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STAATSKOERANT

GOVERNMENT GAZETTE

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No. 12565

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1441. 29 Junie 1990

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Hb. 65 van 1990: Wysigingswet op Herversekering van Eiendomskade en -verliese, 1990.

No. 1441. 29 June 1990

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 65 of 1990: Reinsurance of Material Damage and Losses Amendment Act, 1990.

REINSURANCE OF MATERIAL DAMAGE AND LOSSES  
AMENDMENT ACT, 1990

Act No. 65, 1990

## GENERAL EXPLANATORY NOTE:

**[ ]** Words in bold type in square brackets indicate omissions from existing enactments.

       Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the Reinsurance of Material Damage and Losses Act, 1989, so as to empower the Minister of Finance to enter into agreements with insurers under which he binds the Government of the Republic to compensate such insurers in respect of losses relating to mortgage loans; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)*  
*(Assented to 21 June 1990.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

## Amendment of section 1 of Act 56 of 1989

1. Section 1 of the Reinsurance of Material Damage and Losses Act, 1989 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion before the definition of “loss of or damage to property” of the following definitions:
- “‘borrower’ means a borrower as defined in section 1 of the Usury Act, 1968 (Act No. 73 of 1968);
- ‘loss in respect of a mortgage loan’ means any financial loss suffered by a moneylender in terms of a money loan secured by a mortgage bond over immovable property situated in the Republic or in any state the territory of which previously formed part of the Republic, where—
- (a) the loss results from the moneylender being unable to recover at a sale of such property—
- (i) in execution, whether the sale was held at the instance of the moneylender or at the instance of any other person; or
- (ii) by public auction resulting from the insolvency of the borrower, any amount, including interest and other charges, owing in terms of the mortgage loan; and
- (b) the sale referred to in paragraph (a) is directly or indirectly related to or caused by any of the actions or circumstances contemplated in the definition of ‘loss of or damage to property’;”;
- (b) by the addition of the following definition:
- “‘moneylender’ means a moneylender as defined in section 1 of the Usury Act, 1968.”.

## Amendment of section 2 of Act 56 of 1989

2. Section 2 of the principal Act is hereby amended—
- (a) by the deletion of the word “or” at the end of subparagraph (i) of paragraph (a); and

REINSURANCE OF MATERIAL DAMAGE AND LOSSES  
AMENDMENT ACT, 1990

Act No. 65, 1990

- (b) by the insertion of the following subparagraph after subparagraph (i) of paragraph (a):  
“(iA) loss in respect of a mortgage loan; or”.

**Substitution of section 4 of Act 56 of 1989**

- 5 3. The following section is hereby substituted for section 4 of the principal Act:

“Restrictions of insurance against loss of or damage to property or loss in respect of mortgage loan

10 4. No person, whether an insurer or insured, shall within or outside the Republic enter into an insurance contract in terms of which the insurer assumes the obligation in respect of property situated in the Republic, including the territorial waters of the Republic, to indemnify, in terms of the policy issued by virtue of such contract, the owner of such policy against loss of or damage to property, or against loss in respect of a mortgage loan, including consequential loss referred to in section 2 (a),  
15 unless—

- (a) the insurer is a registered insurer who has entered into an agreement contemplated in section 2; or  
(b) the insurer referred to in paragraph (a) has declared in writing that  
20 he is not prepared to assume such obligation or any part of such obligation or any other obligation in connection with such property, whether on the conditions contemplated in such insurance contract or on any other conditions.”.

**Substitution of long title of Act 56 of 1989**

- 25 4. The following long title is hereby substituted for the long title of the principal Act:

**“ACT**

To consolidate the laws empowering the Minister of Finance to enter into agreements with insurers binding the Government to compensate insurers in respect of certain losses or damage to property and losses in respect of mortgage  
30 loans; and to provide for incidental matters.”.

**Substitution of section 7 of Act 56 of 1989**

5. The following section is hereby substituted for section 7 of the principal Act:

**“Short title**

35 7. This Act shall be called the Reinsurance of **[Material] Damage and Losses Act, 1989.**”.

**Short title**

6. This Act shall be called the Reinsurance of Material Damage and Losses Amendment Act, 1990.