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GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1191.

9 June 1978.

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

No. 74 of 1978: Sale of Land on Instalments Amendment Act, 1978.

No. 1191.

9 Junie 1978.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 74 van 1978: Wysigingswet op die Verkoop van Grond op Afbetaling, 1978.

Wet No. 74, 1978

WYSIGINGSWET OP DIE VERKOOP VAN
GROND OP AFBETALING, 1978.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordeninge aan.

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

WET

Tot wysiging van die bepalings van die Wet op die Verkoop van Grond op Afbetaling, 1971, betreffende die reg van iemand aan wie grond kragtens 'n kontrak verkoop is, om transport van daardie grond te verkry wanneer daarop beslag gelê is of in die geval van die uitreiking van 'n finale likwidasië- of sekwestrasiebevel ten opsigte van die geregistreerde eienaar van daardie grond of sy boedel; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 29 Mei 1978.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 14 van
Wet 72 van 1971,
soos vervang deur
artikel 11 van
Wet 49 van 1975.

1. (1) Artikel 14 van die Wet op die Verkoop van Grond op Afbetaling, 1971 (hieronder die Hoofwet genoem), word hierby 5
gewysig deur subartikels (3), (4) en (5) deur die volgende subartikels te vervang:

„(3) Wanneer daar uit hoofde van 'n lasbrief vir eksekusie teen die onroerende goed van die geregistreerde eienaar, beslag gelê word op grond wat kragtens 'n kontrak verkoop 10
is of wanneer grond wat kragtens 'n kontrak verkoop is, geregistreer is op naam van iemand ten opsigte van wie se boedel 'n finale bevel tot sekwestrasie of likwidasië gegee word, en daardie grond nie met 'n verband beswaar is nie, **[word]** moet daardie grond sonder benadeling van die 15
regte van enige persoon wat dit van 'n tussenpersoon gekoop het, as daar is, getranspoteer word deur die betrokke adjunk-balju, geregsbode, kurator of likwidateur, na gelang van die geval, op naam van die persoon wat die reg het om transport van die grond te eis en wat reëlings tot 20
bevrediging, na gelang van die geval, van die adjunk-balju of geregsbode, voordat die grond in eksekusie verkoop word, of van die Meester van die Hooggeregshof onder wie se toesig die bereddering van die boedel van die insolvent geskied, binne ses maande na die aansegging van die koper of die 25
tussenpersoon of albei, na gelang van die geval, ingevolge subartikel (2) om transport te neem, tref vir die betaling van die uitstaande saldo kragtens die ooreenkoms plus rente tot die datum van die registrasie van transport of van al die sekwestrasie- en administrasiekoste wat met dié grond in 30
verband staan, met inbegrip van enige begiftiging of skenking wat ingevolge die een of ander wet ten opsigte van daardie grond aan iemand gemaak moet word, watter van die twee bedrae ook al die grootste is, en al die ander koste in verband met transport, asook vir die ondertekening van al die 35
dokumente wat in verband met transport vereis word.

(4) Wanneer in die in subartikel (3) bedoelde omstandighede die grond wat kragtens 'n kontrak verkoop is, met 'n

SALE OF LAND ON INSTALMENTS
AMENDMENT ACT, 1978.

Act No. 74, 1978

GENERAL EXPLANATORY NOTE:

- []** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Sale of Land on Instalments Act, 1971, relating to the right of any person to whom land has been sold in terms of a contract, to obtain transfer of such land when it is attached or in the case of the issue of a final order of liquidation or sequestration in respect of the registered owner of such land or his estate; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 29 May 1978.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. (1) Section 14 of the Sale of Land on Instalments Act, 1971 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsections (3), (4) and (5) of the following subsections:

Amendment of section 14 of Act 72 of 1971, as substituted by section 11 of Act 49 of 1975.

- “(3) When land sold under a contract is attached by virtue of a writ of execution against the immovable property of the registered owner or when land sold under a contract is registered in the name of any person in respect of whose estate a final order of sequestration or liquidation has been given, and that land is not encumbered by a mortgage bond, that land shall without prejudice to the rights of any person who purchased it from an intermediary, if any, be transferred by the deputy sheriff, messenger of the court, trustee or liquidator concerned, as the case may be, into the name of the person who has the right to claim transfer of the land and who makes arrangements to the satisfaction, as the case may be, of the deputy sheriff or the messenger of the court, before the land is sold in execution, or of the Master of the Supreme Court under whose supervision the liquidation of the estate of the insolvent is taking place, within six months after the purchaser or the intermediary, or both, as the case may be, has or have been called upon in terms of subsection (2) to take transfer, for the payment of the outstanding balance under the agreement plus interest to the date of the registration of transfer or of all such costs of sequestration and administration as relate to such land, including any endowment to be made in terms of any law to any person in respect of such land, whichever of the two amounts may be the larger, and all other costs in connection with transfer, as well as for the signing of all the documents required in connection with transfer.

- (4) When in the circumstances referred to in subsection (3) the land sold under a contract is encumbered by a mortgage

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WYSIGINGSWET OP DIE VERKOOP VAN
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verband beswaar is, **[word]** moet die grond by ontstentenis van 'n ander reëling met betrekking tot transport daarvan aan die koper, sonder benadeling van die regte van 'n koper wat die grond van 'n tussenpersoon gekoop het, as daar is, getransporteer word deur die betrokke adjunk-balju, geregsbode, kurator of likwidadeur, na gelang van die geval, op naam van die persoon wat die reg het om transport van die grond te eis en wat reëlings tot bevrediging, na gelang van die geval, van die adjunk-balju of geregsbode, soos in genoemde subartikel bedoel, of van die betrokke Meester, binne dertig dae na die aansegging van die koper of tussenpersoon of albei, na gelang van die geval, ingevolge subartikel (2) om transport te neem, tref vir die betaling van die uitstaande saldo kragtens die verband plus rente tot die datum van die registrasie van transport en al die sekwestrasie- en administrasiekoste wat met dié grond in verband staan, met inbegrip van enige begiftiging of skenking wat ingevolge die een of ander wet ten opsigte van daardie grond aan iemand gemaak moet word, en ander bedrae wat in rangorde staan vóór die vordering wat met die verband versekureer is, of van die uitstaande saldo kragtens die ooreenkoms plus rente tot die datum van die registrasie van transport, watter van die twee bedrae ook al die grootste is, en al die ander koste in verband met transport, asook vir die ondertekening van al die dokumente wat in verband met transport vereis word: Met dien verstande dat indien die houer van 'n verband oor die grond 'n lasbrief vir eksekusie ten opsigte van die grond uitgeneem het, die persoon wat transport neem ook die werklike bedrag deur die verbandhouer betaal of waarvoor hy aanspreeklik is ten opsigte van die beslaglegging op die grond, moet betaal voordat hy op transport geregtig is.

(5) Indien 'n in subartikel (3) of (4) bedoelde persoon uit hoofde van die reëlings wat hy kragtens daardie subartikel moes tref, meer betaal het as die uitstaande saldo ingevolge die ooreenkoms plus rente tot die datum van die registrasie van transport, kan daardie persoon die verskil tussen die twee bedoelde bedrae op die persoon van wie hy die reg verkry het om transport van die grond te eis, verhaal."

(2) Die bepalinge van subartikels (3), (4) en (5) van artikel 14 van die Hoofwet, soos gewysig deur subartikel (1) van hierdie artikel, is ook van toepassing ten opsigte van enige kontrak, soos omskryf in artikel 1 van die Hoofwet, wat te eniger tyd voor die inwerkingtreding van hierdie Wet aangegaan is en by sodanige inwerkingtreding nog van krag is.

Kort titel.

2. Hierdie Wet heet die Wysigingswet op die Verkoop van Grond op Afbetaling, 1978.

SALE OF LAND ON INSTALMENTS
AMENDMENT ACT, 1978.

Act No. 74, 1978

5 bond, the land shall, failing any other arrangement relating to
the transfer thereof to the purchaser, be transferred, without
prejudice to the rights of any purchaser who purchased the
land from any intermediary, if any, by the deputy sheriff,
10 messenger of the court, trustee or liquidator concerned, as the
case may be, into the name of the person who has the
right to claim transfer of the land and who makes arrange-
ments to the satisfaction, as the case may be, of the deputy
sheriff or messenger of the court, as contemplated in the said
15 subsection, or of the Master concerned, within thirty days
after the purchaser or intermediary, or both, as the case may
be, has or have been called upon in terms of subsection (2) to
take transfer, for payment of the outstanding balance under
the mortgage bond plus interest to the date of the registration
20 of transfer and all such costs of sequestration and administra-
tion as relate to such land, including any endowment to be
made in terms of any law to any person in respect of such
land, and such other amounts as rank in preference prior to
the claim secured by the mortgage bond, or of the
25 outstanding balance under the agreement plus interest to the
date of the registration of transfer, whichever of the two
amounts may be the larger and all other costs in connection
with transfer, as well as for the signing of all the documents
required in connection with transfer: Provided that if the
30 holder of a mortgage bond over the land has taken out a writ
of execution in respect of the land, the person who takes
transfer shall also pay the actual amount paid by the
mortgagee or for which he is liable in respect of the
attachment of the land, before he is entitled to transfer of the
land.

(5) If a person referred to in subsection (3) or (4) has, by
virtue of the arrangements he was required to make under
that subsection, paid more than the outstanding balance under
the agreement plus interest to the date of the registration of
35 transfer, he may recover the difference between the two said
amounts from the person from whom he acquired the right to
claim transfer of the land."

(2) The provisions of subsections (3), (4) and (5) of section 14
of the principal Act, as amended by subsection (1) of this section,
40 shall also apply in respect of any contract, as defined in section 1
of the principal Act, which was entered into at any time before the
commencement of this Act and which is still in force at such
commencement.

2. This Act shall be called the Sale of Land on Instalments Short title.
45 Amendment Act, 1978.

bond, the land shall, failing any other arrangement relating to the transfer, be transferred to the purchaser, without prejudice to the right of any purchaser who purchased the land from any immediately preceding owner by the deed of transfer of the land, to make any arrangement concerning the case may be (10) into the name of the person who has the right to claim transfer of the land and who makes arrangements to the satisfaction of the court as contemplated in the deed of transfer of the land, as contemplated in the said subsection (1) or of the estate concerned, within thirty days after the purchase or intestacy, of both as the case may be, has or have been called upon in terms of subsection (2) to take transfer, for payment of the outstanding balance under the mortgage bond, plus interest in terms of the regulation of master and all such costs of execution and administration as may relate to such land, including any amount to be made in terms of any law to any person in respect of such land, and such other amounts as may be payable prior to the claim secured by the mortgage bond, or of the outstanding balance under the agreement, plus interest to the date of the registration of transfer, whichever of the two amounts may be the larger and all other costs in connection with transfer, as well as for the signing of all the documents required in connection with transfer, provided that if the holder of a mortgage bond over the land has taken out a writ of execution in respect of the land, the person who takes transfer shall also pay the actual amount paid by the mortgagee or for which he is liable in respect of the attachment of the land, before he is entitled to transfer of the land.

(15) If a person referred to in subsection (3) or (4) has, by virtue of the arrangement, he was required to make under this subsection, paid more than the outstanding balance under the agreement plus interest to the date of the registration of transfer, he may recover the difference between the two said amounts from the person from whom he acquired the right to claim transfer of the land.

(17) The provisions of subsections (3), (4) and (5) of section 14 of the original Act, as amended by subsection (1) of this section, shall also apply in respect of any contract, as defined in section 1 of the original Act, which was entered into at any time before the commencement of this Act and which is still in force at such commencement.

21. This Act shall be called the Sale of Land or Instant Mortgage Amendment Act, 1978.