

## LIMPOPO HOUSING ACT 2 OF 2006

[ASSENTED TO 27 NOVEMBER 2006][DATE OF COMMENCEMENT: TO BE PROCLAIMED]

*(English text signed by the Premier)*

### ACT

**To provide for the role of provincial government in housing development; establishment of the Limpopo Housing Advisory Panel; accreditation procedures for municipalities; restriction on state-subsidised housing; and to provide for matters incidental thereto.**

**BE IT ENACTED** by the Provincial Legislature of Limpopo as follows:-

#### **1 Definitions**

In this Act unless the context indicates otherwise-

**"Code"** means the National Housing Code contemplated in terms of section 4 of the Housing Act, 1997 (Act 107 of 1997);

**"Constitution"** means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

**"data bank"** means the national housing data bank contemplated in section 6 of the Housing Act, 1997 (Act 107 of 1997);

**"Department"** means the department responsible for housing matters in the province;

**"Housing Act"** means the Housing Act, 1997 (Act 107 of 1997);

**"MEC"** means the Member of the Executive Council responsible for housing matters in the province;

**"Minister"** means the Minister responsible for housing matters at the national level of government;

**"municipality"** means a municipality as contemplated in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**"national housing programme"** means a national policy framework to facilitate housing development contemplated in the Housing Act;

**"Panel"** means the Limpopo Housing Advisory Panel established in terms of section 4 of this Act;

"**PFMA**" means the Public Finance Management Act, 1999 (Act 1 of 1999); and

"**this Act**" includes any regulations made in terms of section 17.

## **2 Object of this Act**

The object of this Act is to promote and facilitate housing development in the province within the framework of national legislation and the national housing policy.

## **3 Role of provincial government in housing development**

- (1) The provincial government, through the MEC, must after consultation with the provincial organisation representing municipalities as contemplated in section 163(a) of the Constitution, do everything in its power to promote and facilitate housing development in the province.
- (2) The MEC may in terms of the provisions of section 126 of the Constitution, by way of an agreement with a Municipal Council, assign a power or function that may be exercised in terms of this Act, to a Municipal Council.
- (3) An assignment referred to in subsection (2) takes effect upon proclamation by the Premier in the *Gazette*.
- (4) The MEC must in terms of section 10(2)(a) of the Housing Act establish if municipalities comply with the criteria for the accreditation as determined by the Minister.
- (5) For the purpose of subsection (1), the MEC must-
  - (a) determine provincial policy in respect of housing development that-
    - (i) upholds the principles in section 2 of the Housing Act;
    - (ii) complies with the provisions of the Code;
    - (iii) effectively deals with housing development in a uniform manner across the province;
  - (b) take all reasonable and necessary steps to support and strengthen the capacity of municipalities to effectively exercise their powers and perform their duties in respect of housing development;
  - (c) co-ordinate housing development;

- (d) administer the application for and assessment of individual housing subsidies;
- (e) assess project applications for housing development;
- (f) in accordance with the housing programme and provisions of the Code approve-
  - (i) a housing project; and
  - (ii) the financing of the housing project out of monies appropriated for housing development in the province;
- (g) present the Minister with an annual plan in respect of the execution of the national and provincial housing programme in the province, in accordance with the guidelines approved by the Minister for the funding of such a plan;
- (h) establish targets in respect of housing delivery;
- (i) encourage and develop new and innovative ways of reducing the cost of housing development and diversify the type of design and layout used in provincial projects;
- (j) establish housing programmes, including housing assistance measures; and
- (k) present the provincial legislature with an annual report on the-
  - (i) activities of the Panel;
  - (ii) progress of housing programmes; and
  - (iii) activities of accredited municipalities.

#### **4 Establishment of Panel**

There is hereby established a panel called the Limpopo Housing Advisory Panel.

#### **5 Composition of Panel**

- (1) The Panel consists of five members who must have knowledge, qualifications or experience in the field of housing development.
- (2) A member of the Panel must have one or more of the following skills:
  - (a) sufficient knowledge of the national and provincial housing-
    - (i) legislation;

- (ii) policy; and
  - (iii) strategy;
- (b) expertise in low income housing finance;
  - (c) technical knowledge of residential township development and housing construction relating to standards and planning;
  - (d) legal expertise regarding contracts and conveyancing aspects of housing development;
  - (e) practical experience regarding project implementation, planning, township establishment, engineering services, provisioning and costing of housing products;
  - (f) experience in community development and communication of the community's interest in housing development; and
  - (g) expertise regarding housing development in support of agricultural activities or rural development.
- (3) The Panel must broadly reflect the race and gender composition of the province.
  - (4) The MEC must by notice in the *Gazette* and in two newspapers circulating in the province, invite nominations for persons to serve as members of the Panel.
  - (5) All nominations made in response to the notice in terms of subsection (4), must be supported by a comprehensive *curriculum vitae* and supporting documents of the nominee, containing information of the nominee's knowledge and experience which makes the nominee's contribution valuable to housing development in the province.
  - (6) The MEC must-
    - (a) appoint the members of the Panel from the nominations received in terms of subsection (5); and
    - (b) appoint a chairperson and vice-chairperson from the members of the Panel.
  - (7) In the absence of the chairperson, the vice-chairperson will assume the powers of the chairperson.

## **6 Term of office**

A member of the Panel is appointed for a period of three years and such member

is eligible for re-appointment for one additional term.

## **7 Conditions of service**

- (1) A member of the Panel is entitled to an allowance as determined by the MEC in consultation with the Member of the Executive Council responsible for financial matters in the province.
- (2) A member of the Panel must in the manner and at intervals that the MEC determines, disclose any direct or indirect financial interest of the member or the member's-
  - (a) spouse or life partner;
  - (b) immediate family member;
  - (c) business partner;
  - (d) associate; or
  - (e) employee

has in housing development.

## **8 Functions of Panel**

The Panel must-

- (a) advise the MEC on the-
  - (i) Provincial Housing Policy and Strategy;
  - (ii) viability of all housing development plans;
- (b) serve as a consultative forum for external role-players to be involved in the policy formulation process for the purpose of informed decision-making;
- (c) conduct and manage investigations requested by the MEC for the purpose of informed decision-making; and
- (d) perform any other function concerning housing matters which the MEC refers to the Panel.

## **9 Meetings of Panel**

- (1) The first meeting of the Panel must be held at a time and venue as the MEC

determines.

- (2) Subsequent meetings of the Panel must be held at a time and venue as the chairperson of the Panel determines.
- (3) The chairperson must at the request of the MEC, convene a special meeting of the Panel.
- (4) The procedure and attendance at meetings of the Panel must be laid down by the Panel subject to directives of the MEC.
- (5) The Chairperson and two members of the Panel constitute a quorum for a meeting of the Panel.

## **10 Termination of membership**

- (1) A member of the Panel ceases to be a member-
  - (a) if the member-
    - (i) resigns;
    - (ii) is declared to be of unsound mind by a court of law;
    - (iii) is convicted of an offence and sentenced to a term of imprisonment without the option of a fine;
    - (iv) becomes a member of parliament, the provincial legislature or a municipal council;
    - (v) is unable to perform the functions of a panel member;
    - (vi) is employed by government; or
    - (vii) fails to disclose any direct or indirect financial interest the member or the spouse, life partner, immediate family member, business partner, associate or employee of the member, has in housing development; or
  - (b) if the member's estate is sequestrated or the member applies for assistance in terms of section 10(1)(c) of the Agricultural Credit Act, 1966 (Act 28 of 1966).
- (2) A member may resign by giving two months written notice to the MEC.
- (3) The MEC may at any time terminate the services of a member of the Panel for reasons which are just and fair.

## **11 Functions of Head of Department**

The Head of the Department must-

- (a) provide the secretariat to assist the Panel in performing the functions of the Panel;
- (b) provide the national housing data bank and information system with provincial data and information on housing development;
- (c) set up mechanisms to monitor the implementation of approved housing programmes; and
- (d) evaluate the impact of housing programmes and projects, having due regard to challenges which impede the achievement of provincial objectives and targets.

## **12 Accreditation of municipalities**

- (1) A municipality may apply on the prescribed form in the Code, to be accredited for the purpose of administering one or more housing programmes.
- (2) The MEC must consider all applications made in terms of subsection (1).
- (3) When the MEC is satisfied that the municipality concerned complies with the criteria for accreditation of municipalities, as determined in terms of section 10(2)(a) of the Housing Act, the MEC must grant accreditation to the municipality for the purpose of administering one or more national housing programmes.
- (4) The MEC must annually review the accreditation granted to a municipality in terms of subsection (3), according to the criteria for accreditation.
- (5) When a municipality does not perform in accordance with the accreditation criteria, the MEC may, in terms of section 139 of the Constitution, intervene by taking any appropriate steps to ensure fulfilment of obligations.

## **13 Restriction on state-subsidised housing**

- (1) No person granted a housing subsidy in terms of national or provincial housing programme for the construction or purchase of a dwelling or serviced site, may sell, let, pledge or otherwise encumber such person's dwelling or site for a period of eight years from the date on which the property was acquired by that person.
- (2) A person who contravenes subsection (1) is guilty of an offence.
- (3) The Head of the Department must endorse its records that the person wishes to

surrender his or her property and relocate to another property.

- (4) When the person surrenders the property, the Department is deemed to be the owner of the property. The Department must make an application to the Registrar of Deeds for the title deeds of the property to be endorsed to reflect the Department's ownership of the property.
- (5) No purchase price or other form of compensation is to be paid to the person surrendering the property in terms of subsection (3).

#### **14 Restriction on sale of state-subsidised housing**

- (1) It must be a condition of every housing subsidy granted to a person in terms of any national or provincial housing programme for construction or purchase of a dwelling or serviced site, that such person's successors in title or creditors in law, must not sell or otherwise alienate his or her dwelling or site unless the dwelling or site has first been offered to the Department.
- (2) The offer to the Department must be made in writing and must be accepted or rejected by the MEC within a period of 60 days from receipt thereof.
- (3)
  - (a) If the offer is accepted, the purchase price must be determined by agreement between the MEC and the person or creditor concerned;
  - (b) where no agreement is reached by the MEC and the person or creditor concerned, the purchase price must be determined by a valuer acceptable to both parties and registered in terms of the Valuers Act, 1982 (Act 23 of 1982).
- (4) The purchase price as determined in terms of subsection (3), must be financed by the MEC out of the money appropriated by the Limpopo Provincial Legislature for housing development in the province.
- (5) The MEC, in consultation with the Executive Council of the Limpopo Provincial Government, may grant exemption from the provisions of subsection (1), either conditionally or unconditionally, in respect of any dwelling or site to which the provisions of subsection (1) applies.
- (6) The Registrar of Deeds must-
  - (a) make such endorsements in the title deeds of any dwelling or site and such entries in his or her registers as may be necessary to indicate that the provisions of subsection (1) apply in respect of such dwelling or site;
  - (b) cancel any such endorsements or entries where an exemption has been granted unconditionally under subsection (5) or where satisfactory proof has been

submitted that conditions imposed under subsection (5) have been complied with; or

- (c) make such endorsements or entries as may be necessary to indicate any conditions subject to which an exemption has been granted under subsection (5).
- (7) No transfer of any dwelling or site in respect of which subsection (1) applies, shall be passed to a person other than the Department unless the Registrar of Deeds is provided with a certificate, signed by the Head of the Department, to the effect that such dwelling or site has been offered for sale to the Department in terms of subsection (1) and that-
- (a) the offer has been rejected; or
  - (b) an exemption has been granted under subsection (5), either unconditionally or subject to the conditions set out in the certificate.
- (8) The MEC in consultation with the Executive Council of the Limpopo Provincial Government may, by notice in the Gazette, make rules on the granting of an exemption in terms of subsection (5) as well as the amount that must be paid by the person or creditor concerned for the granting of such exemption.

## **15 Delegations**

- (1) The MEC may delegate any power or function conferred, entrusted or imposed upon the MEC under this Act, except the power to-
  - (a) make regulations;
  - (b) assign a function to a Municipal Council; or
  - (c) approve housing projects, to the Head of the Department.
- (2) The Head of the Department may delegate any function conferred, entrusted or imposed upon the Head of the Department in terms of section 11, to an official in the Department.
- (3) A delegation in terms of this section must be in writing.

## **16 Annual Report**

- (1) The Panel and the Head of the Department must submit annually to the MEC a report on housing development in the Province.
- (2) The MEC must annually table a report on housing development in the

province to the Provincial Legislature.

## **17 Regulations**

The MEC may make regulations regarding any matter to achieve the objectives of this Act.

## **18 Transitional provision**

- (1) All monies which immediately before the commencement of this Act, was in credit of the Northern Province Housing Development Fund, established in terms of section 12 of the Northern Province Housing Act, 1998 (Act 8 of 1998), must devolve to the Provincial Revenue Fund.
- (2) All assets and liabilities of the Northern Province Housing Development Board, established in terms of section 5 of the Northern Province Housing Act, 1998 (Act 8 of 1998), vests in the Department.
- (3) All rights and obligations of the Northern Province Housing Development Board are hereby transferred to the MEC, in so far as this Act makes provision for those rights and obligations by the MEC.

## **19 Repeal**

The Northern Province Housing Act, 1998 (Act 8 of 1998) is hereby repealed.

## **20 Short title and commencement**

This Act is called the Limpopo Housing Act, 2006 and comes into operation on a date fixed by the Premier by proclamation in the *Gazette*.