

REPUBLIC OF SOUTH AFRICA

PENSION FUNDS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 43726 of
18 September 2020)
(The English text is the official text of the Bill)*

(DR D T GEORGE, MP)

[B 30—2020]

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GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Pension Funds Act, 1956, so as to enable pension fund members to access a percentage of their pension fund before retirement as guarantee for a loan; and to provide for matters connected therewith.

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

Amendment of section 19 of Act 24 of 1956, as amended by section 13 of Act 80 of 1959, section 9 of Act 58 of 1966, section 1 of Act 80 of 1969, section 2 of Act 23 of 1970, section 7 of Act 91 of 1972, section 23 of Act 101 of 1976, section 11 of Act 94 of 1977, section 11 of Act 80 of 1978, section 14 of Act 103 of 1979, section 39 of Act 99 of 1980, section 14 of Act 82 of 1982, section 20 of Act 46 of 1984, section 17 of Act 86 of 1984, section 11 of Act 50 of 1986, section 5 of Act 51 of 1988, section 8 of Act 53 of 1989, section 11 of Act 64 of 1990, section 2 of Act 94 of 1997, section 2 of Act 65 of 2001, section 33 of Act 45 of 2013 and section 290 read with schedule 4 of Act 9 of 2017 5 10

1. Section 19 of the Pension Funds Act, 1956, is hereby amended by the insertion after subsection (5B) of the following subsection:

“(5BB) A registered fund may, if its rules so permit and subject to prudential standards, furnish a guarantee in favour of a person other than the fund in respect of a loan granted or to be granted by such other person to a member, which guarantee may not exceed 75 per cent of that member’s share in the value of the fund.”. 15

Short title

2. This Act is called the Pension Funds Amendment Act, 2020. 20

MEMORANDUM ON THE OBJECTS OF THE PENSION FUNDS AMENDMENT BILL, 2020

1. INTRODUCTION

Section 19 of the Pension Funds Act, 1956 (Act No. 24 of 1956) (“the Act”), currently enables pension fund members to access a loan, where the pension fund asset acts as security for such a loan, in order to obtain a home loan. However, the Act does not permit pension fund members to obtain a loan for any other purpose.

2. OBJECTS OF THE BILL

The unfortunate outbreak of the COVID-19 pandemic in the Republic has severely impacted the already crippling South African economy and has led to many South Africans becoming financially destitute. The Bill thus seeks to amend the Act in order to allow pension fund members to obtain a loan, secured by a guarantee from a registered pension fund, to alleviate financial pressure during an emergency such as the COVID-19 emergency or any other emergency similar to COVID-19. By enabling a member to access a pension-backed loan, that member will be able to leverage their pension fund investment prior to their retirement date, without eroding their provision for eventual retirement. Lending institutions will be enabled to offer loans to pension fund members at competitive interest rates and over extended or deferred payment periods given that the loan is fully guaranteed.

CONTENTS OF THE BILL

3.1. Clause 1 amends the Act in order to enable a registered fund to furnish a member of the fund with a guarantee to secure a loan, which guarantee may not exceed 75 per cent of their share in the value of the fund.

3.2. Clause 2 provides for the short title.

3. FINANCIAL IMPLICATIONS FOR THE STATE

None.

4. PARLIAMENTARY PROCEDURE

4.1 It is proposed that the Bill be dealt with in accordance with the procedure established by section 75 of the Constitution, 1996, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

4.2 The member is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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