

May 18, 2012

The Portfolio Committee
Parliament of the Republic of South Africa



RE: Further Submissions Relating to Sheriffs Amendment Bill by the South African Board for Sheriffs

BACKGROUND

The Department of Justice and Constitutional Development sought to amend the Sheriffs Act to address some of the critical shortcomings of the Act in the light of changed socio political conditions and developments within the sheriff's profession. The SABFS made a submission on the Sheriffs Amendment Bill before the Justice Portfolio Committee. The Committee requested the SABFS to comment and / or make further input on Section 27 of the Sheriffs act.

This Section of the Act provides that "*27(1) Subject to the provision of this chapter, the moneys in the fund shall be utilised for –*

- (a) The settlement of claims admitted against the Fund or judgements, including costs, obtained against the Fund;*
- (b) Any contribution in the discretion of the Board in respect of expenses incurred by a claimant to verify his claim;*
- (c) Legal expenses incurred in defending an action against the Board in respect of the Fund or otherwise incurred in relation to the Fund;*
- (d) Premiums payable in respect of insurance agreements entered into by the Board under section 29(1);*

SOUTH AFRICAN BOARD FOR SHERIFFS
Established Act 90 of 1986

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- (e) The expenses involved in the control and management of the Fund;*
 - (f) Interest on and redemption of loans negotiated by the Board on behalf of the Fund;*
 - (g) Moneys required or permitted to be paid out of the Fund in accordance with this Chapter.*
- (2) Any money in the Fund not immediately required for the purposes of the Fund shall be invested in the prescribed manner.*

The proposed amendment sought by Department of Justice and Constitutional Development provided that the management fee should be increased or decreased in consultation with the Minister and that the Fidelity Fund should be managed independently from the Board.

After the deliberations of the Board it was resolved that the proposed amendment by the Department of Justice and Constitutional Development be endorsed. It was further resolved that the advantages and disadvantages of the Board administering the Fund be placed before the portfolio committee. Below herewith the disadvantages and advantages”

POTENTIAL BENEFITS OF RETAINING THE ADMINISTRATION OF THE FIDELITY FUND IN THE BOARD

- Immediate payment of claims
- Revenue to the Board
- Consistency and continuity in the administration of the fund

POSSIBLE CHALLENGES THAT THE BOARD MAY FACE BY DISPOSING THE ADMINISTRATION OF THE FIDELITY FUND

- Severe loss of income
- Cannot manage public claims against the fund
- Potential loss of Employment, which is contrary to the President's call for Job creation.
- The Board will be reduced to only the issuer of the Fidelity Fund Certificate.
- This amendment will also be contrary to 26 (2) of the Sheriffs Act which stipulates that "*the fund shall be controlled and managed by the Board, which shall utilise the monies in the fund in accordance with this chapter*"
- if the minister was to be a part of the administration of the fund the need therefore arises for the amendment of sec 26(2) of the sheriffs act

CONCLUSION

The Board is of the respectful view that there is a need for political control of the administration of the fund. However this should not be at the expense of efficiency and smooth administration and co troll of the fund for which the board has a track record.

Yours Sincerely



Mrs C Mabuza
Chairperson SABFS

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