BILL

The Portfolio Committee supported the Bill as it was consistent with the Constitution and applicable legislation.

8. SOCIO-ECONOMIC IMPACT OF THE BILL

- This Bill seeks to re-locate Sectional Titles Schemes Management function, most of which is housing related to the Dept of Human Settlements and with Portfolio Committee (PC) concerns raised, it would also add value at Provincial Government level. This does contribute to the realisation of the BNG Strategy.
- The recommended regionalisation within all provinces will also ensure accessibility by all those who need the services of registering Sectional Title Schemes development plans as the current function with the Deeds Registry has been not easily accessible.

9. FINANCIAL IMPLICATIONS OF THE BILL

- The Memorandum stipulates that the only cost incurred has been as a result of the "publication" of the Bill in the *Gazette* for "public comments", which was defrayed from the Dept's Budget.
- The Portfolio Committee noted though that that would be further financial implications especially towards the establishment of the Sectional Title Scheme Management Advisory Council, the regionalisation thereof in provinces and that it takes a minimum of 18 months as per the PFMA to register a public entity.

10. POSITION ADOPTED BY THE COMMITTEE

The Local Government and Housing Portfolio Committee support the Sectional Titles Schemes Management Bill [B20B-2010] Section 76 as introduced.

11. POSITION BY THE GAUTENG DEPARTMENT OF LOCAL GOVERNMENT AND HOUSING

The Department of Local Government and Housing support the Sectional Titles Schemes Management Bill [B20B-2010]

12. ADOPTION OF THE REPORT

The Portfolio Committee on Local Government and Housing supports the principle and the detail of the Sectional Titles Schemes Management Bill [B20B-2010] Section 76



Northern Cape
Provincial Legislature

**PORTFOLIO COMMITTEE
ON COOPERATIVE
GOVERNANCE, HUMAN
SETTLEMENT & TRADITIONAL
AFFAIRS**

Private Bag X5066
Kimberley 8300
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8149

Hon MP Sibande
Chairperson: Select Committee on Public Service

NEGOTIATING MANDATE

Name of the Bill: **Sectional Titles Schemes Management Bill**

Number of the Bill: **B208 – 2010**

Date of deliberation: **Wednesday, 23 March 2011**

Vote of the Legislature: **The legislature votes in favour**

(Subject to consideration of the proposed amendments)

Signature:
(Signature of the Chairperson of the Committee)

2011-03-23

Date:

Negotiating Mandate



Northern Cape
Provincial Legislature

Private Bag X5066
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8310

Reference: 10.7.1.1

Enquiries: Z Mitchell

DRAFT NEGOTIATING MANDATE FOR SECTIONAL TITLES SCHEMES MANAGEMENT BILL [B20B-2010]

(Section 76 Bill)

1. INTRODUCTION

The Chairperson of the Portfolio Committee on Cooperative Governance, Human Settlement & Traditional Affairs, Hon GG Moipolai, tables the Committee's negotiating mandate on the *Sectional Titles Schemes Management Bill [B20B-2010]* as adopted by the Portfolio Committee on **23 March 2011**.

2. PROCESS FOLLOWED

- 2.1 The Speaker of the Northern Cape Provincial Legislature, on receipt, referred the *Sectional Titles Schemes Management Bill [B20B-2010]* to the Portfolio Committee on Cooperative Governance, Human Settlement & Traditional Affairs on **25 February 2011**.
- 2.2 On **10 March 2011**, the Portfolio Committee on Cooperative Governance Human Settlement & Traditional Affairs received a briefing on the Bill from the Northern Cape's Permanent Delegate to the NCOP, Hon JR Tau and the Provincial Department of Cooperative Governance, Human Settlement & Traditional Affairs.
- 2.3 The Portfolio Committee resolved at the meeting of **10 March 2011** to hold public hearings on the referred Bill in the Siyanda, John Taolo Gaetsewe and Frances Baard Regions of the Province to solicit the views of communities and stakeholders with regard to the *Sectional Titles Schemes Management Bill*.

Three (3) public hearings were held on **17, 18 and 22 March 2011** respectively as per Committee resolution and both written and oral submissions were called for. The public engaged with the Members of the Provincial Legislature in respect of the Bill.

On **23 March 2011**, the Portfolio Committee on Cooperative Governance, Human Settlement & Traditional Affairs deliberated and considered the *Sectional Titles Schemes Management Bill [B20B - 2010]*.

3. COMMITTEE INPUT ON THE BILL

None

4. **TECHNICAL INPUT ON THE BILL**

The section referred to in terms of the Amendment to the Sectional Titles Act, 1986 in the Schedule should be 20 instead of 19.

5. **STAKEHOLDERS' INPUT ON THE BILL**

The Bill is not clear whether it is meant for residential or business purposes.

6. **PORTFOLIO COMMITTEE POSITION ON THE BILL**

After due deliberation, the Portfolio Committee on Cooperative Governance, Human Settlement & Traditional Affairs supports the Bill.

7. **COMMITTEE ADOPTION OF THE BILL**

The Committee adopted this negotiating mandate duly signed by the Chairperson of the Committee.

The Committee recommends to the House to mandate the Permanent Delegates to participate in deliberations at the negotiating stage and to support the Bill taking note of the comments and recommendations raised by the Committee.


HON GG MOFOLAI
Chairperson

DATE: 2011-03-23

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FREE STATE LEGISLATURE

PORTFOLIO COMMITTEE ON COOPERATIVE GOVERNANCE, TRADITIONAL AFFAIRS & HUMAN SETTLEMENT Negotiating Mandate

TO: Chairperson of the Select Committee on Public Services

NAME OF BILL: Sectional Titles Schemes Management Bill

NUMBER OF BILL: B20B-2010

DATE OF DELIBERATION: 28 March 2011

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Cooperative Governance, Traditional Affairs & Human Settlement, as designated by the Free State Legislature votes in favour of the Bill with the following input:

Clause 2.8

"that the sixty (60) day period be reduced to a thirty (30) day period"

**Ms O Mlamleli
CHAIRPERSON OF PORTFOLIO COMMITTEE ON COOPERATIVE
GOVERNANCE, TRADITIONAL AFFAIRS & HUMAN SETTLEMENT
FREE STATE LEGISLATURE**

28 March 2011



EASTERN CAPE PROVINCIAL LEGISLATURE

TEL: (040) 608 0081

FAX (040) 636 4922

inetshitumbu@ecleg.gov.za

28 March 2011

PHYSICAL ADDRESS

PARLIAMENTARY BLDG

INDEPENDENCE AVENUE

BISHO, SOUTH AFRICA

POSTAL ADDRESS

P/Bag X0051

BISHO, SOUTH AFRICA

5605

NEGOTIATING MANDATE

To: The Chairperson
National Council of Provinces

Name of Bill: Sectional Titles Schemes Amendment Bill, 2010 (20B-2010)

Number of Bill: B20B-2010

Date of Deliberation 28 March 2011

Vote of the Legislature

The province supports the Bill and confers an authority on the Eastern Cape delegate to negotiate in favour of the Bill, (Sectional Titles Schemes Amendment Bill, 2010 (20B-2010) within the following parameters.

- (a) The fact that there are two pieces of legislation dealing with sectional titles may create confusion. It is proposed that the long title of the Sectional Titles Act, 1986 (Act 96 of 1986) be amended and it should be referred to as the Sectional Title Registration Act. This will ensure that it is clear to the members of the public that Act 96 of 1986 deals with registration of sectional titles and the Bill deals with management of sectional titles.
- (b) The Bill must address the relationship between the Municipality, the sectional title owner and the body corporate especially when the body corporate owes the Municipality.

(c) That the Bill must address problems relating to developers who register a real right over the sectional titles which spans for up to 50 years. This allows them to take up to 50 years to develop the property and this put the section owners in a bad advantage because developers do not have to complete the development up to the 50th year. Often they do not complete the infrastructure of the development, i.e., roads, water sewage, electricity etc., and there is no way that the Body Corporate can force the developer to complete the scheme. It makes it even worse when a developer is liquidated and the estate is sold without any previous liability.

(d) The Bill must address how the dispute between the developer and the sectional title holders must be dealt with.

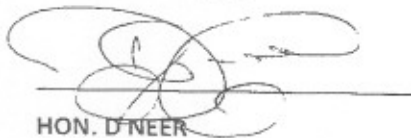
(e) The Bill must deal schemes with commercial and residential components combined. For example shops at the bottom and flats on top; or commercial sectional title offices, or sectional title warehouses and factories.

(f) The Bill must deal with schemes that offers a combination of various schemes in one such as life rights, share block, time share, home owners association and fractional ownership all lump in one schemed.

(f) Some sectional titles schemes commence as a rental schemes (rent to buy) and the Bill does not address this type of scheme arrangement. This must be addressed in the Bill.

(g) It is proposed that SALGA and NHBRC must be represented in the Sectional Titles Schemes Management Advisory Council as envisaged in clause 18.

(h) The Bill must deal with how the affairs of the body corporate must be conducted in situations where there is no trustee.



HON. D'NEER

CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON HUMAN SETTLEMENT