



REPUBLIC OF SOUTH AFRICA

**GOVERNMENT GAZETTE**

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1200.

18 June 1975.

No. 1200.

18 Junie 1975.

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

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

No. 52 of 1975: Land Bank Amendment Act, 1975.

No. 52 van 1975: Wysigingswet op die Landbank, 1975.

Act No. 52, 1975

LAND BANK AMENDMENT ACT, 1975

# ACT

To amend the Land Bank Act, 1944, so as to repeal the provisions thereof providing for the making of advances to farmers in the form of cash credit accounts and on hypothec of movable property and to provide for the making of certain advances to a farmer on completion by him of a promissory note; and to provide for matters connected therewith.

*(English text signed by the State President.)*  
*(Assented to 12 June 1975.)*

**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 21 of Act 13 of 1944, as amended by section 6 of Act 47 of 1959, section 2 of Act 35 of 1961, section 1 of Act 14 of 1964, section 5 of Act 46 of 1965, section 13 of Act 5 of 1968 and section 3 of Act 41 of 1972.

1. Section 21 of the Land Bank Act, 1944 (hereinafter referred to as the principal Act), is hereby amended—

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

“(iii) in such other manner as may be provided by this Act;” and
- (b) by the deletion of subparagraph (iv) of the said paragraph.

Substitution of heading before section 34 of Act 13 of 1944.

2. The following heading is hereby substituted for the heading immediately before section 34 of the principal Act:

“ADVANCES TO FARMERS FOR CARRYING ON FARMING”.

Substitution of section 34 of Act 13 of 1944, as amended by section 15 of Act 47 of 1959, section 8 of Act 46 of 1965 and section 9 of Act 5 of 1968.

3. The following section is hereby substituted for sections 34 of the principal Act:

“Advances to farmers for carrying on farming.”

34. (1) Notwithstanding the provisions of section 25 the board may, upon completion of a promissory note by a farmer, make an advance to him to enable him to defray any costs which, in the opinion of the board, are connected with the production, cultivation, gathering, processing or marketing of any crops by him or to pay any debts incurred by him to defray such costs, or to purchase live-stock or farming machinery or other implements or equipment and to install such machinery or equipment.

(2) If—

- (a) at any time payment of any sum of money, due in respect of any advance referred to in subsection (1), is in arrear, whether it is the capital sum or interest thereon; or

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- (b) in the opinion of the board, any such advance has not been applied for the purposes for which it was made; or
  - (c) any other condition to which the advance is subject has not been complied with; or
  - (d) the debtor becomes insolvent or is sentenced to imprisonment without the option of a fine, or judgment is obtained against the debtor for the payment of any sum of money, or any of his assets is by order of a competent court declared executable or is attached in pursuance of an order of any such court or under section 37 of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), or becomes the subject of a direction under subsection (1) of the said section 37; or
  - (e) the debtor is deceased and his estate is about to be dealt with in terms of the provisions of section 34 (2) or (5) of the Administration of Estates Act, 1965 (Act No. 66 of 1965), or has been sequestrated; or
  - (f) a notice has with reference to the debtor been published in terms of section 22 of the Agricultural Credit Act, 1966; or
  - (g) the debtor is a company which has been placed under judicial management or is being wound up; or
  - (h) the debtor is a company and any director or shareholder thereof is sentenced to imprisonment without the option of a fine; or
  - (i) the advance is not, within such time as the board may consider reasonable, applied to the purpose for which it was made,
- the board may proceed as in subsection (3) prescribed.

(3) Whenever any circumstance contemplated in subsection (2) arises, the board may—

- (a) refuse to pay any portion of the advance which has been approved, but not yet been paid;
- (b) after the expiry of seven days after demand for the repayment of the advance has been made by registered letter, addressed to the address of the debtor stated in the form of application for the advance, without recourse to a court of law, require any messenger of the court or any other person designated by the board for the purpose, to attach and (whether or not such messenger of the court or such other person is a licensed auctioneer) sell by public auction so much of the movable property of the debtor as may be necessary to liquidate the amount owing in respect of the advance, together with interest and costs in respect thereof, or the board may itself sell the property so attached by public tender and on the conditions which it may determine;
- (c) if, after the sale of all the available movable property of the debtor in terms of paragraph (b), an amount in respect of the advance and the said interests and costs is still owing, after due notice to mortgagees, and without recourse to a court of law, but subject to the provisions of subsection (4), attach any immovable property of the debtor by written notice thereof by registered letter, addressed to the debtor at the address referred to in paragraph (b), and to the

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registrar of deeds concerned, who shall cause a note of the attachment to be made in his registers, and the board may in its discretion, but subject to the provisions of subsection (4), and upon such conditions as it may deem just, cause to be sold by public auction, through an auctioneer or a sheriff or a deputy sheriff, whether or not such sheriff or deputy sheriff is a licensed auctioneer, the said immovable property;

- (d) transfer the immovable property referred to in paragraph (c) which has been sold to the purchaser and give him a good and valid title thereto, notwithstanding that it may then be hypothecated or subject to a lien or charge in favour of some other person, and without production to the registrar of deeds of the title deed, provided it is certified that the board has been unable to obtain that title deed; and
- (e) make an advance in terms of the provisions of this Act and on such conditions as it may deem fit, to the purchaser of such immovable property, for the purpose of defraying the whole or part of the purchase price, notwithstanding that such advance may exceed the limits prescribed by section 26.

(4) A sale in terms of subsection (3) (c) shall not take place until the expiry of fourteen days since the publication in the *Gazette* and in some newspaper circulating in the district in which the property in question is situated, of a notice stating the date, hour and place of the sale, a description, according to the title deed, of that property, and the terms of payment of the purchase price, and unless the conditions of sale have been announced immediately before commencement of the sale, and if there was default only in respect of the circumstances contemplated in subsection (2) (a), the attachment and sale of immovable property of the debtor shall not take place until the expiry of three months from the date on which payment was due of the sum of money in respect of which the default has occurred.

(5) The proceeds of a sale referred to in subsection (3) (b) shall, after payment of the costs incurred in connection with the attachment and sale, be applied towards reducing or liquidating the amount owing in respect of the advance, together with interest and costs in respect thereof, and if any balance remains, it shall be paid to the debtor or his legal representative.

(6) The proceeds of a sale referred to in subsection (3) (c) shall, after payment of the costs incurred in connection with the attachment and sale, and after payment of the amount owing in terms of any bond or other real right, be applied towards reducing or liquidating the amount owing in respect of the advance, together with interest and costs in respect thereof, and if any balance remains, it shall be paid out in accordance with the provisions of section 56.

(7) To enable the bank, for the purpose of the recovery of an amount owing under an advance referred to in subsection (1), to participate in any sale in the execution of a judgment of any court, or to take steps in terms of section 65 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), in respect of a debtor, a decision of the board in terms of subsection (3) (b) or (c) to attach movable:

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or immovable property of the debtor, shall be deemed to be a judgment of a court of law.

(8) Notwithstanding anything to the contrary in this Act contained, such fees as the board may determine, and no other fees, shall be payable in connection with any application for an advance referred to in subsection (1).

(9) Any person who obstructs or hinders the attachment or sale of any property in terms of subsection (3) shall be guilty of an offence and liable on conviction of a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment."

Repeal of heading before section 34bis and of section 34bis, of Act 13 of 1944.

4. The heading immediately before section 34bis, and section 34bis, of the the principal Act are hereby repealed.

Amendment of section 69 of Act 13 of 1944, as amended by section 28 of Act 47 of 1959.

5. Section 69 of the principal Act is hereby amended by the deletion of paragraph (i) of subsection (1).

Substitution of section 71 of Act 13 of 1944, as amended by section 29 of Act 47 of 1959.

6. The following section is hereby substituted for section 71 of the principal Act:

**Inspections on behalf of bank.** 71. For the purpose of ascertaining whether an advance has been or is properly applied and whether the conditions of any advance are being observed, the board may by means of any of the staff, or by means of inspectors or other persons deputed by it, institute such inspections as it may deem advisable."

Advances in terms of sections 34 and 34bis prior to substitution or repeal thereof.

7. (1) Unless within a period of three months from the date of commencement of this Act the board has otherwise decided in respect of a particular case and has notified the registrar of deeds or magistrate concerned, as the case may be, of the decision, any advance granted in terms of the provisions of section 34 or 34bis of the principal Act prior to the substitution or repeal thereof, respectively, by the provisions of this Act, shall be deemed to be an advance in respect of which the provisions of the said section 34, as so substituted, are applicable, and as from the expiration of the said period of three months.

(2) Except in respect of a case in respect of which the board has otherwise decided and given notice, as contemplated in subsection (1)—

(a) any notes of the registrar of deeds in terms of section 34 of the principal Act as it existed immediately prior to the substitution thereof by this Act; and

(b) such copies of any deeds or hypothecation completed for the purposes of section 34bis of the said Act prior to the repeal thereof by this Act, as may, in terms of the said section, have been transmitted to a magistrate,

shall lapse at the expiration of the period of three months mentioned in the said subsection (1).

Short title and commencement.

8. This Act shall be called the Land Bank Amendment Act, 1975, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.