



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

IPHEPHANDABA LEZAZISO LIKAHULUMENI

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THE PRESIDENCY

IHHOVISI LIKAPRESIDANTI

No. 1372.

15 December 2000

Ino. 1372.

15 Disemba 2000

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

Ngalokhu kwaziswa ukuthi uMongameli uvumelana nalomthetho olandelayo nokumele ukuthi ushicilelwe ukuze ube ulwazi jikelele:—

No. 63 of 2000: Home Loan and Mortgage Disclosure Act, 2000.

Ino. 63 ka 2000: uMthetho wokuDalula uLwazi ngeMalimboleko yeZindlu kanye neSibambiso sesi-Kweletu, 2000.

(English text signed by the President.)
(Assented to 8 December 2000.)

ACT

To promote fair lending practices, which require disclosure by financial institutions of information regarding the provision of home loans; to establish an Office of Disclosure; and to provide for matters connected therewith.

PREAMBLE

WHEREAS, in terms of section 9 of the Constitution—

- (a) everyone is equal before the law and has the right to equal protection and benefit of the law;
- (b) equality includes the full and equal enjoyment of all rights and freedoms;
- (c) legislative and other measures, designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination, may be taken to promote the achievement of equality;
- (d) the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth;
- (e) no person may unfairly discriminate directly or indirectly against anyone on one or more grounds listed in paragraph (d); and
- (f) discrimination on one or more of the grounds listed in paragraph (d) is unfair unless it is established that the discrimination is fair;

AND WHEREAS, in terms of section 26(1) and (2) of the Constitution—

- (a) everyone has the right to have access to adequate housing; and
- (b) the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right;

AND WHEREAS, in terms of section 32(1) of the Constitution everyone has the right of access to any information—

- (a) held by the state; and
- (b) that is held by another person and that is required for the exercise or protection of any rights;

AND WHEREAS, in terms of section 2(1)(e)(v) and (vi) of the Housing Act, 1997 (Act No. 107 of 1997), national, provincial and local spheres of government must, *inter alia*, promote—

- (a) the effective functioning of the housing market while levelling the playing fields and taking steps to achieve equitable access for all to that market; and
- (b) measures to prohibit unfair discrimination on the ground of gender and other forms of unfair discrimination by all actors in the housing development process;

*(English text signed by the President.)
(Assented to 8 December 2000.)*

UMTHETHO

Ukukhuthaza isiko lokubolekisa ngokufanele, elidinga ukudalulwa kolwazi mayelana nezimiso eziphathelele nemalimboleko yezindlu yilezo zikhungo ezibolekisa ngemali; ukumisa iHhovisi lapho kuzodalulwa khona ulwazi kanye nokuhlizekela izindaba eziphathelele nalokhu.

ISINGENISO

NJENGALOKHU, ngokwesigaba 9 somThethosisekelo—

- (a) wonke umuntu uyalingana phambi komthetho futhi unelungelo elilinganayo lokuvikelwa wumthetho nenzuzo yomthetho;
- (b) ukulingana kubandakanya ukuthokozela onke amalungelo nenkululeko ngokugcwele;
- (c) umthetho kanye nezinyathelo ezenzelwe ukuvikela noma ukuthuthukisa abantu, noma izigaba zabantu abancishiselwa amathuba ngenxa yobandlululo olungafanele, kumele kubhekisise ukuze kukhuthazwe impumelelo yelungelo lokulingana;
- (d) umbuso ungebandlulule ngokungafanele noma umuphi umuntu ngendlela esobala noma ecashile, ngesizathu esisodwa noma ezingaphezulu, ezibandakanya ukubandlulula ngokobuhlanga, ubulili, ukukhulelwa, isimo somuntu kwezomshado, isizwe okanye umphakathi umuntu aphuma kuwo, ibala, ubulili umuntu azifanisa noma afaniswa nabo, iminyaka yobudala, ukukhubazeka, inkolo, unembeza, inkolelo, isiko, ulimi kanye nokuzalwa;
- (e) akukho muntu okumele abandlulule omunye ngokungafanele ngendlela esobala noma ecashile ngesizathu esisodwa noma ngaphezulu njengokusho kwesigatshana (d); futhi
- (f) ukubandlulula ngesizathu esisodwa noma ezingaphezulu kwalezo ezibalulwe esigatshaneni (d) akufanele ngaphandle uma kutholakala ukuthi lolo bandlululo lufanele;

FUTHI NJENGALOKHU, ngokwesigaba 26(1) kanye no- (2) somThethosisekelo—

- (a) wonke umuntu unelungelo lokukwazi ukuthola indlu efanelekile; futhi
- (b) umbuso kufanele uthathe izinyathelo zomthetho ezifanelekile kanye nezinye izinyathelo, ngokusemandleni ombuso ukwenza ukuba ukuphumelela kwaleli lungelo kuqhubekela phambili;

FUTHI NJENGALOKHU, ngokwesigaba 32(1) somThethosisekelo wonke umuntu unelungelo lokuthola noma iluphi ulwazi—

- (a) olusezandleni zombuso; futhi
- (b) nanoma iluphi olusezandleni zomunye umuntu oludingekayo ekusetshenzisweni noma ekuvikelweni kwanoma imaphi amalungelo;

FUTHI NJENGALOKHU, ngokwesigaba 2(1)(e)(v) kanye no- (iv) somThetho wezeziNdlu, 1997 (uMthetho No. 107 ka-1997) imikhakha kaHulumeni kuzwelonke, ezifundazweni kanye nakohulumeni bezindawo kumele, phakathi kokunye, ikhuthaze—

- (a) ukusebenza ngokugculisayo kokudayiswa kwezindlu ibe futhi indlalela lokhu ngokuthatha izinyathelo ezifanele ukuphumelelisa ukutholakala kwezindlu kubo bonke abantu; kanye
- (b) nezinyathelo ezivimbela ukubandlulula ngokungafanele ngokwezizathu zobulili kanye nezinye izindlela zokubandlulula ngokungafanele yibo bonke labo ababambe iqhaza ekuthuthukisweni kwezindaba eziphathelele nezezindlu;

Act No. 63, 2000 HOME LOAN AND MORTGAGE DISCLOSURE ACT, 2000

AND WHEREAS in the past there has been discrimination by financial institutions, on one or more grounds set out in section 9(3) of the Constitution, when considering or granting home loans;

AND WHEREAS there is an urgent need to ensure that all financial institutions disclose certain information regarding their business of advancing finance in respect of home loans;

AND WHEREAS it is not the intention of this Act to promote, in any way, unsound lending practices among financial institutions in their business of providing home loans;

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

CHAPTER I

Introductory provisions

Definitions

5

1. In this Act, unless the context indicates otherwise—

- (i) “auditors” means the auditors of the financial institution appointed in terms of the requirements of the Companies Act, or any other applicable law;
- (ii) “borrower” means any person who is indebted to a financial institution in respect of a home loan; 10
- (iii) “Companies Act” means the Companies Act, 1973 (Act No. 61 of 1973);
- (iv) “Department” means the Department of Housing;
- (v) “financial institution” means any bank or mutual bank registered as such under the Banks Act, 1990 (Act No. 94 of 1990), or the Mutual Banks Act, 1993 (Act No. 124 of 1993), or any other registered financial institution whose business is, in full or in part, either the acceptance of deposits from the general public, the advance of credit to persons or both such acceptance and advance, with the security of a registered mortgage bond or any other form of accepted security, for the purpose of providing home loans; 15
- (vi) “home” means a residential structure that is recognised by a financial institution as collateral, in full or in part, for a home loan; 20
- (vii) “home loan” means a loan or advance by a financial institution to a person for purposes of constructing, purchasing, renovating or improving in any way such person’s home, with the security of a registered mortgage bond or any other form of accepted security; 25
- (viii) “Minister” means the Minister of Housing;
- (ix) “Office” means the Office of Disclosure established by section 4;
- (x) “prescribed” means prescribed by regulation;
- (xi) “regulation” means a regulation made under section 12;
- (xii) “required information” means the information contemplated in section 3; 30
- (xiii) “secretariat” means the secretariat contemplated in section 11.

Disclosure obligations by financial institution

2. (1) From the date of the commencement of this Act, every financial institution must disclose the required information in its annual financial statements.

FUTHI NJENGALOKHU esikhathini esedlule izikhungo zezimali kade zibandlulula ngesizathu esisodwa noma ngaphezulu njengoba kutholakala esigabeni 9(3) somthethosisekelo, uma zibonelela okanye zinikeza imalimboleko yezindlu;

FUTHI NJENGALOKHU kunesidingo esiphuthumayo sokuthi kuqikelelwe ukuthi zonke izikhungo zezimali zidalula ulwazi olumayelana nezindaba eziqondene nezezimlimboleko;

FUTHI NJENGALOKHU kungeyona inhloso yalo Mthetho ukukhuthaza, noma ngayiphi indlela, ukukhuthazwa kwesiko lokubolekisa ngendlela engafanele yilezo zikhungo zezimali ezinikezela ngemalimboleko;

A KUMISWE yiPhalamende laseRiphabliki yaseNingizimu Afrika; njengokulandelayo:—

ISAHLUKO 1

Ukusekwa kwezimiso

5 Izincazelo

1. Kulo Mthetho, ngaphandle kokuba ingqikithi isho okunye—

- (i) “Abacwaningi mabhuku” kusho abacwaningi mabhuku bezikhungo zezimali ababekwe ngezidingo zoMthetho weziNkampani nanoma imuphi omunye umthetho osebenzayo;
- 10 (ii) “obolekayo” usho noma imuphi umuntu okweleta isikhungo sezimali imalimboleko yezezindlu;
- (iii) “uMthetho weziNkampani” usho uMthetho weziNkampani, 1993 (uMthetho No. 61 ka-1973);
- (iv) “uMnyango” usho uMnyango wezezindlu;
- 15 (v) “isikhungo sezimali” sisho noma iliphi ibhange noma ibhange lomfelandawonye elibhaliswe ngaphansi koMthetho wamaBhange, 1990 (uMthetho No. 94 ka-1990) noma uMthetho wamaBhange oMfelandawonye (uMthetho No. 124 ka-1993), noma ngabe isiphi esinye isikhungo sezezimali esibhalisiwe esibhekene, ngokugcwele noma ngokungangcwele, ukwamukela amadiphazithi emphakathini jikelele, ukunikeza izikweletu kubantu, noma koku-bili ukwamukela nokunikeza, kanye nokuvikelwa kwesibambiso esibhalisiwe nanoma isiphi isibambiso esamukelwe ngenhloso yokuthola imalimboleko yezindlu;
- 20 (vi) “umuzi” uhlaka lapho kuhlalwa khona olwamukelwa isikhungo sezimali njengesibambiso senkokhelo yemalimboleko yendlu, ngokugcwele noma ngokungagcwele;
- (vii) “imalimboleko yezindlu” isho imalimboleko noma isikweletu esinikezwa yizikhungo zezimali kubantu abafuna ukwakha, ukuthenga, ukulungisa noma ukuthuthukisa amakhaya abo, kanye nokuvikela kwesibambiso esibhalisiwe nanoma isiphi esinye esamukelekayo;
- 30 (viii) “uNgqongoshe” usho uNgqongoshe wezezindlu;
- (ix) “iHhovisi” lisho iHhovisi lokudalulwa kolwazi njengoba limisiwe ngokwesigaba 4;
- (x) “okunqunyiwe” kusho lokho okunqunyiwe yisimiselo;
- 35 (xi) “isimiselo” sisho isimiselo esimiswe ngaphansi kwesigaba 12;
- (xii) “ulwazi oludingekayo” lisho ulwazi oluphawulwe esigabeni 3;
- (xiii) “iHhovisi lobubhalane” lisho iHhovisi lobubhalane njengoba liphawulwe esigabeni 11.

Izibopho zokudalulwa kolwazi yizikhungo zezimali

- 40 2. (1) Kusukela ngosuku lokuqala kokusebenza kwalo Mthetho, yilesi naleso sikhungo sezimali kumele sidalule ulwazi oludingekayo embikweni waso wonyaka wezimali.

(2) The disclosure by a financial institution of the required information is in addition to any other information which the financial institution is obliged to disclose in its financial statements in terms of the Companies Act or any other law.

(3) The required information must be furnished under a separate heading entitled, "Disclosure requirements in terms of Home Loan and Mortgage Disclosure Act". 5

(4) The auditors must comment specifically in the financial institution's annual statements on the accuracy and comprehensiveness of the information disclosed in terms of subsection (1), and whether or not there has been compliance by the financial institution with the relevant provisions of this Act.

Information to be disclosed by financial institution 10

3. (1) A financial institution must, in respect of home loans, disclose the following information:

(a) The total number and amount in rand of completed home loan applications received during the financial year in respect of which the financial statements have been prepared in respect of such— 15

- (i) categories of borrowers as may be prescribed; and
- (ii) geographic areas as may be prescribed;

(b) the total number and amount in rand of home loan applications declined and the reasons for the rejections in respect of such— 20

- (i) categories of prospective borrowers as may be prescribed; and
- (ii) geographic areas as may be prescribed;

(c) the total number and amount in rand of all home loans, closed and disbursed by a financial institution during the financial year in respect of which such financial statements have been prepared;

(d) the total number and amount in rand of all home loans approved by a financial institution during the financial year in respect of which financial statements have been prepared, which must include information in respect of such particular— 25

- (i) categories of borrowers as may be prescribed; and
- (ii) geographic areas as may be prescribed; and

(e) such other information as may be prescribed. 30

(2) When a financial institution discloses the required information in terms of subsection (1), it must also disclose such information in respect of the immediately preceding financial year.

(3) No person may disclose the required information unless— 35

- (a) it is done in terms of this Act;
- (b) required in terms of any other legislation; or
- (c) ordered to do so by a court of law.

Establishment of Office of Disclosure

4. There is hereby established an office to be known as the Office of Disclosure. 40

Functions of Office

5. (1) The Office is responsible for—

- (a) receiving the required information;
- (b) analysing and interpreting the required information;
- (c) receiving and investigating public comments on financial institutions relating to home loans; 45

(d) making available to the public, information that indicates whether or not financial institutions are serving the housing credit needs of their communities, and rating such financial institutions in accordance with such information; 50

(e) assisting in identifying possible discriminatory lending patterns and assisting any statutory regulatory body in enforcing compliance with anti-discriminatory legislation;

(2) Ukudalulwa kolwazi oludingekayo yisikhungo sezimali kwengeza kulokho kokudalulwa kombiko wezimali wonyaka njengokuyala koMthetho weziNkampani noma imuphi omunye.

(3) Ulwazi oludingekayo kumele ukuthi lunikezwe ngaphansi kwesihloko esizimele 5 esithi "Izidingo zokudalulwa kolwazi njengokusho koMthetho wokudalulwa kolwazi ngemalimboleko yezindlu kanye nesibambiso sesikweletu".

(4) Abacwaningi-mabhuku kumele babeke uvo lwabo embikweni wezimali waminyaka yonke wezikhungo zezimali, ekulungeni nasekubeni yikho kolwazi oludaluliwe ngokwesigatshana (1) futhi babone ukuthi izikhungo zezimali zihlangabezane yini 10 nezimiso zalo Mthetho.

Ulwazi oluzodalulwa izikhungo zezimali

3. (1) Isikhungo sezimali kumele ukuthi sidalule lolu lwazi olulandelayo olumayelana nemalimboleko yezindlu:

(a) Isibalo esiphelele kanye nenani ngokwamarandi lalezo zicelo zemalimboleko eziphelele ezamukeliwe ngonyaka wezimali ezisetshenzisiwe lapho kulungiswa umbiko wezezimali ngokubheka lokhu—

(i) izigaba zalabo ababoleke izimali njengokunqunywe; kanye

(ii) nezindawo lapho behlala khona njengokunqunywe;

(b) isibalo esiphelele kanye nenani ngokwamarandi lalezo zicelo zemalimboleko eziphelele ezinqatshiwe kanye nezizathu zokunqatshwa kwazo ngokubheka lokhu—

(i) izigaba zalabo abangaboleka imali esikhathini esizayo njengoba kunqunywe;

(ii) nezindawo lapho behlala khona njengokunqunywe;

(c) isibalo esiphelele kanye nenani ngokwamarandi sazo zonke izimalimboleko zezindlu ezivaliwe kanye nalezo ezikhokhwe isizinda sezimali lapho silungisa umbiko waso wezimali wonyaka;

(d) isibalo esiphelele kanye nenani ngokwamarandi sazo zonke izimalimboleko zezindlu ezivunyiwe isizinda sezimali lapho silungisa umbiko waso wezimali wonyaka; lokhu kumele kubandakanye imininingwane elandelayo—

(i) izigaba zalabo ababoleke izimali njengokunqunywe; kanye

(ii) nezindawo lapho behlala khona njengokunqunywe; kanye

(e) nanoma iluphi olunye ulwazi njengokunqunywe.

(2) Uma ngabe isikhungo sezimali sidalula ulwazi oludingekayo njengokuyala kwesigatshana (1), kumele futhi sidalule lolu lwazi ngokubhekela unyaka wezimali odlule.

(3) Akuna muntu okumele adalule ulwazi oludingekayo ngaphandle kokuba—

(a) lokho kwenziwa njengokuyala kwalo Mthetho;

(b) lolu lwazi ludingeka njengokuyala kwanoma imuphi umthetho; noma

(c) kunomyalo ovela enkantolo yamacala ogunyaza lokho.

Ukumiswa kwe-Ofisi lokudalula ulwazi

4. Ngalokhu kumiswa iHhovisi elizokwaziwa ngokuthi iHhovisi lokudalula ulwazi.

Imisebenzi ye-Hhovisi

5. (1) I-Hhovisi linesibophezelo—

(a) sokwamukela ulwazi oludingekayo;

(b) sokuhlaziya kanye nokucubungula ulwazi oludingekayo;

(c) sokwemukela kanye nokuphenya ngokuphawulwa umphakathi ngezikhungo zezimali ikakhulu lokho okuthintene nemalimboleko yezindlu;

(d) sokwazisa umphakathi ulwazi olukhombisa ukuthi izikhungo zezimali ziyazihlinzekela yini izidingo zezikweletu zezindlu zemiphakathi yazo, kanye futhi nolwazi olukhombisa amazinga ahlukene izikhungo zezimali ezihlangabezana nazo nalezi zidingo;

(e) sokusiza ekuboneni noma ngabe iziphi izindlela ezingenzeka zobandluluto ekubolekiseni ngemali kanye nasekusizeni noma ngabe iyiphi ingalo yomthetho ekuphoqeni ukugcinwa komthetho ongabandlululi;

Act No. 63, 2000 HOME LOAN AND MORTGAGE DISCLOSURE ACT, 2000

- (f) reporting to the Minister annually in respect of its work during the preceding year, and such report must include an analysis of the performance of each financial institution in complying with the terms of the Act; and
- (g) making recommendations to the Minister on any matter falling within the scope of this Act. 5

(2) The Office—

- (a) must ensure that financial institutions comply with this Act and the provisions of item 4 of the Schedule to the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000);
- (b) must advise the Minister on the format, content and timing of disclosure by financial institutions in terms of the requirements of this Act; 10
- (c) may require financial institutions to substantiate information disclosed in terms of this Act where reasonable doubt may exist whether or not the information disclosed is fully accurate or comprehensive; and
- (d) may investigate and institute proceedings to verify the validity of information disclosed by a financial institution in accordance with the requirements of this Act, and for that purpose, such financial institution must afford the Office all reasonable assistance and access to premises and information to enable the Office to analyse and interpret such information. 15

Constitution of Office 20

6. The Office consists of no more than 10 members appointed by the Minister by virtue of their expertise and experience in matters related to banking, housing finance and investment, community economics and civil rights.

Chairperson and deputy chairperson

7. (1) The Minister must designate one of the members of the Office as chairperson of the Office and another as deputy chairperson. 25

(2) (a) When the chairperson is absent or not able to perform his or her functions as chairperson, or when there is a vacancy in the office of chairperson, the deputy chairperson must act as chairperson.

(b) If the chairperson and deputy chairperson are absent or not able to perform the functions of chairperson, the members of the Office must elect another member to act as chairperson. 30

(c) A member acting as chairperson has all the powers and must perform all the duties of the chairperson.

Period of office, vacation of office and filling of vacancies 35

8. (1) A member of the Office must be appointed for such period, not exceeding three years, as the Minister may determine at the time of appointment.

(2) A member of the Office ceases to be a member if—

- (a) he or she resigns;
- (b) without leave of the Office, he or she is absent from three consecutive meetings of the Office; 40
- (c) his or her estate is sequestrated or he or she applies for assistance contemplated in section 10(1)(c) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966);
- (d) he or she has been declared by a court to be mentally ill or disordered; 45
- (e) he or she is convicted of—
- (i) an offence involving dishonesty or corruption; or
- (ii) any other offence and sentenced to imprisonment without the option of a fine;
- (f) he or she becomes a member of Parliament, a provincial legislature, a municipal council, the Cabinet or an executive council of a province; or 50
- (g) the Minister terminates his or her office for reasons which are just and fair.

UMTHETHO WOKUDALULA ULWAZI NGEMALIMBOLEKO
YEZINDLU KANYE NESIBAMBISO SESIKWELETU, 2000

uMthetho Ino. 63, 2000

- (f) sokubika kuNgqongqoshe njalo ngonyaka mayelana nomsebenzi wonyaka odlulile, umbiko kumele ubandakanye ukuhlaziywa kokusebenza kwaleso naleso sikhungo sezimali njengokuyala koMthetho; futhi iHhovisi linesibopho
- 5 (g) sokwenza izincomo kuNgqongqoshe nganoma ngabe iluphi udaba oluwela ngaphansi kwalo Mthetho.
- (2) iHhovisi—
- (a) kumele liqiniseke ukuthi izikhungo zezimali ziyawugcina lo Mthetho kanye nezinhlinzekelo zesigaba 4 zeSheduli kanye noMthetho wokuThuthukiswa kokulingana kanye nokujinjelwa kokubandlululwa okungafanele, 2000 (uMthetho No. 4 ka-2000);
- 10 (b) kumele leluleke uNgqongqoshe ngesimo, ingqikithi kanye nesikhathi sokudalulwa kolwazi izikhungo zezimali njengokwezidingo zalo Mthetho;
- (c) lingafuna ukuthi izikhungo zezimali zesekele ulwazi ezisuke ziludalulile njengokuyala koMthetho uma ngabe kunezinsolo ezigculisayo ngisho noma ngabe ulwazi oludalulwe ludalulwe ngokucophelela noma ngokuphelele; futhi
- 15 (d) lingaphenya noma limangalele isikhungo sezimali esithile ukuze liqiniseke ngobuqiniso bolwazi oludalulwe njengokwezidingo zalo Mthetho, kanti umja kwenzeka lokhu isikhungo sezimali leso kumele sinikeze iHhovisi usizo olufanele kanye nemvume yokungena emagekeni ngokunjalo futhi nolwazi ukuze iHhovisi likwazi ukuhlaziya kanye nokuhumusha ulwazi.
- 20

Umthethosisekelo we-Hhovisi

6. I-Hhovisi libunjwe amalungu angevile kwawu-10 aqokwe uNgqongqoshe ngenxa yobuchule bamakhono kanye nolwazi ezindabeni eziphathelele nezokulondoloza imali, izimali zezindlu kanye nokutshalwa kwezimali, ezomnotho womphakathi kanye nezamalungelo omphakathi.
- 25

USihlalo kanye nosekelasihlalo

7. (1) Ungqongqoshe kumele aqoke ilungu elilodwa le-Hhovisi njengosihlalo we-Hhovisi kanye nelinye ilungu njengosekelasihlalo.
- 30 (2) (a) Uma ngabe usihlalo engekho noma engakwazi ukufeza umsebenzi wakhe njengosihlalo, noma kunesikhala e-ofisi likasihlalo, usekelasihlalo kumele angene esikhundleni sikasihlalo.
- (b) Uma ngabe usihlalo kanye nosekelasihlalo bengekho noma bengakwazi ukwenza umsebenzi wokuba usihlalo, amalungu e-Hhovisi awakhetha elinye ilungu ukuba libambe njengosihlalo.
- 35 (c) Ilungu elibambe njengosihlalo linawo wonke amandla kanti kumele liwenze wonke umsebenzi owenziwa usihlalo.

Isikhathi sokuba se-ofisi, ukushiya ihhovisi kanye nokugcwaliswa kwezikhala

- 40 8. (1) Ilungu le-Hhovisi kumele liqokelwe isikhathi esingeqile eminyakeni emithathu, njengoba uNgqongqoshe engabona kufanele ngesikhathi sokuqokwa kwelungu.
- (2) Ilungu le-Hhovisi liyayeka ukuba ilungu uma—
- (a) lishiya isikhundla;
- 45 (b) ngaphandle kokufaka isicelo sokungabibikho e-Hhovisi, lingabi khona emihlanganweni emithathu elandelayo ye-Hhovisi;
- (c) uma impahla yalo idliwa noma uma lifaka isicelo sosizo njengokuphawulwe esigabeni 10(1)(c) soMthetho weziKweletu zezoLimo, 1966 (uMthetho No. 28 ka-1966);
- (d) uma ngabe litholwe inkantolo ukuthi ligula ngekhandla noma liphambene;
- 50 (e) uma ngabe litholakala linecala—
- (i) elimayelana nokungathembeki noma ukukhohlakala; noma
- (ii) iliphi elinye icala lase liboshwa ngaphandle kokuba nemvume yokukhokha inhlawulo;
- (f) uma liba ilungu lePhalamende, lesishayamthetho, lomkhandlu kamasipala, iKhabinethe noma umkhandlu wesishayamthetho sesifundazwe; noma
- 55 (g) uma uNgqongqoshe eliyekisa e-Hhovisi ngezizathu ezinobulungiswa futhi ezifanele.

(3) A member of the Office may be reappointed at the termination of his or her term of office.

(4) If a member of the Office ceases to hold office before the end of his or her term of office, the Minister may, subject to section 6, appoint somebody to fill the vacancy for the remainder of the period of the term of office of the member.

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Meetings of Office

9. (1) The first meeting of the Office must be held at the time and place determined by the Minister, and thereafter a meeting of the Office must be held at the time and place determined by the chairperson.

(2) The chairperson—

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(a) may convene a special meeting of the Office;

(b) must convene such meeting within 14 days of the receipt of a written request signed by at least five members of the Office to convene such meeting.

(3) A quorum for a meeting of the Office is more than 50 per cent of its members.

(4) The chairperson determines the procedure at the meetings of the Office.

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(5) All decisions of the Office must be taken by consensus but where consensus is not reached, the decision of a majority of the members present is the decision of the Office.

(6) In the event of an equality of votes on any matter, the person presiding at the meeting will have a casting vote in addition to that person's deliberative vote.

(7) Members of the Office must, before any decisions are taken, disclose any conflicts of interest, financial or otherwise, which they might have in making any decision relating to their tasks.

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Remuneration and allowances of members of Office

10. Any member of the Office who is not in the full-time service of the State must be paid such remuneration and allowances as the Minister may, with the approval of the Minister of Finance, determine.

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Secretariat

11. (1) The work incidental to the performance of the functions of the Office must be performed by a secretariat consisting of officials of the Department designated for that purpose by the Minister.

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(2) The costs and expenses connected with the application of this Act must be defrayed from money appropriated by Parliament to the Department for that purpose.

(3) The Director-General of Housing is the accounting officer for the Office and must cause the installation of the necessary financial controls and management measures by the Office to ensure full accountability for expenses incurred by the Office.

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(4) Minutes of the proceedings of the Office must be kept and retained by the secretariat.

Regulations

12. The Minister must, in consultation with the Minister of Finance and the Governor of the Reserve Bank, make regulations regarding any matter which—

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(a) in terms of this Act is required or permitted to be prescribed; and

(b) it is necessary or expedient to prescribe in order to achieve or promote the objectives of this Act.

(3) Ilungu le-Hhovisi lingaphinda futhi likhethwe ekupheleni kwesikhathi sokuba se-Hhovisi.

(4) Uma ilungu liyeka ukuba ilungu ngaphambi kokuphela kwesikhathi sokuba se-Hhovisi, uNqongqoshe angakhetha omunye umuntu agcwalise isikhala kuze 5 kuphele isikhathi ebesisasele selungu lelo, njengokuyala kwesigaba 6.

Imihlangano ye-Hhovisi

9. (1) Umhlangano wokuqala we-Hhovisi kumele ubanjwe ngesikhathi kanye nasendaweni eqokwe uNqongqoshe, emuva kwalokho umhlangano we-Hhovisi kumele ubanjwe ngesikhathi kanye nasendaweni eqokwe usihlalo.

10 (2) Usihlalo—

(a) angabiza umhlangano ophuthumayo we-Hhovisi;

(b) kumele awubize lowo mhlango zingakapheli izinsuku ezingu-14 zokwaziswa kwamalungu ngencwadi, okungenanani angu-5 ngokubizwa komhlangano lowo.

15 (3) Isibalo samalungu alingene ukuthi kungabanjwa umhlangano we-Hhovisi si-ngaphezu kwamaphesente angu-50 amalungu e-Hhovisi.

(4) Usihlalo nguye oqoka uhlelo lomhlangano we-Hhovisi.

(5) Zonke izinqumo ze-Hhovisi kumele zithathwe ngokuvumelana kodwa uma ngabe kungekho ukuvumelana, isinqumo seningi lamalungu akhona kuba isinqumo 20 se-Hhovisi.

(6) Uma kwenzeka kuba nokulingana kwamavoti nganoma ngaluphi udaba, ilungu eliwusihlalo womhlangano liyoba nelungelo lokuvota ngaphezu kwevoti lalo eselikhona.

(7) Amalungu e-Hhovisi kumele adalule noma ngabe iyiphi into, okungaba imali 25 noma okunye, okungaba isiphazamiso ekuthathweni kwezinqumo eziphatelene nomsebenzi wawo ngaphambi kokuba kuthathwe izinqumo.

Inkokhelo kanye nezibonelelo zamalungu e-Hhovisi

10. Noma iliphi ilungu le-Hhovisi elingasebenzeli umbuso ngokugcwele kumele ukuba lithole inkokhelo kanye nezibonelelo, njengokubona kukaNqongqoshe ngoku- 30 vumelana kanye noNqongqoshe wezeZimali.

iHhovisi lobubhalane

11. (1) Umsebenzi ongaqondene ngqo nemisebenzi yaleli Hhovisi kumele wenziwe i-ofisi lobubhalane elibunjwe izikhulu zoMnyango oqokwe uNqongqoshe ukwenza lo msebenzi.

35 (2) Izindleko eziqondene nokusebenza kwalo Mthetho kumele ukuba zikhokhwe ngemali ehluhaniselwe uMnyango iPhalamende ukwenza lokhu.

(3) UMqondisi-Jikelele woMnyango wezezindlu isikhulu sezimali saleli Hhovisi kanti futhi kumele ukuba athathe izinyathelo ezifanele ukubona ukuthi izimali kanye nokuphathwa kwe-Hhovisi kwenzeka ngokufanele ukuze aqiniseke ngokugcwele 40 ngezindleko ezitholakala kuleli Hhovisi.

(4) Amaminithi akho konke okuqhubeka e-Hhovisini kumele agcinwe e-Hhovisini lobubhalane.

Izimiselo

12. UNqongqoshe, ebonisana noNqongqoshe wezezimali kanye noMphathi we- 45 Bhangengodla, angenza izimiselo nganoma iluphi udaba—

(a) olufunekalayo noma oluvumelekile ukunqunywa ngokwalo Mthetho; futhi

(b) kubalulekile noma kufanele ukunquma ukuze kuphunyeleliswe noma kuthuthukiswe izinhloso zalo Mthetho.

Amendment to Usury Act, 1968 (Act No. 73 of 1968)

13. The definition of "housing loan" in section 1 of the Usury Act, 1968 (Act No. 73 of 1968), is hereby amended by the substitution for paragraph (c) of the following paragraph:

"(c) where the loan is a home loan as defined in section 1 of the Home Loan and Mortgage Disclosure Act, 2000." 5

Exemptions

14. (1) The Minister may exempt a financial institution, or a category of financial institutions, from any or all of the requirements of this Act for a specified period of time, if the financial institution, or category of financial institutions, requires time to adjust systems and procedures in order to collect and provide the required information, or to collect the necessary information and put in place administrative systems to enable compliance with the requirements of this Act. 10

(2) An exemption contemplated in subsection (1) may not exceed one year.

Offences and penalties

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15. (1) Any person who contravenes or fails to comply with any provision of this Act is guilty of an offence.

(2) A person convicted of an offence in terms of subsection (1) is liable to a fine not exceeding R100 000,00.

Short title and commencement

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16. This Act is called the Home Loan and Mortgage Disclosure Act, 2000, and takes effect on a date determined by the President by proclamation in the *Gazette*.

**Ukuchibiyelwa koMthetho wokubiza imali enkulu ngemali ebolekiwe, 1968
(UMthetho No. 73 ka-1968)**

13. Incazelo “yemalimboleko yezindlu” esigabeni 1 soMthetho wokubiza imali enkulu ngemali ebolekiwe, 1968 (uMthetho No. 73 ka-1968) iyachibiyelwa lapha ngokuthi esikhundleni sesigatshana (c) kufakwe lesi sigatshana esilandelayo:

“(c) lapho imalimboleko kuyimalimboleko yezezindlu njengoba kuchaziwe esigabeni 1 soMthetho wokudalula ulwazi ngemalimboleko kanye nesebambiso sesikweletu, 2000.”

Ukukhululwa

10 14. (1) UNgqongqoshe angasikhulula isikhungo sezimali, noma isigaba esithile esiyisikhungo semali, kunoma iyiphi noma kuzo zonke izidingo zalo Mthetho okwesikhathi esithile esinqunyiwe, uma isikhungo sezimali, noma isigaba esithile esiyisikhungo semali sidinga isikhathi sokuhlela kabusha izindlela kanye nezinqubo zaso ukuze sikwazi ukuqoqa futhi sinikeze ulwazi oludingekayo, noma ukuqoqa ulwazi
15 oludingekayo futhi sisungule inqubo yokuphatha ukuze sikwazi ukuhambisana nokugcina izidingo zalo Mthetho.

(2) Ukukhululwa okuphawulwe esigatshaneni (1) kungeze kweqa unyaka owodwa.

Amacala nezinhlawulo

15. (1) Noma imuphi umuntu owephula noma owehluleka ukuhambisana nanoma isiphi isimiselo salo Mthetho unecala.

(2) Noma imuphi umuntu olahlwa ngecala okubhekiswe kulo kusigatshana (1) angahlawuliswa inhlawulo engeqile ku-100 000,00.

Isihloko esifinqiwe nokuqala

16. Lo Mthetho ubizwa ngokuthi uMthetho wokudalula ulwazi ngemalimboleko kanye nesibambiso sesikweletu, 2000, futhi uyaqala ukuba namandla ngosuku oluyonqunywa nguMongameli ngesimemezero ku*Gazethi*.