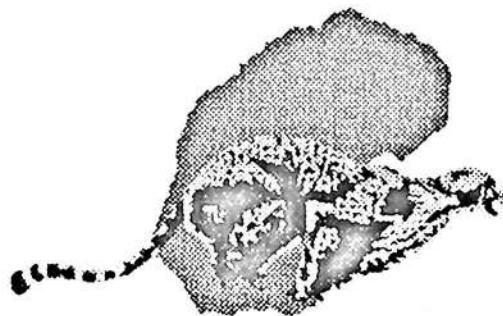




FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

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GENERAL NOTICE 11 OF 1998

**PUBLICATION OF THE FREE STATE
DEVELOPMENT CORPORATION
AMENDMENT BILL**

It is notified for general information and comment that the above-mentioned Bill is hereby published in terms of Rule 124(a) of the Rules and Orders of the Free State Legislature.

Any comments or remarks must be submitted to the Secretary: Free State Legislature, Private Bag X20561, Bloemfontein, to reach her not later than 21 August 1998.

E ROCKMAN
SECRETARY: FREE STATE LEGISLATURE

ALGEMENE KENNISGEWING 11 VAN 1998

**PUBLIKASIE VAN DIE
WYSIGINGSWETSONTWERP OP DIE
VRYSTAATSE
ONTWIKKELINGSKORPORASIE**

Dit word vir algemene kennisname en kommentaar bekendgemaak dat bostaande Wetsontwerp hierby gepubliseer word in terme van Reël 124(a) van die Reëls en Orders van die Vrystaatse Wetgewer.

Enige kommentaar of opmerkings moet gestuur word aan die Sekretaris: Vrystaatse Wetgewer, Privaatsak X20561, Bloemfontein, om haar nie later as 21 Augustus 1998 te bereik nie.

E ROCKMAN
SEKRETARIS: VRYSTAATSE WETGEWER

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

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

BILL

To amend the Free State Development Corporation Act, 1995 so as to define anew certain expressions and set out specifically the capacity and powers of the Corporation and the powers of the Board.

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows:

Amendment of section 1 of Act 6 of 1995

1. Section 1 of the Free State Development Corporation Act, 1995 (hereinafter referred to as "the principal Act"), is amended -
 - (a) by insertion after the definition of "business" of the following definition:

" 'Companies Act' means the companies Act, 1973 (Act No 61 of 1973);";
 - (b) by the substitution for the definition "Constitution" of the following definition:

" 'Constitution' means the Constitution of the Republic of South Africa, [1993 (Act No 200 of 1993)] 1996 (Act No 108 of 1996);";
 - (c) by the substitution for the definition "responsible Member" of the following definition:

" 'responsible Member' means the member of the Executive Council of the Province responsible for Finance and Economic Affairs [**and Tourism**];"; and
 - (d) by insertion after the definition of "responsible Member" of the following definition:

" 'small business' means small business as defined in section 1 of the National Small Business Act, 1996 (Act No 102 of 1996).";

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vetdruk in vierkantige hake dui skrapping uit bestaande verordeninge aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

WETSONTWERP

Tot wysiging van die Wet op die Vrystaatse Ontwikkelingskorporasie, 1995, ten einde sekere uitdrukkings opnuut te omskryf en om spesifiek die vermoë en bevoegdhede van die Korporasie en die bevoegdhede van die Raad uiteen te sit.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Vrystaat, soos volg:

Wysiging van artikel 1 van Wet 6 van 1995

1. Artikel 1 van die Wet op die Vrystaatse Ontwikkelingskorporasie, 1995 (hierna "die Hoofwet" genoem), word gewysig –
 - (a) deur die omskrywing van "Grondwet" met die volgende omskrywing te vervang:

" 'Grondwet' beteken die Grondwet van die Republiek van Suid-Afrika, [1993 (Wet No 200 van 1993)] 1996 (Wet No 108 van 1996);";
 - (b) deur na die omskrywing van "herroepe wet" die volgende omskrywing in te voeg:

" 'kleinsaak' beteken kleinsaak soos omskryf in artikel 1 van die Nasionale Kleinsakewet, 1966 (Wet No 102 van 1996);";
 - (c) deur na die omskrywing van "korporasie" die volgende omskrywing in te voeg:

" 'Maatskappywet' beteken die Maatskappywet, 1973 (Wet No 61 van 1973);"; en
 - (d) deur die omskrywing "verantwoordelike Lid" met die volgende omskrywing te vervang:

" 'verantwoordelike Lid' beteken die Lid van die Uitvoerende Raad van die Provinsie verantwoordelik vir Finansies en Ekonomiese Sake [en Toerisme];".

FREE STATE DEVELOPMENT CORPORATION AMENDMENT BILL

Amendment of section 2 of Act 6 of 1995

2. Section 2 of the principal Act is substituted by the following section:

"2. (1) A juristic person to be known as the Free State Development Corporation is hereby established. 5

(2) The provisions of the Companies Act, shall *mutatis mutandis* be applicable in all respects to the Corporation, unless its application is expressly or in the context of this Act limited: Provided that in such application any reference in the Companies Act to a director or an officer of a company, unless the context indicates otherwise, shall be construed as a reference to the Corporation, a director or an officer of the Corporation, as the case may be. 10

Insertion of section 2A of Act 6 of 1995 15

3. The following section is inserted in the principal Act after section 2:

"Share capital of Corporation 20

2A. (1) The share capital of the Corporation -

(a) shall be R 100-00, divided into 100 shares, each with a nominal value of R1-00; and 25

(b) may, from time to time and with the approval of the responsible Member, be increased or decreased.

(2) The Free State Provincial Government shall be the holder of all the shares in the Corporation and the Corporation shall issue appropriate share certificates in this regard to the Provincial Government. 30

(3) The rights attached to the shares shall be exercised by the responsible Member." 35

Amendment of section 3 of Act 6 of 1995 35

4. Section 3 of the principal Act is substituted by the following section:

"Main objects [Objects] of the Corporation 40

"(3) The objects of the Corporation shall be [in accordance with a policy determined by the responsible Member or any direction given by him or her] to perform or promote urban or rural development in the Province with special emphasis on the promotion and development of small business with regard to any matter within the function areas specified in [Schedule 6] Schedules 4 and 5 of the Constitution." 45

Wysiging van artikel 2 van Wet 6 van 1995

2. Artikel 2 van die Hoofwet word deur die volgende artikel vervang:

“2. (1) Hierby word ‘n regspersoon met die naam die Vrystaatse Ontwikkelingskorporasie ingestel.

(2) Die bepalings van die Maatskappywet is in alle opsigte *mutatis mutandis* van toepassing op die Korporasie, tensy die toepassing daarvan uitdruklik of in die samehang van hierdie Wet beperk is: Met dien verstande dat in sodanige toepassing tensy uit die samehang anders blyk, word enige verwysing daarin na ‘n direkteur of ‘n beampte van ‘n maatskappy, vertolk as verwysing na die Korporasie, ‘n direkteur of ‘n beampte van die Korporasie, na gelang van die geval.”.

Invoeging van artikel 2A in Wet 6 van 1995

3. Die volgende artikel word na artikel 2 van die Hoofwet ingevoeg:

“Aandelekapitaal van Korporasie

2A. (1) Die aandelekapitaal van die Korporasie –

(a) is R100-00, bestaande uit 100 aandele, met ‘n nominale waarde van R1-00 elk; en

(b) kan, van tyd tot tyd met die toestemming van die verantwoordelike Lid, vermeerder of verminder word.

(2) Die Vrystaatse Provinsiale Regering is die enigste aandeelhouer van al die aandele in die Korporasie en die Korporasie sal die toepaslike aandeelsertifikate in hierdie verband aan die Provinsiale Regering uitreik.

(3) Die verantwoordelike Lid sal alle regte verbonde aan die aandele uitoefen.”.

Wysiging van artikel 3 van Wet 6 van 1995

4. Artikel 3 van die Hoofwet word vervang deur die volgende artikel:

“Hoofdoogmerke [Oogmerke] van die Korporasie

“(3) Die oogmerke van die Korporasie is om [ooreenkomstig ‘n beleid deur die verantwoordelike Lid bepaal of enige lasgewing deur hom of haar uitgereik] stedelike en landelike ontwikkeling in die Provinsie te doen en te bevorder met die klem op die bevordering en ontwikkeling van kleinsake met betrekking tot enige aangeleentheid binne die funksionele terreine in [Bylae 6] Bylaes 4 en 5 van die Grondwet vermeld.”.

FREE STATE DEVELOPMENT CORPORATION AMENDMENT BILL

Amendment of section 4 of Act 6 of 1995

5. Section 4 of the principal Act is substituted by the following section:

"Capacity and powers of the Corporation"

4. (1) The Corporation shall have the capacity determined by the main objects stated in section 3 and there shall be included in its capacity unlimited objects ancillary to the said main objects.
- (2) The Corporation shall have plenary powers, including the common powers stated in Schedule 2 in the Companies Act, to enable it to realise its main and ancillary objects."

Insertion of section 4A in Act 6 of 1995

6. The following section is inserted in the principal Act after section 4:

"Powers of the Board of Directors"

- 4A. The powers of the Board of Directors shall be to endeavour to achieve all the main and ancillary objects for which the Corporation is established and to exercise all the plenary and common powers of the Corporation and without detracting from the generality of this section the powers of the Board shall include the following:
- (1) to plan, finance, co-ordinate, promote, establish or carry on any business or undertaking in respect of the matters referred to in section 3 or to acquire or dispose of such business or undertaking or any portion thereof;
- (2) to plan, finance, co-ordinate, promote or carry out, or to assist in the planning, financing, co-ordinating, promoting or carrying out of any project for the housing and economic development of the Province or its peoples or any part thereof;
- (3) to grant or guarantee loans, provide capital or other means to any persons, companies, close corporations, co-operative societies, partnerships or other associations of persons, whether corporate or not, for the purpose of achieving the Corporation's objects;
- (4) to take such securities as it may deem fit;
- (5) to raise loans or borrow money;

Wysiging van artikel 4 van Wet 6 van 1995

5. Artikel 4 van die Hoofwet word vervang deur die volgende artikel:

5 **"Vermoë en bevoegdhede van die Korporasie**

4. (1) Die Korporasie het die vermoë soos bepaal deur die hoofogmerke uiteengesit in artikel 3 en ingeslote by sy vermoë is onbeperkte aanvullende oogmerke tot die hoofogmerke.

10 (2) Die Korporasie het volmag, ingeslote die algemene bevoegdhede soos uiteengesit in Bylae 2 van die Maatskappywet, om hom in staat te stel om sy hoofogmerke en aanvullende oogmerke te verwesenlik."

15 **Invoeging van artikel 4A in Wet 6 van 1995**

6. Die volgende artikel word ingevoeg in die Hoofwet na artikel 4:

20 **"Bevoegdhede van die Raad**

4A. Die bevoegdhede van die Raad sal wees om daarna te streef om al die hoofogmerke en aanvullende oogmerke te bereik waarvoor die Korporasie opgerig is en om al die volmagte van die Korporasie uit te oefen en sonder om afbreuk te doen aan die algemeenheid van hierdie artikel, sluit die bevoegdhede van die Raad die volgende in:

25 (1) om enige besigheid of sakeonderneming ten opsigte van aangeleenthede soos na verwys in artikel 3 te beplan, te finansier, te koördineer, te bevorder, op te rig of voort te sit of om sodanige besighede of sakeonderneming of gedeelte daarvan te verkry of te verkoop;

30 (2) om projekte wat ten doel het om die Provinsie en persone in sodanige Provinsie of gedeelte daarvan vir behuisingsdoeleindes en ekonomies te ontwikkel, te beplan, te finansier, te koördineer, te bevorder of voort te sit;

35 (3) om lenings toe te staan en te waarborg, om kapitaal of ander middele te voorsien aan enige persone, maatskappye, beslote korporasies, koöperatiewe verenigings, vennootskappe of ander verenigings van persone, met of sonder regspersoonlikheid, ten einde die Korporasie se oogmerke te bereik;

40 (4) om sodanige sekuriteite te neem as wat hy goedvind;

(5) om geld op te neem of te leen;

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- (6) in the execution of the Corporation's operations, to acquire, develop, rent, sell, lease, burden, or otherwise alienate or dispose of movable or immovable property, whether corporeal or incorporeal, including rights therein or thereto. Every alienation of immovable property must be in line with the Free State Provincial Government policy as determined from time to time; 5
- (7) to employ officers and employees under such conditions and to pay them such remuneration and benefits as it may determine;
- (8) to enter into and finance joint ventures or act as agent; 10
- (9) to furnish technical and other assistance and expert and specialised advice, information and guidance, in accordance with the approved budget to any persons, companies, close corporations, co-operative societies, partnerships or other associations of persons, whether corporate or not; 15
- (10) to issue, negotiate, accept, endorse or discount debentures, bills of exchange and other negotiable instruments;
- (11) to take deposits offered by any person or juristic person for investment and to hold such deposits on such conditions as may be agreed upon, and to arrange and to decide upon the investment and application thereof; 20
- (12) to control, carry out, guarantee, underwrite, finance or bring about the issue of any loan or of any shares, stock or debentures, or to advance money for that purpose; 25
- (13) to apply the Corporations' funds or moneys to the establishment of a reserve fund, or to invest any funds or moneys not immediately required for its affairs; 30
- (14) to accept donations and to receive any moneys offered to it;
- (15) in the execution of the Corporation's operations, to issue guarantees, or provide indemnities, or enter into any suretyship; 35
- (16) to act as director, manager, testamentary executor, administrator, liquidator, judicial manager, trustee or agent of any concern, estate, trust, company, close corporation, person or juristic person, and to appoint any persons to act on the Corporation's behalf for such purpose;

WYSIGINGSWETSONTWERP OP DIE VRYSTAATSE ONTWIKKELINGSKORPORASIE

- 5 (6) vir die verrigtinge van die Korporasie se werksaamhede, om roerende of
onroerende eiendom, hetsy liggaamlik of onliggaamlik, met inbegrip van
regte daarin of daaroor te verkry, te ontwikkel, te huur, te verkoop, te
verhuur, te beswaar of andersins te vervreem of daaroor te beskik. Elke
vervreemding van onroerende eiendom moet geskied in ooreenstemming
met die beleid van die Vrystaatse Provinsiale Regering soos van tyd tot tyd
neergelê;
- 10 (7) om beamptes en werknemers in diens te neem onder sulke omstandighede
teen die betaling van besoldigings en voordele as wat hy mag bepaal;
- (8) om samewerkingsooreenkomste te sluit en te finansier of as
verteenwoordiger op te tree;
- 15 (9) om in ooreenstemming met die goedgekeurde begroting tegniese en ander
hulp en gespesialiseerde advies, inligting en voorligting te verskaf aan enige
persone, maatskappye, beslote korporasies, koöperatiewe verenigings,
vennootskappe of enige ander vereniging van persone, met of sonder
regspersoonlikheid;
- 20 (10) om skuldbriewe, wissels en ander verhandelbare stukke uit te reik, te
verhandel, te aksepteer, te endosseer of te verdiskonteer;
- 25 (11) om depositos wat deur enige persoon of regspersoon vir belegging
aangebied word, te neem en sodanige depositos te hou op die voorwaardes
waarop ooreengekom word en om die belegging en aanwending daarvan te
reël en te bepaal;
- 30 (12) om die uitgifte van enige lening of van enige aandele, effekte of skuldbriewe
te beheer, uit te voer, te finansier of te bewerkstellig, of om geld vir dié doel
voor te skiet;
- 35 (13) om die Korporasie se fondse of geld aan te wend vir die instelling van 'n
reserwefonds, of geld wat nie onmiddellik vir sy sake benodig word nie, te
belê;
- (14) om skenkings aan te neem en om enige gelde aangebied, te ontvang;
- 40 (15) vir die uitvoering van die Korporasie se werksaamhede, om waarborge uit te
reik, om vrywarings te verskaf of om enige borgstelling aan te gaan;
- 45 (16) om as direkteur, bestuurder, eksekuteur, testamentêre eksekuteur,
administrateur, likwidateur, geregtelike bestuurder, trustee of agent van enige
saak, boedel, trust, maatskappy, persoon of regspersoon op te tree en om 'n
persoon of persone aan te wys om vir sodanige doel namens die Korporasie
op te tree;

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- (17) to cause any company, close corporation or other juristic person that might be
the Corporation's debtor or in which the Corporation has any interest, to be
liquidated or placed under judicial management, or to cause the estate of any of
the Corporation's debtors to be sequestrated; 5
- (18) to act as broker;
- (19) to plan, promote, undertake or finance the training of manpower in respect of
the matters referred to in section 3; 10
- (20) to pay all expenses in connection with the Corporation's own administration;
- (21) to operate on existing banking accounts or accounts with other financial
institutions, to open new accounts and operate thereon, and to close any
account; 15
- (22) to establish, assist in establishing, acquire an interest in, or finance companies;
- (23) adopt such measures as it may deem necessary or desirable in order to ensure
that businesses of which the Corporation is the owner are managed and
conducted, and that services are performed at such businesses in a manner which
is, in its opinion, orderly, economical and effective; 20
- (24) to exercise any other powers stated in Schedule 2 in the Companies Act which is
necessary for the achievement of the Corporation's objectives." 25

Amendment of section 5 of Act 6 of 1995

7. Section 5 of the principal Act is substituted by the following section: 30

- "(1) The affairs of the Corporation shall be managed and controlled by a board of
Directors which may exercise the powers of the Corporation and may delegate these
powers and authorities to the Chairperson of the Board, management or employees of
the Corporation. 35
- (2) The board of directors shall consist of not more than [16] 2 persons appointed by the
responsible Member."

- (17) om enige maatskappy, beslote korporasie of ander regspersoon wat 'n skuldenaar van die Korporasie mag wees of waarin die Korporasie 'n belang het, te laat likvideer of onder geregtelike bestuur te laat plaas of om die boedel van enige van die Korporasie se skuldenare te laat sekwestreer;
- (18) om as makelaar op te tree;
- (19) in die opleiding van mannekrag met betrekking tot die aangeleenthede in artikel 3 bedoel, te beplan, te bevorder, te onderneem of te finansier;
- (20) om al die uitgawes in verband met die Korporasie se administrasie te betaal;
- (21) om met bestaande bankrekenings of rekenings by ander finansiële instellings te opereer, nuwe rekenings te open en daarmee te opereer, en om enige rekening te sluit;
- (22) om maatskappye te vestig, hulp te verleen met vestiging, 'n belang daarin te bekom of te finansier;
- (23) die maatreëls tref wat hy nodig of wenslik ag ten einde te verseker dat besighede waarvan die Korporasie die eienaar is, bestuur en bedryf word, en dat dienste wat by daardie besighede verrig word, op 'n wyse wat na sy mening orderlik, ekonomies en doeltreffend is;
- (24) om enige ander bevoegdhede soos uiteengesit in Bylae 2 van die Maatskappywet wat noodsaaklik is vir die bereiking van die Korporasie se oogmerke, uit te oefen.".

Wysiging van artikel 5 van Wet 6 van 1995

7. Artikel 5 van die Hoofwet word deur die volgende artikel vervang:

- (1) Die sake van die Korporasie word deur 'n raad van direkteure wat die bevoegdhede van die Korporasie kan uitoefen, bestuur en beheer en mag hierdie bevoegdhede en magte deleger na die Voorsitter van die Raad, die bestuur of werknemers van die Korporasie.
- (2) Die raad van direkteure bestaan uit hoogstens [16] 2 persone wat deur die verantwoordelike Lid aangestel word."

FREE STATE DEVELOPMENT CORPORATION AMENDMENT BILL

Amendment of section 6 of Act 6 of 1995

8. Section 6 of the principal Act is amended by the substitution of subsection (3) of the following subsection:

“(3) A director shall hold office upon such conditions (including the payments of remuneration and allowance) as the responsible Member may [**with the consent of the Member of the Executive Council responsible for Finance,**] determine.”.

5

Amendment of section 7 of Act 6 of 1995

10

9. Section 7 of the principal Act is amended by the substitution of subsection (2) of the following subsection:

“(2) A director may on good cause shown at any time be removed from office by the responsible Member.”.

15

Amendment of section 9 of Act 6 of 1995

10. Section 9 of the principal Act is amended by:

20

- (a) the substitution of subsection (1) of the following subsection:

“(1) The responsible Member in consultation with the Board shall appoint one of the directors referred to in section 5(2) as managing director of the Corporation.”.

25

- (b) the substitution of subsection (3) of the following subsection:

“(3) The managing director shall hold office upon such conditions (including the payment of remuneration and allowance) as the responsible Member in consultation with the Board may [**with the consent of the Member of the Executive Council responsible for Finance,**] determine.”.

30

Amendment of section 10 of Act 6 of 1995

35

11. Section 10 of the principal Act is amended by the substitution of subsection (2) of the following subsection:

“(2) The managing director may on good cause shown at any time be removed from office by the responsible Member in consultation with the Board.”.

40

Wysiging van artikel 6 van Wet 6 van 1995

8. Artikel 6 van die Hoofwet word gewysig deur die vervanging van subartikel (3) deur die volgende subartikel:

“(3) ‘n Direkteur beklee sy of haar amp op die voorwaardes (met inbegrip van die betaling van besoldiging en toelaes) wat die verantwoordelike Lid [**met die toestemming van die Lid van die Uitvoerende Raad verantwoordelik vir Finansies,**] bepaal.”.

Wysiging van artikel 7 van Wet 6 van 1995

9. Artikel 7 van die Hoofwet word gewysig deur die vervanging van subartikel (2) deur die volgende subartikel:

“(2) ‘n Direkteur kan met die aantoon van grondige rede te eniger tyd deur die verantwoordelike Lid van sy of haar amp onthef word.”.

Wysiging van artikel 9 van Wet 6 van 1995

10. Artikel 9 van die Hoofwet word gewysig deur:

(a) die vervanging van subartikel (1) deur die volgende subartikel:

“(1) Die verantwoordelike Lid in oorleg met die Raad stel een van die direkteure bedoel in artikel 5(2) as besturende direkteur van die Korporasie aan.”.

(b) die vervanging van subartikel (3) deur die volgende subartikel:

“(3) Die besturende direkteur beklee sy of haar amp op die voorwaardes (met inbegrip van die betaling van besoldiging en toelaes) wat die verantwoordelike Lid in oorleg met die Raad mag [**met die toestemming van die Lid van die Uitvoerende Raad verantwoordelik vir Finansies,**] bepaal.”.

Wysiging van artikel 10 van Wet 6 van 1995

11. Artikel 10 van die Hoofwet word gewysig deur die vervanging van subartikel (2) deur die volgende subartikel:

“(2) Die besturende direkteur mag met die aantoon van grondige rede, ter eniger tyd deur die verantwoordelike Lid in oorleg met die Raad van sy of haar amp onthef word.”.

FREE STATE DEVELOPMENT CORPORATION AMENDMENT BILL

Amendment of section 13 of Act 6 of 1995

12. Section 13 of the principal Act is substituted by the following section:

"Loans to directors

No loans shall be made directly or indirectly out of the funds of the Corporation or any other funds administered by the Corporation to a director of the Corporation without the prior written consent of the responsible Member."

Amendment of section 14 of Act 6 of 1995

13. Section 14 of the principal Act is amended by the substitution of paragraph (a) of the following paragraph:

"(a) for a director in respect of bodily injury, disablement or death, or any other loss or damage, resulting solely and directly from [an accident occurring in the course of] the performance of his or her duties as a director; and".

Amendment of section 15 of Act 6 of 1995

14. Section 15 of the principal Act is repealed.

Amendment of section 23 of Act 6 of 1995

15. Section 23 of the Principal Act is amended by the substituting of subsection (2)(a) of the following subsection:

"(2) At the commencement of this Act –

- (a) all assets, liabilities, rights and obligations of a dissolved corporation shall vest in the Corporation: Provided that the responsible Member may by notice in the *Provincial Gazette* further regulate matters relating to the assets, liabilities, rights and obligations of the Corporation including transfer to any entity, person or body: Provided further that such administrative records and other documents of a dissolved corporation as may be determined by the responsible Member shall be transferred to the Corporation, any entity, person or body;".

Wysiging van artikel 13 van Wet 6 van 1995

12. Artikel 13 van die Hoofwet word deur die volgende artikel vervang:

"Lenings aan direkteure"

Geen lening, hetsy direk of indirek, uit die fondse van die Korporasie of enige ander fondse wat deur die Korporasie geadministreer word, sal toegestaan word aan 'n direkteur van die Korporasie sonder die voorafverkreë skriftelike goedkeuring van die verantwoordelike Lid nie."

Wysiging van artikel 14 van Wet 6 van 1995

13. Artikel 14 van die Hoofwet word hierby gewysig deur die vervanging van paragraaf (a) deur die volgende paragraaf:

"(a) van 'n direkteur ten opsigte van liggaamlike besering, ongeskiktheid of dood, of enige ander verlies of skade, wat uitsluitlik en regstreeks die gevolg is van [n ongeluk wat in die loop van] die verrigting van sy of haar pligte as direkteur, [plaasvind;] en".

Skrapping van artikel 15 van Wet 6 van 1995

14. Artikel 15 van die Hoofwet word hierby geskrap.

Wysiging van artikel 23 van Wet 6 van 1995

15. Artikel 23 van die Hoofwet word hierby gewysig deur die vervanging van subartikel (2)(a) deur die volgende subartikel:

"(2) By inwerkingtreding van hierdie Wet –

- (a) gaan alle bates, laste, regte en verpligtinge van 'n ontbonde korporasie oor op die Korporasie: Met dien verstande dat die verantwoordelike Lid by kennisgewing in die Provinsiale Koerant aangeleenthede betreffende die bates, laste, regte en verpligtinge van die Korporasie verder kan reël met inbegrip van die oordrag na enige entiteit, persoon of liggaam: Met dien verstande verder dat die administratiewe aantekeninge en ander stukke van 'n ontbonde korporasie wat die verantwoordelike Lid bepaal, aan die Korporasie, enige entiteit, persoon of liggaam oorgedra moet word;"

FREE STATE DEVELOPMENT CORPORATION AMENDMENT BILL

Insertion of section 23A in Act 6 of 1995

16. The following section is inserted in the principal Act after section 23:

"Liquidation

5

23A. The Corporation shall not be liquidated or placed under judicial management unless
the Executive Council of the Province has taken a special resolution to that effect."

Short title

10

17. This Act shall be called the Free State Development Corporation Amendment Act, 1998.

Invoeging van artikel 23A in Wet 6 van 1995

16. Die volgende artikel word hierby ingevoeg na artikel 23 in die Hoofwet:

"Likwidasie

23A. Die Korporasie word nie gelikwideer of onder geregtelike bestuur geplaas nie behalwe by 'n spesiale besluit tot dien effekte deur die Uitvoerende Raad van die Provinsie."

Kort titel

17. Hierdie Wet heet die Wysigingswet op die Vrystaatse Ontwikkelingskorporasie, 1998.

MEMORANDUM

GENERAL

The purpose of this Amendment Bill is to bring the Free State Development Corporation Act (Act No 6 of 1995) (the principal Act) in line with generally accepted principles of Company Law and good corporate governance.

These proposed amendments do not imply total independence. The Corporation is an operational arm of the Government and as such implements the policy of Government and its aims and objects are in line with those of the Government.

Therefore, the checks and balances already built into the principal Act are retained. These allow Government to control and direct the Corporation, some of which are the following:

- * The special emphasis on the promotion and development of small business - section 3.
- * The responsible Member appoints the Board of Directors and the managing director - sections 5 and 9 respectively and may remove them - sections 7 and 10 respectively.
- * The Corporation must keep minutes of proceedings at meetings of the Board of Directors which the responsible Member may at any time request - section 12.
- * Financial statements must be compiled and submitted annually after it has been audited by the Auditor General - sections 17 and 19.
- * The Corporation reports annually to the responsible Member on its activities during a financial year - section 20.
- * Other powers conferred on a shareholder in terms of the Companies Act and the relevant common law principles are applicable to Government as the sole shareholder.

The Amendment Bill will bring the FDC Act in line with the acts of other development corporations, i.e. KwaZulu Finance and Investment Corporation (KFC), North West Development Corporation, Northern Province Development Corporation and Eastern Cape Development Corporation.

PARTICULARS OF AMENDMENTS

1. Amendments to section 1 : Definitions

Several definitions are added and amended of which the following are the most important:

"Companies Act" means the Companies Act (Act No 61 of 1973).

"small business" means small business as defined in section 1 of the National Small Business Act (Act No 102 of 1996).

MEMORANDUM

ALGEMEEN

Die doel van hierdie Wysigingswet is om die Wet op die Vrystaatse Ontwikkelingskorporasie (Wet 6 van 1995) (die Hoofwet) in ooreenstemming te bring met die algemeen aanvaarde beginsels van die Maatskappywet en effektiewe korporatiewe bestuur.

Hierdie voorgestelde wysigings impliseer nie algehele onafhanklikheid nie. Die Korporasie is 'n operasionele arm van die Regering en gee as sodanig uitvoering aan die beleid van die Regering en die doelwitte en oogmerke daarvan is in ooreenstemming met dié van die Regering.

Derhalwe is die kontrole en beheer wat alreeds in die Hoofwet verskuil is, behou. Die Regering kan dus die Korporasie beheer en as rigtinggewende instansie dien, onder andere deur die volgende:

Spesiale klem op die bevordering en ontwikkeling van kleinsake - artikel 3.

- * Die verantwoordelike Lid stel die Raad van Direkteure en die besturende direkteur aan - artikels 5 en 9 respektiewelik en mag hulle ontslaan - artikels 7 en 10 respektiewelik.
- * Die Korporasie moet notules hou van verrigtinge by vergaderings van die Raad van Direkteure wat die verantwoordelike Lid te enige tyd mag versoek - artikel 12.
- * Finansiële state moet jaarliks opgestel en voorgelê word nadat dit deur die Ouditeur-generaal geouditeer is - artikels 17 en 19.
- * Die Korporasie rapporteer jaarliks aan die verantwoordelike Lid aangaande die Korporasie se aktiwiteite gedurende die finansiële jaar - artikel 20.
- * Ander bevoegdhede verleen in terme van die Maatskappywet en gemeenregtelike beginsels wat daarop betrekking het, is van toegassing op die Regering as die enigste aandeelhouer.

Die Wysigingswetsontwerp sal die Wet op die Vrystaatse Ontwikkelingskorporasie in ooreenstemming bring met ander ontwikkelingskorporasies, byvoorbeeld KwaZulu Finance and Investment Corporation (KFC), Noord-Wes Ontwikkelingskorporasie, Noordelike Provinsie Ontwikkelingskorporasie en Eastern Cape Development Corporation.

BESONDERHEDE VAN WYSIGINGS

1. Wysiging van artikel 1 : Woordomsrywings

Verskeie woordomsrywings is bygevoeg en gewysig, waarvan die volgende die belangrikste is:

“Maatskappywet” beteken die Maatskappywet (Wet No 61 van 1973).

“kleinsaak” beteken kleinsaak soos omskryf in artikel 1 van die Nasionale Kleinsakewet (Wet No 102 van 1996).

2. Section 2

This makes the Companies Act applicable to the Corporation. This will simplify the Corporation's legal position and enhance its legal ability to obtain its objectives.

3. Insertion of section 2A

To introduce share capital as required by the Auditor General.

4. Amendment of section 3

This brings the objects of the Corporation in line with the policies of Government by putting a special emphasis on small business development and promotion.

5. Amendment of section 4 and insertion of section 4A

This draw a clear distinction between the capacity and powers of the Corporation (which should in principle be unlimited) (section 4) and the powers of the Board (which should in principle be limited) (section 4A) and is in line with the Companies Act and generally accepted principles of good corporate governance.

Powers awarded to the Board of Directors are the minimum deemed necessary for the Corporation in order to achieve its objects as set out in section 3. In the exercising of these powers conferred on the Board, it should be noted that it must be in line with relevant legislation due to the operation of law, i.e. the power to lend money to clients will be subject to the provisions of the Usury Act.

6. Amendment of section 5

The delegation of powers is necessary for the proper day-to-day functioning of the Corporation.

7. Amendments of sections 7, 9, 10, 13 and 14

These amendments are in line with good corporate governance. Relating to section 13, the Companies Act will in any event apply.

8. Repeal of section 15

In view of the amendments to section 4 and insertion of section 4A, this section will be superfluous.

9. Amendment of section 23

The purpose of this amendment is to enable divisions in the Corporation, e.g. Housing Division, to become a separate legal entity.

2. Artikel 2

Hierdie artikel maak die Maatskappywet van toepassing op die Korporasie. Dit bring mee dat die Korporasie se regsposisie vereenvoudig word. Hierdeur word sy regsposisie verbeter ten einde sy oogmerke te verwesenlik.

3. Invoeging van artikel 2A

Hierdie artikel maak voorsiening vir aandeelkapitaal soos verlang deur die Ouditeur-generaal.

4. Wysiging van artikel 3

Hierdie artikel versoen die oogmerke van die Korporasie met Regeringsbeleid ten aansien van kleinsake ontwikkeling en bevordering.

5. Wysiging van artikel 4 en die invoeging van artikel 4A

Hierdie wysiging en invoeging tref 'n duidelike onderskeid tussen die vermoë en bevoegdhede van die Korporasie (wat in beginsel onbeperk moet wees) (artikel 4) en die bevoegdhede van die Raad (wat in beginsel beperk moet wees) (artikel 4A), en wat dus in ooreenstemming is met die Maatskappywet en algemeen aanvaarde beginsels van effektiewe korporatiewe bestuur.

Die bevoegdhede verleen aan die Raad van Direkteure is die noodsaaklike ten einde die Korporasie instaat te stel om sy oogmerke te bereik soos uiteengesit in artikel 3. In die uitoefening van hierdie bevoegdhede verleen aan die Raad, moet daarop gelet word dat al hierdie bevoegdhede deur regswerking onderworpe is aan relevante wetgewing by die bevoegdheid om geld uit te leen aan kliënte, is onderworpe aan die bepalings van die Woekerwet.

6. Wysiging van artikel 5

Die delegasie van bevoegdhede is noodsaaklik vir die daaglikse operasionele funksionering van die Korporasie.

7. Wysigings van artikels 7, 9, 10, 13 en 14

Hierdie wysigings is in ooreenstemming met effektiewe korporatiewe bestuur. Met verwysing na artikel 13, sal die Maatskappywet in ieder geval van toepassing wees.

8. Skrapping van artikel 15

Weens die wysiging van artikel 4 en die invoeging van artikel 4A, is hierdie artikel oorbodig.

9. Wysiging van artikel 23

Die doel van hierdie wysiging is om afdelings in die Korporasie, bv. die Behuisingsafdeling, instaat te stel om 'n afsonderlike regsentiteit te word.

PROVINCIAL GAZETTE

(Published every Friday)

All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein. Free Voucher copies of the Provincial Gazette or cuttings of advertisements are NOT supplied. If copies of the Provincial Gazette are required, R4,70 must be sent for each copy.

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All advertisements must reach the Officer in Charge of the Provincial Gazette not later than 12:00, seven working days prior to the publication of the Gazette. Advertisements received after that time will be held over for publication in the issue of the following week, or if desired by the advertiser, will be inserted in the current issue as a "Late Advertisement". In such case the advertisement must be delivered to the Officer in Charge not later than 10:30 on the Thursday of the week preceding the publication of the Gazette and double rate will be charged for that advertisement.

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Printed and published by the Free State Provincial Administration

PROVINSIALE KOERANT

(Verskyn elke Vrydag)

Alle korrespondensie, advertensies, ens. moet aan die Beampte Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, geadresseer word. Gratis eksemplare van die Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie. Indien eksemplare van die Provinsiale Koerant verlang word, moet R4,70 vir elke eksemplaar gesuur word.

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'n "Laat Advertensie" sal nie sonder definitiewe instruksies van die Adverteerder as sodanige geplaas word nie.

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Kennisgewings wat volgens Wet in die Provinsiale Koerant geplaas moet word: R2,00 per sentimeter of deel daarvan, enkelkolom.

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Gedruk en uitgegee deur die Vrystaatse Provinsiale Administrasie