



EASTERN CAPE PROVINCIAL LEGISLATURE
OFFICE OF THE CHAIRPERSON OF THE PORTFOLIO COMMITTEE
ON HUMAN SETTLEMENTS

Tel: 040-609 1638

Fax: 086-645 9143

E-mail: nstuurman@ecleg.gov.za

Enquiries: Ms N. Stuurman

Date: 25 February 2019

Reference: Property Practitioner's Bill



NEGOTIATING MANDATE

To: The Chairperson: Select Committee on Social Services
Name of Bill: Property Practitioner's Bill
Number of Bill: [B21B-2018]
Date of Deliberation: 25 February 2019

1. Vote of the Legislature

The province votes in favour of the Bill and mandates the Eastern Cape delegate to the NCOP to negotiate within the following parameters:

1. Clause 1 of the Bill

- (a) Definition of "property practitioner". The definition of the property practitioner as contained in paragraph (v) (cc) provides for the exclusion of an attorney and candidate attorneys who in any other way provides services as intermediary or facilitators with the primary purpose of selling to, or attempt to effect the conclusion of an agreement to sell and purchasing or hire or let, as the case may be, a property or business undertaking, including, if performing the acts mentioned in this paragraph, a home ownership association. The clause must clearly indicate whether attorneys and candidate attorneys who are involved in transactions indicated in subparagraphs (i) (ii) & (iii) are excluded from the definition of a property practitioner.

2. Clause 4 of the Bill

- (a) It is proposed that section 4 (1) be amended as follows;
- 4 (1) “Any person **[hereinafter referred to as an applicant]** may, subject to the provisions of this section, be exempted from compliance with any specific provisions of this act’
- 4(2) “**[An applicant must in the prescribed manner and form, submit the application for exemption to the Authority, accompanied by]** An application for exemption must be submitted in the prescribed manner and form to the Authority and must be accompanied by-

Clause 11 of the Bill

- (a) It is proposed that Section 11 (1) be amended as follows;
- 11(1) A member of the Board must, upon appointment submit to the Minister a declaration made under oath or affirmation, **[to the effect that he or she is not disqualified from appointment]** of his financial interests.

3. Clause 35 of the Bill

- (a) It is proposed that section 13 be amended as follows ‘
- By the addition of subsection 3 as follows;*
3. Despite the provisions of subsection 2, the Fund may on good cause shown consider a claim against the Authority which has not been lodged within three years after the circumstances giving rise to such claim.

General Comments

- (a) The report of the Portfolio Committee attached hereto highlights a number of issues raised by the stakeholders. The issues raised by stakeholders as reflected in the report ought to be given serious consideration by the Department of Human Settlements.



HON B.NDLANGISA-MAKAULA (MPL)
CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON HUMAN SETTLEMENTS

25/02/2019

DATE

Draft Report of the Portfolio Committee on Human Settlements dated 25 February 2019, is as follows:

1. *Terms of reference*

The terms of reference of the Committee were to consider the Property Practitioners Bill which was referred by the National Council of Provinces to the Province, solicit public inputs on the Bill and develop the Negotiating Mandate of the Province and report to the House.

2. *Method of work*

Publicity was conducted over the whole Province while the public hearings were centralized in the 4 major cities of the Province, e.g. East London, Port Elizabeth, Queenstown and Mthatha largely because of the audience that the Bill was attracting.

3. *VIEWS OF STAKEHOLDERS*

Port Elizabeth (Galvendale Community Hall): There were no objections raised to the Bill except for concerns around the inefficiencies of the Estate Agency Affairs Board (EAAB), that delays the issuing of Fidelity Fund certificates timeously, the efficiency of inspectors and a concern on the non-issuing of a Fidelity Fund certificate to a practitioner who is not in possession of a valid (Broad-Based Black Economic Empowerment) (BBBEE) certificate.

Mthatha (Town Hall): The hearing was converted into a briefing. There were no objections except for concerns with regard to the operations of the Board and the monitoring of the operation of the Act once it is operational.


Queenstown (Enoch Mgijima Council Chamber): The Bill was accepted by all stakeholders present with accompanying comments that:

- There must be a regulated percentage of commission charged by Estate Agents when it comes to selling of houses.
- There must be more clarity on BBBEE and how it operates.
- There must be clear time lines for issuing of title deeds or what steps to take when it gets lost.
- There must be awareness campaigns conducted to educate ordinary citizens about the Fidelity Fund Certificate.

East London (Old Council Chamber):

The Bill was accepted with the following concerns:

- The operations of the Estate Agency Affairs Board make it difficult for previously disadvantaged property practitioners to attend as the training is made very expensive.
- The Board does not respond to any concerns and requests from Estate Agents.
- The exemption of firms of Attorneys contained in Chapter 1 of this Bill is not so clear.
- Chapter 4 of the Bill was much appreciated in every term by the property practitioners present.
- The implementation of Chapter 5 should be closely monitored to ensure compliance and most importantly to ensure that inspectors do not victimise black property practitioners.
- Emphasis must be put on consumer education on the dynamics of the property market for those who fall under the previously disadvantaged category.



HON. B. NDLANGISA - MAKAULA
CHAIRPERSON OF PC ON HUMAN SETTLEMENTS