

DEPARTMENT OF HUMAN SETTLEMENTS

NO. R. 3

19 FEBRUARY 2016

**DRAFT REGULATIONS IN TERMS OF THE ESTATE AGENCY AFFAIRS
ACT, 112 OF 1976****ISSUING OF FIDELITY FUND AND REGISTRATION CERTIFICATES**

I, Lindiwe Sisulu, Minister of Human Settlements has, after consultation with the Estate Agency Affairs Board (“the Board”), in terms of section 33(1) of the Estate Agency Affairs Act, 112 of 1976 (“the Act”), made the regulations contained in the schedule.

SCHEDULE

1. In these regulations words and expressions defined or used in the Act have the meaning assigned thereto.
2. Every estate agent, excluding an ‘estate agent’ referred to in paragraph (cA) of the definition of ‘estate agent’ in section 1 of the Act, shall –
 - (a) for the calendar year 2017, and annually thereafter, pay to the Board a levy of –
 - (i) R1,200.00 if he/she is a principal estate agent;¹
 - (ii) R1,200.00 if it is a company or close corporation operating as estate agency, which is not otherwise exempted in terms of these regulations;
 - (iii) R510,00 if he/she is a non-principal estate agent;²
 - (iv) R364.80 if he/she is an intern estate agent;³
 - (b) for the calendar year 2017, and any subsequent year in respect of which he/she applies for the issue to him/her of a fidelity fund certificate, pay to the Estate Agents Fidelity Fund (“the Fund”) a contribution of –
 - (i) R580,00 if he/she is a principal estate agent;

¹ Principal Estate Agent as defined in terms of Government Notice No. R31125 of 4 June 2008.

² Non-Principal Estate Agent as defined in terms of Government Notice No. R31125 of 4 June 2008.

³ Intern Estate Agent as defined in terms of Government Notice No. R31125 of 4 June 2008.

- (ii) R580,00 if it is a company or close corporation operating as estate agency, which is not exempted in terms of these regulations;
- (iii) R230,00 if he/she is a non-principal estate agent;
- (iv) R165.00 if he/she is an intern estate agent;

provided that no such contribution will be payable if the estate agent concerned can show that a valid fidelity fund certificate was issued to him/her in respect of any one of the immediately preceding three calendar years.

3. An estate agent referred to in paragraph (cA) of the definition of 'estate agent' in section 1 of the Act shall pay annually to the Board a levy of:

- (a) R 510,00 for the principal members;
- (b) R 295,00 for non-principal members;

for the registration certificate.

4. (1) Every estate agent to whom a fidelity fund certificate or registration certificate, as the case may be, has already been issued in respect of a specific calendar year, shall, unless he/she has ceased or will cease before the end of that year to operate as an estate agent and has advised the Board of such fact in writing, by not later than 31 October of that year, apply to the Board for the issue to him/her of a fidelity fund certificate or registration certificate, as the case may be, in respect of the immediately succeeding calendar year.
- (2) Any person who intends to commence operating as an estate agent during the course of any calendar year shall apply to the Board for the issue to him/her of a fidelity fund certificate or registration certificate, as the case may be, in respect of the remainder of that year.
- (3) An estate agent who carries on business, otherwise than as an employee, in more than one branch or outlet, shall apply for a separate fidelity fund certificate in respect of each such branch or outlet, irrespective of the trading name or style under which the business is carried on in each such branch or outlet and shall display each such fidelity fund certificate to the satisfaction of the Board in a prominent position in each such branch or outlet and shall pay a levy or contribution of each such certificate as contemplated in Regulation 1.
5. The applications referred to in regulation 4 shall be accompanied by the levies referred to in regulation 2 or 3, as the case may be, and by the contribution referred to in regulation 2, if the contribution is applicable.

6. An application by a person who applies in terms of regulation 4(2) for the issue to him/her of a fidelity fund certificate or a registration certificate, as the case may be, for a certain year shall, be accompanied by the full amount of the levy and, if applicable, the contribution referred to in regulation 2 or the full amount of the levy referred to in regulation 3, as the case may be.
7. (1) If the Board is satisfied that the applicant concerned is not disqualified in terms of section 27 of the Act and that the requirements of regulations 4 and 5 have been complied with, the Board shall issue to the applicant a fidelity fund certificate or a registration certificate, as the case may be, which certificate shall be expressed to be valid until 31 December of the year to which the application relates.
(2) The word “Intern Estate Agent” shall be printed in a conspicuous manner on any fidelity fund certificate issued to a person who in terms of Government Notice No. R31125 of 4 June 2008 has been registered with the Board, in accordance with the prescribed standard of training.
8. (1) Any company or close corporation operating as estate agency shall in its own name apply in terms of these regulations for the issue to it of a fidelity fund certificate and shall pay a levy and contribution referred to in regulation 1, subject thereof that a company or close corporation operating as estate agency, whose turnover during the financial year preceding date of renewal is R2 500 000 or less, shall be exempted from paying a levy or contribution referred to in regulation 1
(2) A company or close corporation exempted from paying a levy or contribution shall declare to the Board in a prescribed form, through its auditor, prior to the application for the fidelity fund certificate, total amount of turnover generated during the financial year. Should a company or close corporation referred to in this sub-regulation fail to declare such turnover, such company or close corporation shall be liable to pay a levy and/or contribution referred to in regulation 1.
(3) A fidelity fund certificate referred to in sub-regulation (1) shall, to the satisfaction of the Board, be displayed in a prominent position on the premises of the company or close corporation concerned.
9. The holder of a fidelity fund certificate or a registration certificate, as the case may be, shall inform the Board within fourteen (14) days of any change in the information supplied to the Board at the time of applying for the issue to him/her of such certificate and, if the information appearing on the certificate is no longer applicable or has changed, such certificate shall forthwith be forwarded to the Board for the appropriate amendment thereof or for the issue of a new certificate in substitution therefor.
10. Every fidelity fund certificate or registration certificate issued in terms of these regulations shall remain the property of the Board.

- 11 (1) The provisions of sub-regulation (1) shall *mutatis mutandis* apply to a registration certificate issued to any person referred to in paragraph (cA) of the definition of 'estate agent' in the Act.
 - (2) If the employer concerned is unable, for any reason, to return the certificate as required by sub-regulation (1) or (2), as the case may be, the employer shall within fourteen (14) days of the termination of employment or ceasing to be associated, inform the Board of that fact, stating the reasons why it is unable to return such certificate as well as furnishing all available information concerning the whereabouts of such employee or independent contractor.
- 12 Government Notices 373 of 2 March 2006 are hereby withdrawn.
13. This notice shall come into effect on the day of publication.

L. N. Sisulu
Minister of Human Settlements