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## ACT

To amend the Community Development Act, 1966, so as to amend the definition of "basic value"; to extend the application of the definition of "owner" in respect of section 15 also; to prohibit in certain circumstances the subdivision of land without the approval of the board; to make provision for remedies of the board against borrowers; to define more accurately the areas within which leases may be terminated when the areas are being redeveloped or replanned; to prohibit alterations to and the erection of buildings on certain properties without the approval of the board; to limit the period within which applications may be made for extension of the period for lodging objections to the determination of basic values; to empower the Minister to appoint alternate assessors to serve on revision courts; to make a different provision in regard to the payment of appreciation and depreciation contributions; to provide for copies of notices of expropriation of affected property to be furnished to the board; to authorize the Minister to delegate to the Secretary his power to approve of the acquisition by the board of immovable property by expropriation; to authorize the payment of compensation for expropriated affected property burdened with a *fideicommissum* into the Guardian's Fund; to delete section 44 (2) (b) (iii); to regulate the award of costs by arbitrators; to make additional provision for penalties; and to substitute the Schedule to the said Act.

*English text signed by the State President.)  
(Assented to 22nd March, 1967.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of  
section 1 of  
Act 3 of 1966.

1. Section 1 of the Community Development Act, 1966 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in subsection (1) for the expression "1957 (Act No. 77 of 1957)" of the expression "1966 (Act No. 36 of 1966)";

(b) by the substitution in the said subsection for the definition of "basic value" of the following definition:

"(iii) 'basic value' in relation to—

(a) land which is affected property, means the market value of the land immediately prior to the basic date determined in accordance with the provisions of this Act;

(b) any building which is affected property, means the estimated cost of erection thereof at the time of the valuation thereof, reduced by the amount of depreciation due to wear and tear and to the unsuitability, wholly or partly, of the building for the purpose for which it is being used at the time of the valuation, unless such unsuitability is due, wholly or partly, to the fact that such building is affected property: Provided that the basic value of a building (not being a building intended or used exclusively for religious, school or similar purposes, or intended or used for a purpose determined by the Minister) shall not in any case exceed

the difference between the market value immediately prior to the basic date of the land on which such building is erected, determined on the basis that such building constitutes an integral part of that land, and the market value which that land would have had immediately prior to the basic date if such building had not existed;

- (c) affected property, means the basic value of the land plus the basic value of the buildings thereon; (iii)"; and
- (c) by the substitution in the said subsection for the definition of "owner" of the following definition:

"(xviii) 'owner' means, in relation to—

(a) immovable property or any interest in immovable property other than such property as is referred to in paragraph (b), the person in whose name that property or in whose favour that interest in immovable property is registered;

(b) immovable property forming part of the farm Alexanderfontein or the farm Bultfontein in the district of Kimberley and held under a lease or licence which entitles the lessee or licensee and his successors in title to occupy such property, the person registered in the deeds registry as the lessee or licensee of that property,

and for the purpose of section 15, section 29 (4) and sections 32, 33, 34, 37 to 42, inclusive, and 45, includes any sheriff, deputy-sheriff, messenger of the court, trustee, executor, liquidator, curator, administrator or other person lawfully entitled or required to dispose of that property; (iv)".

Amendment of section 15 of Act 3 of 1966.

2. Section 15 of the principal Act is hereby amended by the substitution for paragraph (e) of subsection (2) of the following paragraph:

"(e) if it is satisfied that it is expedient to do so in furtherance of a slum clearance scheme or an urban renewal scheme, by notice published in the *Gazette* and at least once in a newspaper circulating in the district in which any area defined in the notice is situated, to prohibit, for such period as may be specified in the notice, the subdivision, except with the prior written approval of the board, of land or stands within that area or the erection or alteration, except with such approval, of any building or structure within that area or the use, except with such approval, of any building or structure within that area for a purpose other than the purpose for which such building or structure was being used on the date of the publication of the notice;"

Insertion of section 18A in Act 3 of 1966.

3. The following section is hereby inserted in the principal Act after section 18:

"Remedies of board against borrowers.

18A. (1) If any person to whom a loan has been granted by the board out of the Community Development Fund—

(a) fails to pay any amount due in respect of or in connection with such loan on the due date;

(b) has not applied the whole or any portion of the loan to the specific purpose for which it was granted;

(c) has failed, where such loan was granted for the erection of a dwelling, to make reasonable progress in connection with the construction of the dwelling in respect of which the loan was granted, regard being had to the period determined for its completion;

(d) fails to comply with any condition on which such loan was granted or any portion thereof was paid out; or

(e) becomes insolvent, the board may, notwithstanding anything to the contrary in any law contained, either—

- (i) recover from such person any amount paid to him or to any other person on his behalf out of the fund and not yet repaid, together with interest due thereon, by action in a competent court; or
- (ii) after having given forty-two days' notice by prepaid registered letter addressed to such person at his last known place of abode or business, and, if the property on which such loan is secured is occupied by a person other than the owner, after similarly having given notice to the occupier, by any officer of the Department authorized in writing by the board and without having obtained any judgment or order of the court, enter upon and take possession of the property on which the loan is secured.

(2) When any property has been taken into possession in terms of subsection (1) the board may, after notice of intention to sell, published once a week for three consecutive weeks in an Afrikaans and an English newspaper circulating in the area in which the said property is situated, sell by public auction or by public tender the said property and transfer it to the purchaser and give a good and valid title thereto, notwithstanding the fact that such property may also be hypothecated in favour of a person other than the board: Provided that if the said property is so hypothecated it shall not be sold unless the board has, at least three weeks before the date fixed for the sale, given notice to the mortgagee concerned, by prepaid registered letter addressed to him at his last known place of abode or business, of its intention to sell the said property.

(3) If any dwelling which has been taken into possession in terms of subsection (1) has not been completed the board may complete such dwelling before it is sold in terms of subsection (2).

(4) The proceeds of the sale of any property in terms of subsection (2) shall be utilized to pay—

- (a) all amounts due to the fund;
- (b) all costs (if any) incurred by the board in connection with the completion of any dwelling; and
- (c) all costs incurred in connection with the sale of such property,

and the balance (if any) shall be paid to the person to whom the loan was granted or to any other person who is legally entitled to receive such balance.

(5) The board may at a sale by public auction purchase any dwelling sold in terms of subsection (2).

(6) Any dwelling purchased in terms of subsection (5) shall be transferred to the board, and the provisions of this Act relating to dwellings owned by the board shall thereafter apply in respect of such dwelling.

(7) Where any property has been sold in terms of subsection (2), the board may consent to the purchaser's taking over the interest and liabilities of the previous owner in respect of the loan and, in order to give effect thereto, may consent to the substitution of the purchaser as mortgagor in respect of the existing bond, notwithstanding the fact that the previous owner has not agreed to the taking over of such interest and liabilities by the purchaser, and the provisions of this Act relating to loans shall apply in respect of a purchaser who has so taken over the interest and liabilities of the previous owner as if the loan had originally been granted to such purchaser.

(8) The Registrar of Deeds is hereby authorized to make such endorsements on any deed, bond or other document and effect such alterations or make such entries in his registers as may be necessary to give effect to the provisions of this section."

Amendment of  
section 21 of Act  
3 of 1966.

4. Section 21 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Whenever any area whereof a description has in terms of any law been entered in the register referred to in section 14 (1) (a) of the Transvaal Asiatic Land Tenure Amendment Act, 1936 (Act No. 30 of 1936), or any area within a controlled area is being redeveloped or replanned by the board or any local authority or statutory body or other body corporate referred to in subsection (1) or by the National Housing Commission, the board or such local authority or statutory body or other body corporate or the said Commission may terminate any existing lease in respect of any land or premises in such area by giving three months’ notice in writing of termination thereof to the lessee concerned or the person occupying such land or premises.”.

Amendment of  
section 32 of  
Act 3 of 1966.

5. Section 32 of the principal Act is hereby amended—

(a) by the deletion of subsection (4);

(b) by the substitution for subsection (8) of the following subsection:

“(8) If, in the case of any land or building referred to in subsection (1), (2), (3), (5), (6) or (7), a valuation is agreed upon between the board and the owner concerned, the said subsections shall not apply, and the value so agreed upon shall be recorded on the list as the basic value of that land or building.”; and

(c) by the addition of the following subsection:

“(10) As from the commencement of the Community Development Amendment Act, 1967, no alteration, extension or addition to any building may be effected, and no new building may be erected, on land which is owned by a disqualified person or disqualified company as defined in section 1 of the Group Areas Act, 1966 (Act No. 36 of 1966), without the prior written approval of the board.”.

Amendment of  
section 33 of  
Act 3 of 1966.

6. Section 33 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) Any notice under paragraph (a) shall contain an intimation that objections to the determination made by the valuers may be lodged with the Minister in writing within twenty-one days after the service of the notice, or within such further period, not exceeding a further period of sixty days, as the Minister may on application in any particular case allow.”; and

(b) by the addition of the following proviso to subsection (5):

“Provided that the Minister, when appointing the members of such revision court, may also appoint an alternate assessor to serve on such revision court should one of the assessors for any reason be unable to act as such.”.

Amendment of  
section 34 of  
Act 3 of 1966.

7. Section 34 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) if the consideration for which the property was in fact disposed of exceeds the basic value thereof and—

(i) such a disposition takes place after the expiry of sixty months but before the expiry of seventy-two months after the basic date, or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, be payable by the owner to the board an appreciation contribution equal to twenty-five per cent of the difference between the basic value and such consideration; and

(ii) such a disposition takes place after the expiry of seventy-two months after the basic date, or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, be payable by the owner to the board an appreciation

contribution equal to fifty per cent of the difference between the basic value and such consideration; or”;

- (b) by the substitution for subsection (6) of the following subsection:

“(6) If the alienation of any affected property takes place after the basic date and before the basic value of that property has been determined, the certificate required by section 31 (3) may be obtained from the board upon furnishing to the board, if the alienation takes place after the expiry of sixty months after the basic date, a guarantee approved by it that any appreciation contribution which may become due to the board will be paid.”; and

- (c) by the substitution for subsection (7) of the following subsection:

“(7) If after the expiry of sixty months after the basic date any affected property, the basic value of which has not yet been determined, is alienated to the board, the board may, pending the determination of the basic value, withhold payment of so much of the consideration payable as will, in its opinion, be sufficient to pay any appreciation contribution which may become due to the board.”.

Amendment of  
section 35 of  
Act 3 of 1966.

8. Section 35 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) Whenever any affected property is expropriated by the State or any other person (other than the board) and the compensation payable for such property is fixed—

(i) at an amount which exceeds the basic value of that property, and such expropriation takes place after the expiry of sixty months but before the expiry of seventy-two months after the basic date or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, there shall be paid to the board an appreciation contribution equal to twenty-five per cent of the difference between the compensation so fixed and the basic value of the said property, and if such expropriation takes place after the expiry of seventy-two months after the basic date or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, there shall be paid to the board an appreciation contribution equal to fifty per cent of the difference between the compensation so fixed and the basic value of the said property; or

(ii) at an amount which is less than the basic value of the said property, there shall, regardless of when such expropriation takes place save where notice has been given in respect of the said property in terms of section 41 of the Group Areas Act and such notice has not been withdrawn, be paid by the board to the owner of the said property a depreciation contribution equal to eighty per cent of the difference between the compensation so fixed and the basic value of the said property.”; and

- (b) by the addition of the following subsection:

“(5) When affected property is expropriated by the State or any other person (other than the board), the organ of state or other person, as the case may be, expropriating such property, shall, within seven days after the owner of such property has been given notice of the intention to expropriate and of the compensation offered in respect of the expropriation of such property, furnish the board with a copy of such notice.”.

Amendment of  
section 37 of  
Act 3 of 1966.

9. Section 37 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) Whenever the board considers that the market value of any affected property included in the list is equal to or exceeds the basic value of that property, and a period of sixty months after the basic date, or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, has expired, it may notify the owner of that property in writing of its estimate of the market value thereof, and if the owner agrees to such estimate, or if the board and the owner agree on a valuation which is equal to or exceeds the basic value of that property, the board shall, upon payment to the board of an appreciation contribution equal to fifty per cent of the difference, if any, between the market value thus agreed upon between the board and the owner and the basic value of the said property, remove such property from the list.”; and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) Whenever after the expiry of sixty months after the basic date, or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, the owner of any affected property included in the list considers that the market value of that property is equal to or exceeds the basic value thereof, he may notify the board in writing that he desires the said property to be removed from the list and may state his estimate of the market value thereof, and if the board agrees with such estimate, or if the board and the owner agree on a valuation which is equal to or exceeds the basic value of that property, or if in the absence of such agreement the market value of the said property as determined by arbitration in terms of section 45 is equal to or exceeds the basic value of the said property, the board shall, upon payment to the board of an appreciation contribution equal to fifty per cent of the difference, if any, between the market value thus agreed upon between the board and the owner or determined by arbitration, as the case may be, and the basic value of the said property, remove such property from the list.”.

Amendment of  
section 38 of  
Act 3 of 1966.

10. Section 38 of the principal Act is hereby amended—

- (a) by the addition of the following further proviso to paragraph (a) of subsection (1):

“Provided further that the Minister may delegate to the Secretary, to the extent he deems fit, the power conferred on him by this section to approve of the acquisition by the board by expropriation of any immovable property, and anything done by the Secretary under and within the scope of the power so delegated to him, shall be just as valid and effective as if it had been done by the Minister himself.”; and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) If the purchase price or the compensation payable by the board in respect of the acquisition under section 15 (1) or subsection (1) (a) of this section of any affected property exceeds the basic value of that property, there shall be deducted from the said purchase price or the said compensation—

- (a) if such acquisition takes place after the expiry of sixty months but before the expiry of seventy-two months after the basic date, or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, an appreciation contribution equal to twenty-five per cent of the difference between the said purchase price or compensation, as the case may be, and the basic value thereof; or

- (b) if such acquisition takes place after the expiry of seventy-two months after the basic date, or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, an appreciation contribution equal to fifty per cent of the difference between the said purchase price or compensation, as the case may be, and the basic value thereof;

and if the said purchase price or compensation is less than the basic value of the said property, there shall, save where notice has been given in respect of the said property in terms of section 41 of the Group Areas Act and such notice has not been withdrawn, be added to the said purchase price or compensation, as the case may be, a depreciation contribution equal to eighty per cent of the difference between the said purchase price or compensation, as the case may be, and the basic value of the said property: Provided that the owner of such affected property may waive his right to be paid a depreciation contribution and thereupon the board shall cease to be liable for such contribution: Provided further that where the National Housing Commission referred to in section 5 of the Housing Act, 1966 (Act No. 4 of 1966), acquires any affected property for the purposes of the said Act, any appreciation contribution payable in terms of this Act shall accrue to the National Housing Fund established in terms of section 2 of the said Act, but shall nevertheless be regarded as part of the cost to the Commission of the acquisition of such property.”.

Substitution of section 42 of Act 3 of 1966.

11. The following section is hereby substituted for section 42 of the principal Act:

“Payment of compensation.

42. (1) Any compensation for immovable property expropriated shall, subject to the provisions of section 38, be paid to the owner of such property, if his address is known.

(2) If property expropriated under this Act was burdened with a *fideicommissum* or if compensation is payable in terms of this Act to a person whose place of residence is not known, the board, shall, subject to the provisions of section 38, pay the amount of the compensation payable in terms of this Act to the Master of the Supreme Court appointed for the area in which the property is situated, and after such payment the board shall cease to be liable in respect of that amount.

(3) Any moneys received by the Master in terms of subsection (2) shall—

(a) if the property in question was burdened with a *fideicommissum*, *mutatis mutandis* be subject to all the terms and conditions contained in the will or other instrument by which such *fideicommissum* was constituted; and

(b) subject to the provisions of paragraph (a), be paid into the Guardian's Fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), for the benefit of the persons who are or may become entitled thereto, and bear interest at a rate determined from time to time by the Minister of Finance.

(4) The provisions of subsections (2) and (3) shall not affect the jurisdiction of any court to make an order in respect of any such moneys.

(5) In the event of a dispute or doubt as to the person who is to receive any compensation payable in terms of this Act, or in the event of the issue of an interdict in respect of the payment of any such compensation, the board shall retain the amount of such compensation until the dispute has been settled or the doubt has been resolved.

(6) Notwithstanding anything to the contrary contained in any law, where the immovable property is mortgaged or serves otherwise as security for any charges against the owner, the compensation shall be applied as far as may be required towards the payment of the claims of mortgagees and of claimants in respect of such charges in their legal order of preference, provided such mortgagees have complied with

the provisions of section 40 or, as the case may be, such charges have been proved to the satisfaction of the board.”.

Amendment of section 44 of Act 3 of 1966.

12. Section 44 of the principal Act is hereby amended by the deletion of subsection (2) (b) (iii).

Amendment of section 45 of Act 3 of 1966.

13. Section 45 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The costs, calculated in accordance with the table of costs in magistrates’ courts, in connection with the determination of any value or compensation in terms of this section, including the remuneration of the arbitrators, shall be awarded as follows by the arbitrators:

(a) If the value or compensation which is determined in such an action—

(i) is equal to or more than the amount which the owner concerned last claimed prior to the commencement of the action, costs shall be awarded against the board;

(ii) is equal to or less than the amount last offered by the board prior to the commencement of the action, costs shall be awarded against the owner concerned; and

(b) in any case not mentioned in paragraph (a), the award of costs shall be in the discretion of the arbitrators.”.

Substitution of section 50 of Act 3 of 1966.

14. The following section is hereby substituted for section 50 of the principal Act:

“Penalties. 50. (1) Any person who—

(a) for the purpose of any provision of this Act makes any statement or furnishes any document or any particulars which are false, knowing the same to be false; or

(b) falsely holds himself out to be an inspector; or  
(c) refuses or fails, without sufficient cause, to answer fully and satisfactorily to the best of his knowledge and belief any relevant question lawfully put to him by an inspector or a valuator in the exercise of his powers or to comply with any lawful requirement of an inspector or valuator in the exercise of his powers; or

(d) gives an answer to any question by, or makes any relevant statement to, an inspector or a valuator which is false in any material particular, knowing such answer or statement to be false; or

(e) obstructs, hinders, resists or interferes with any inspector or valuator in the exercise of his powers or the performance of his functions or duties in terms of this Act or any regulation made thereunder;

(f) is a mortgagee and fails to transmit or cause to be transmitted to the board within thirty days of receipt of a copy of a notice in terms of section 40 (1) a statement in writing setting forth the amounts received by him in payment of the debt secured by the bond and particulars of the amount still owing thereunder, and the bond of which he is the holder, and any documents of title relating to the immovable property which may be in his possession or under his control;

(g) is the owner of property expropriated in terms of section 39 on whom a notice has been served under that section and who fails to deliver or cause to be delivered to the board within thirty days after the date of such notice or within such further period as the board may allow—

(i) a statement in writing setting forth the amount of compensation, if any, claimed by him;

(ii) his documents of title to the immovable property, if these are in his possession or under his control;

(iii) a list signed by him of the said documents if these are not in his possession or under his control, setting forth the registration

numbers and dates thereof and the name and address of the person in whose possession or under whose control those documents are and the registration numbers and dates of mortgage bonds, if any, on the immovable property and the names and addresses of the holders thereof;

(h) is named in any list delivered to the board under subparagraph (iii) of paragraph (a) of subsection (4) of section 40 and who is called upon by the board by notice in writing to deliver or cause to be delivered to the board within a period specified in the notice, the documents referred to in that subparagraph, which are in his possession or under his control, and who fails to comply with the said notice within the period specified therein; or

(i) contravenes any provision of section 32 (10), shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

(2) Any person who, in contravention of a prohibition contained in any notice published in the *Gazette* under section 15 (2) (e), without the prior written approval of the board—

(a) subdivides land or any stand within an area defined in such notice; or

(b) erects or alters any building or structure within such an area; or

(c) uses any building or structure within such an area for a purpose other than the purpose for which such building or structure was being used on the date of the publication of such notice,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment, and, in addition, the court convicting such person may order him to demolish, within a period fixed by the court, any building or structure which he erected or caused to be erected or alteration which he effected or caused to be effected in contravention of a prohibition in such notice, or the court may, if such person is using an existing building or structure in contravention of a prohibition in such notice for a purpose other than the purpose for which such building or structure was being used at the date of the publication of such notice, order him within a period fixed by the court to cease such use or to vacate such structure or building, and the court may further, if that person fails to comply with that order within that period, order that he be ejected from the building or structure.”.

Substitution of the Schedule to Act 3 of 1966.

15. The following Schedule is hereby substituted, with effect from the 17th February, 1966, for the Schedule to the principal Act:

“Schedule.

Laws repealed.	Extent of repeal.
Community Development Act, 1955 (Act No. 69 of 1955).	The whole.
Group Areas Development Amendment Act, 1959 (Act No. 81 of 1959).	The whole.
Group Areas Amendment Act, 1961 (Act No. 23 of 1961).	Section 29.
Group Areas Amendment Act, 1962 (Act No. 49 of 1962).	Sections 29 to 58, inclusive.
General Law Amendment Act, 1964 (Act No. 80 of 1964).	Section 32.
Community Development Amendment Act, 1965 (Act No. 44 of 1965).	The whole.”

Short title and commencement.

16. This Act shall be called the Community Development Amendment Act, 1967, and shall, subject to the provisions of section 15, come into operation on the date of promulgation: Provided that sections 7, 8 (a), 9 and 10 (b) shall be deemed to have come into operation on the first day of February, 1967.