

REPUBLIC OF SOUTH AFRICA

**LOCAL AUTHORITIES LOANS
FUND ACTS REPEAL BILL**

(As introduced)

(MINISTER OF FINANCE)

[B 96—97]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP DIE
HERROEPING VAN WETTE OP DIE
LENINGSFONDS VIR PLAASLIKE
BESTURE**

(Soos ingedien)

(MINISTER VAN FINANSIES)

[W 96—97]

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BILL

To repeal the Local Authorities Loans Fund Act, 1984; to provide that the assets, liabilities, rights and obligations of the Local Authorities Loans Fund Board, including the proceeds of the Local Authorities Loans Fund, are vested in the Development Bank of Southern Africa; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - (i) “Board” means the Local Authorities Loans Fund Board established by section 4 of the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984); 5
 - (ii) “Development Bank” means the Development Bank of Southern Africa Limited, referred to in section 2 of the Development Bank of Southern Africa Act, 1997 (Act No. 13 of 1997); (ii) 10
 - (iii) “Fund” means the Local Authorities Loans Fund established by section 2 of the Local Authorities Loans Fund Act, 1984. (iii)

Repeal of laws

2. Subject to section 3—
 - (a) the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984); 15
 - (b) the Local Authorities Loans Fund Amendment Act, 1993 (Act No. 41 of 1993); and
 - (c) the Local Authorities Loans Fund Amendment Act, 1995 (Act No. 25 of 1995), 20are hereby repealed.

Savings

3. Notwithstanding section 2, sections 11(3) and (4), 13 and 14 of the Local Authorities Loans Fund Act, 1984, remain in force until all the loans granted by the Board to local authorities from the Fund have been repaid: Provided that the Development Bank, with the approval of the Minister of Finance, exercises the powers 25 granted by those sections to the Board.

Assets, liabilities, rights and obligations of Board

4. (1) At the commencement of this Act all assets, liabilities, rights and obligations which vested in the Board in terms of the Local Authorities Loans Fund Act, 1984, including the proceeds of the Fund, vest in the Development Bank. 30
- (2) No tax, levy, duty or other statutory fee is payable for the vesting of assets, liabilities, rights and obligations in the Development Bank in terms of subsection (1).

Financial and administrative records of Board

5. The Minister of Finance must ensure that all agreements, acknowledgements of debt, certificates, accounts, financial statements and all other financial and administrative records of the Board concerning the assets, liabilities, rights and obligations referred to in section 4 are transferred to the Development Bank as soon as possible after the commencement of this Act. 5

Audit

6. The assets and liabilities vested in the Development Bank in terms of section 4 must be verified by statements audited by the Auditor-General as soon as possible after the commencement of this Act. 10

Short title and commencement

7. This Act is called the Local Authorities Loans Fund Acts Repeal Act, 1997, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE LOCAL AUTHORITIES LOANS FUND ACTS REPEAL BILL, 1997

With the establishment of new local authority structures and the changed environment in which the Local Authorities Loans Fund (LALF) was required to operate, it became clear that these activities could no longer be administered by the Department of Finance, since the LALF appraises applications on financial criteria only. Previously the LALF approved loans to mainly former white local authorities which meant that relatively low risk loans were being approved. The expertise to evaluate and administer new loan applications currently does not reside with the LALF nor within the Department of Finance and consequently the Board of the LALF has decided to utilise the expertise within the Development Bank of Southern Africa (DBSA) on an agency basis to perform these functions.

Cabinet has already approved the transformed role of the DBSA — to fulfil a regional development role in respect of financing with a focus on economic, institutional and social infrastructure. In terms of the new role of the DBSA the regional, national, provincial and local government structures and other utility suppliers are the focal client base of the DBSA. The DBSA will therefore provide concessionary and commercial funding to local authorities in future. Moreover, in evaluating loan requests, the project appraisal system employed by the DBSA is focussed towards a developmental approach and also takes cognisance not only of the financial aspects of the applications, but also evaluates risks, standards of construction, and environmental, social and institutional impact assessments. The expertise to conduct such evaluations at present resides with the DBSA. The prudent step was to rationalise the channels of public sector loans to local authorities in the light of the new role of the DBSA.

The winding up of the activities and the transfer of the assets and liabilities of the LALF to the DBSA is essential in order to rationalise the channels of public sector loans to local authorities and therefore the Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984), is conditionally repealed.

Departments and bodies consulted

Department of Provincial Affairs and Constitutional Development
MEC's for Finance
MEC's for Local Government
South African Local Government Association (SALGA)
Institute of Municipal Treasurers and Accountants (IMTA)
Development Bank of Southern Africa (DBSA)

Parliamentary procedure

The Department of Finance and the State Law Advisers are of the opinion that the procedure set out in section 75 of the Constitution should be followed with regard to this Bill.