



**REPUBLIEK VAN SUID-AFRIKA**

**STAATSKOERANT**

---

**GOVERNMENT GAZETTE**

**OF THE REPUBLIC OF SOUTH AFRICA**

*As 'n Nuusblad by die Poskantoor Geregistreer*

*Registered at the Post Office as a Newspaper*

Verkoopprys • Selling price  
(AVB uitgesluit/GST excluded)

Plaaslik **70c** Local  
Buitelands R1,00 Other countries  
Posvry • Post free

VOL. 300

KAAPSTAD, 29 JUNIE 1990

No. 12565

CAPE TOWN, 29 JUNE 1990

KANTOOR VAN DIE STAATSPRESIDENT

No. 1441.

29 Junie 1990

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

No. 65 van 1990: Wysigingswet op Herversekering van Eiendomskade en -verliese, 1990.

STATE PRESIDENT'S OFFICE

No. 1441.

29 June 1990

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

No. 65 of 1990: Reinsurance of Material Damage and Losses Amendment Act, 1990.

**Wet No. 65, 1990      WYSIGINGSWET OP HERVERSEKERING VAN EIENDOMSKADE  
EN -VERLIESE, 1990**

**ALGEMENE VERDUIDELIKENDE NOTA:**

- I** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeningen aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeningen aan.

# WET

Tot wysiging van die Wet op Herversekering van Eiendomskade en -verliese, 1989, ten einde die Minister van Finansies te magtig om ooreenkoms met versekeraars aan te gaan waarkragtens hy die Regering van die Republiek bind om aan sodanige versekeraars vergoeding ten opsigte van verliese in verband met verbandlenings te betaal; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 21 Junie 1990.)*

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 56 van 1989**

1. Artikel 1 van die Wet op Herversekering van Eiendomskade en -verliese, 1989 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur voor die omskrywing van "Minister" die volgende omskrywings in te voeg:  
"geldopnemer" 'n geldopnemer soos omskryf in artikel 1 van die Woekerwet, 1968 (Wet No. 73 van 1968);  
"gelduitlener" 'n gelduitlener soos omskryf in artikel 1 van die Woekerwet, 1968; en
  - (b) deur die volgende omskrywing by te voeg:  
"verlies ten opsigte van 'n verbandlening" 'n finansiële verlies wat 'n gelduitlener gely het ten opsigte van 'n geldlening wat gesekureer is deur 'n verband op onroerende eiendom wat geleë is in die Republiek of in 'n staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het, waar—
    - (a) die verlies voortspruit uit die onvermoë van die gelduitlener om by 'n verkoping van sodanige eiendom—
      - (i) in eksekusie, hetsy op aandrang van die gelduitlener of op aandrang van enige ander persoon; of
      - (ii) by openbare veiling uit hoofde van die insolvensie van die geldlener, enige bedrag, met inbegrip van rente en ander koste, wat ingevolge die verbandlening verskuldig is, te verhaal; en
    - (b) die verkoping bedoel in paragraaf (a) regstreeks of onregstreeks betrekking het op of veroorsaak is deur enige van die handelinge of omstandighede beoog in die omskrywing van 'verlies van of skade aan eiendom';".

**Wysiging van artikel 2 van Wet 56 van 1989**

2. Artikel 2 van die Hoofwet word hierby gewysig—
- (a) deur die woord "of" aan die einde van subparagraaf (i) van paragraaf (a) te skrap; en

REINSURANCE OF MATERIAL DAMAGE AND LOSSES  
AMENDMENT ACT, 1990

Act No. 65, 1990

## 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 Reinsurance of Material Damage and Losses Act, 1989, so as to empower the Minister of Finance to enter into agreements with insurers under which he binds the Government of the Republic to compensate such insurers in respect of losses relating to mortgage loans; and to provide for incidental matters.

(Afrikaans text signed by the State President.)  
(Assented to 21 June 1990.)

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 56 of 1989**

1. Section 1 of the Reinsurance of Material Damage and Losses Act, 1989  
5 (hereinafter referred to as the principal Act), is hereby amended—  
 (a) by the insertion before the definition of “loss of or damage to property” of  
the following definitions:  
 “borrower” means a borrower as defined in section 1 of the Usury Act,  
10 1968 (Act No. 73 of 1968);  
 “loss in respect of a mortgage loan” means any financial loss suffered by a  
moneylender in terms of a money loan secured by a mortgage bond  
over immovable property situated in the Republic or in any state the  
territory of which previously formed part of the Republic, where—  
 (a) the loss results from the moneylender being unable to recover at a sale  
of such property—  
 (i) in execution, whether the sale was held at the instance of the  
moneylender or at the instance of any other person; or  
 (ii) by public auction resulting from the insolvency of the borrower,  
any amount, including interest and other charges, owing in terms of  
the mortgage loan; and  
 (b) the sale referred to in paragraph (a) is directly or indirectly related to  
or caused by any of the actions or circumstances contemplated in the  
definition of ‘loss of or damage to property’;”; and  
 (b) by the addition of the following definition:  
 “moneylender means a moneylender as defined in section 1 of the Usury  
Act, 1968.”.

**Amendment of section 2 of Act 56 of 1989**

2. Section 2 of the principal Act is hereby amended—  
 (a) by the deletion of the word “or” at the end of subparagraph (i) of  
paragraph (a); and

**Wet No. 65, 1990 WYSIGINGSWET OP HERVERSEKERING VAN EIENDOMSKADE EN -VERLIESE, 1990**

- (b) deur die volgende subparagraaf na subparagraaf (i) van paragraaf (a) in te voeg:  
"(iA) verlies ten opsigte van 'n verbandlening; of".

**Vervanging van artikel 4 van Wet 56 van 1989**

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

**"Beperkings op versekering teen verlies van of skade aan eiendom of verlies ten opsigte van verbandlening"**

4. Niemand, hetsy as versekeraar of versekerde, mag 'n versekeringsooreenkoms binne of buite die Republiek aangaan nie waarkragtens die versekeraar ten opsigte van eiendom wat in die Republiek, met inbegrip 10 van die territoriale waters van die Republiek, geleë is, die verpligting aanvaar om ingevolge die polis wat uit hoofde van die ooreenkoms uitgereik word die eienaar van die polis te vrywaar teen verlies van of skade aan eiendom of teen verlies ten opsigte van 'n verbandlening, met inbegrip van gevoglike verlies in artikel 2 (a) bedoel, tensy— 15  
 (a) die versekeraar 'n geregistreerde versekeraar is wat 'n ooreenkoms in artikel 2 beoog, aangegaan het; of  
 (b) die versekeraar in paragraaf (a) bedoel, skriftelik verklaar het dat hy nie bereid is om daardie verpligting of enige gedeelte van daardie verpligting of 'n ander verpligting in verband met daardie eiendom, 20 hetsy op die voorwaardes in die versekeringsooreenkoms beoog of op enige ander voorwaardes, te aanvaar nie.".

**Vervanging van lang titel van Wet 56 van 1989**

4. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:

**"WET**

Tot samevatting van die wetsbepalings wat die Minister van Finansies magtig om oorekomste met versekeraars aan te gaan wat die Regering bind om vergoeding ten opsigte van sekere verliese of skade aan eiendom en verlies ten opsigte van verbandlenings aan versekeraars te betaal; en om vir bykomstige 30 aangeleenthede voorsiening te maak."

25

30

**Vervanging van artikel 7 van Wet 56 van 1989**

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

**"Kort titel"**

7. Hierdie Wet heet die Wet op Herversekering van [Eiendomskade en -verlies] Skade en Verliese, 1989.".

35

**Kort titel**

6. Hierdie Wet heet die Wysigingswet op Herversekering van Eiendomskade en -verliese, 1990.

REINSURANCE OF MATERIAL DAMAGE AND LOSSES  
AMENDMENT ACT, 1990

Act No. 65, 1990

- (b) by the insertion of the following subparagraph after subparagraph (i) of paragraph (a):  
"(IA) loss in respect of a mortgage loan; or".

**Substitution of section 4 of Act 56 of 1989**

- 5 3. The following section is hereby substituted for section 4 of the principal Act:

**"Restrictions of insurance against loss of or damage to property or loss in respect of mortgage loan**

- 10 4. No person, whether an insurer or insured, shall within or outside the Republic enter into an insurance contract in terms of which the insurer assumes the obligation in respect of property situated in the Republic, including the territorial waters of the Republic, to indemnify, in terms of the policy issued by virtue of such contract, the owner of such policy against loss of or damage to property, or against loss in respect of a mortgage loan, including consequential loss referred to in section 2 (a), unless—  
15 (a) the insurer is a registered insurer who has entered into an agreement contemplated in section 2; or  
20 (b) the insurer referred to in paragraph (a) has declared in writing that he is not prepared to assume such obligation or any part of such obligation or any other obligation in connection with such property, whether on the conditions contemplated in such insurance contract or on any other conditions.”.

**Substitution of long title of Act 56 of 1989**

- 25 4. The following long title is hereby substituted for the long title of the principal Act:

**"ACT**

To consolidate the laws empowering the Minister of Finance to enter into agreements with insurers binding the Government to compensate insurers in respect of certain losses or damage to property and losses in respect of mortgage loans; and to provide for incidental matters.”.

**Substitution of section 7 of Act 56 of 1989**

- 5 5. The following section is hereby substituted for section 7 of the principal Act:

**"Short title**

- 35 7. This Act shall be called the Reinsurance of **[Material] Damage and Losses Act, 1989.**”.

**Short title**

6. This Act shall be called the Reinsurance of Material Damage and Losses Amendment Act, 1990.

