

REPUBLIC OF SOUTH AFRICA

HOUSING SECOND AMENDMENT BILL

*(As introduced in the National Council of Provinces as a section 76 Bill; explanatory
summary of Bill published in Government Gazette No. 20483 of 17 September 1999)*
(The English text is the official text of the Bill)

(SELECT COMMITTEE ON PUBLIC SERVICES ON REQUEST OF MINISTER OF HOUSING)

[B 49—99]

REPUBLIEK VAN SUID-AFRIKA

TWEEDE WYSIGINGSWETSONTWERP OP BEHUISING

*(Soos ingedien in die Nasionale Raad van Provinsies as 'n artikel 76-wetsontwerp;
verduidelikende opsomming van Wetsontwerp in Staatskoerant No. 20483 van 17 Septem-
ber 1999 gepubliseer) (Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

(GEKOSE KOMITEE OOR OPENBARE DIENSTE OP VERSOEK VAN MINISTER VAN BEHUISING)

[w 49—99]

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GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Housing Act, 1997, so as to authorise a Member of the Executive Council of a provincial government to approve the sale or other alienation of welfare facilities under certain circumstances; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 14 of Act 107 of 1997

1. Section 14 of the Housing Act, 1997, is hereby amended by the substitution for paragraph (g) of subsection (4) of the following paragraph: 5

“(g) (i) If any juristic person provided any welfare facility using money lent to such juristic person by the former Board or a municipality out of any loan, advance or other finance which was approved under any law referred to in paragraph (b), the provincial housing development board to which the right to recover such loan has passed or the municipality, as the case may be, may, with the approval of the MEC 10 in consultation with the member of the Executive Council responsible for welfare in the province in question, absolve such juristic person from its obligation to repay the loan or any part thereof.

(ii) Where the sale or other alienation of any welfare facility provided or acquired out of any loan, advance or other finance approved under any law referred to in paragraph (b) is subject to the approval of the Minister, the MEC in consultation with the member of the Executive Council responsible for welfare in the province in question may grant such approval on such conditions as he or she may determine.”. 15

Short title

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3. This Act is called the Housing Second Amendment Act, 1999.

**MEMORANDUM ON THE OBJECTS OF THE SECOND HOUSING
AMENDMENT BILL, 1999**

Content of Bill

1. In terms of section 14(4)(g) of the Housing Act, 1997 (Act No. 107 of 1997) ("the Housing Act"), provincial housing development boards or municipalities may, with the approval of the MEC responsible for housing in consultation with the MEC responsible for welfare, absolve a juristic person from its obligations to repay a loan or any part thereof where the juristic person provided welfare facilities with loan finance obtained in terms of the following Acts:

- (i) The Housing Act, 1966 (Act No. 4 of 1966);
- (ii) the Development and Housing Act, 1985 (Act No. 103 of 1985);
- (iii) the Housing Act (House of Representatives), 1987 (Act No. 2 of 1987);
- (iv) the Development Act (House of Representatives), 1987 (Act No. 3 of 1987);
- (v) the Housing Development Act (House of Delegates), 1987 (Act No. 4 of 1987),

2. In many cases the awarding of such loans was subject to a condition that the property acquired or developed may not be disposed of without the prior approval of the national Minister responsible for the function. Upon repeal of the abovementioned legislation by the Housing Act the various MECs responsible for housing were not authorised to consider applications of this nature.

3. In light of the fact that the right to recover the said loans has passed to the provincial housing development boards or municipalities it is proposed that the Housing Act be amended to authorise the MECs for housing, in consultation with the MECs for welfare, to consider applications in this respect.

Financial implications

4. None

Implications for provinces

5. Where the sale or other alienation of a welfare facility acquired from finance approved under the laws mentioned in paragraph 1 is subject to the approval of the Minister of Housing, the various MECs responsible for housing will now have the same power.

Other Departments or bodies consulted

6. The need for the recommended amendment was brought to the attention of the Department of Housing by the Head of the Housing Department of the Western Cape. Since the amendment in essence addresses an oversight in the original drafting process and will serve the interests of affected parties, further comments were not solicited.

Parliamentary procedure

7. In the opinion of the Department of Housing and the State Law Advisers, the Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution, since it falls within the functional area of "Housing", listed in Schedule 4 to the Constitution.