

**SALGA**

*South African Local Government Association*

**SALGA FINAL COMMENTS**  
**ON THE**  
**RENTAL HOUSING AMENDMENT BILL 2010**  
**[B 21B-2011]**  
**APRIL 2012**

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## **1. Introduction**

This Paper is based on comments that were submitted to the National Department of Human Settlements on the Rental Housing Amendment Bill 2010 (Bill). Most of the comments in our previous submission were favourably considered and taken into account when the Portfolio Committee on Human Settlements (PCHS) redrafted the said Bill. However, SALGA is of the view that certain comments on the proposed amendment of sections 14 and 15 of the Principal Act should be reconsidered. This paper therefore seeks to resubmit these comments for revision and amendment of the sections 14 and 15 of the Principal Act.

## **2. Comments on Sections 14 and 15 of the Principal Act**

### **2.1 Section 14**

This section stipulates that every municipality may establish a Rental Housing Information Offices (RHIO) to advice tenants and landlords about their rights and obligations in their area of jurisdiction. That also meant that the establishment of the RHIO was optional and not obligatory for municipalities. Similar to the obligatory establishment of RHTs, the Bill seeks to amend the wording of section fourteen to render the establishment of RHIOs by municipalities obligatory.

The Bill also seeks, under subsection (2), to provide municipalities with an option to either appoint or designate officials to manage the responsibilities of the Rental Housing Information Office (RHIO).

The rationale behind the establishment of RHIO is that the public would have easier access to the services of the Rental Housing Tribunal (RHT). Considering that municipalities are in general seen by the public as the point of entry for all government services, this is indeed a logical step. However, this raises a question as to what would happen if the RHTs do not function effectively? Ultimately, municipalities will be held accountable for the failure of a function beyond their control.

SALGA still wishes to argue and maintain, as it did in its previous submission on the matter, that housing is an unfunded mandate for municipalities and as such the mandatory establishment and operation of the Rental Housing Information Offices is just another extension of this unfunded mandate. It is not all municipalities that will be able to combine the functions of the RHIO with existing functions. Small and struggling municipalities do not even have sufficient resources to carry out their mandate functions.

The proposed addition of subsection (6) under section 3 of the Principal Act is welcome, which one of the proposals of SALGA in the previous submission; **however, it should not be obligatory for all municipalities to establish RHIO's. SALGA therefore wishes to resubmit the following proposals in this regard:**

- **Section fourteen (14) of the principal Act must not be amended to make it obligatory for all municipalities to establish RHIOs.; and**
- **Section fourteen (14) of the principal Act should only be amended to make it obligatory for municipalities that have been assigned the housing function by MEC's to establish and manage RHIOs.**

## **2.2 Section 15**

In terms of that section, the **MEC may** make regulations, after consultation with the relevant standing or portfolio committee responsible for housing in the Provincial Legislature, by notice in the *Gazette* in regard to the application of the Principal Act.

The Bill seeks to amend that section by providing the Minister with the discretion to make regulations and consult with the relevant parliamentary committees and every MEC before gazetting the regulations. Every MEC will therefore no longer be responsible for making regulations and consulting the relevant standing or portfolio committee responsible for housing in the Provincial Legislature.

It is accepted that it is the prerogative of the Minister of Human Settlements in terms of Part 2, section 3 (1) of the Housing Act<sup>1</sup> to establish and facilitate sustainable national housing development. However, that section read with section 163 (a) of the Constitution<sup>2</sup> requires the Minister of Human Settlements, even MECs in terms of Part 3 section 7 (1) of the Constitution, to consult with the national organisation representing organised local government. However, consultation in the Bill and even in the Principal Act is only limited to MECs and the relevant parliamentary committees.

Municipalities are an integral part of government and it is the Constitutional responsibility of both provincial and national government to consult SALGA as a representative of Local Government on key policy and legislative developments.

**It is therefore proposed that section 15 of the Principal Act be amended further to stipulate that the Minister must also consult with organised local government in addition to the relevant parliamentary committees and every MEC.**

### 3 Conclusion

SALGA supports and welcomes the consideration of its previous comments on the Bill as part of the redrafted Bill, particularly in regard to sections 3 and 7 of the Principal Act. However, sections 15 and 16 of the Principal Act should be revised further to take our comments into consideration in the interests of municipalities and the general public at large.

The Rental Housing Amendment Bill of 2011 proposes a number of amendments regarding the establishment of Rental Housing Tribunals and RHIOs at Provincial and Local level respectively. These amendments assume roles and responsibilities for municipalities that require a certain level of human capacity and financial resources within municipalities. Housing remains an unfunded mandate for municipalities and the confusion about the exact role of municipalities in this matter remains an open discussion.

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<sup>1</sup> Housing Act 107 of 1997

<sup>2</sup> Constitution of the Republic of South Africa 1996

**ORGANISATION OF CIVIC RIGHTS (OCR)**

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**Ms. Kholiswa Pasiya**  
Committee Secretary  
The portfolio committee on human settlements

Dear Ms. Pasiya


**RE: OCR's submission on the Rental Housing Amendment Bill 1B21-2011**

Please find enclosed herewith our submission.

We would like to make a verbal presentation and have nominated Dr. Sayed Iqbal Mohamed to represent the OCR.

We thank you in anticipation,

Yours comradely

  
Angel Paulsen (Ms.)  
Secretary General

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