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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1200. 18 June 1975.

No. 1200. 18 Junie 1975.

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

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

No. 52 of 1975: Land Bank Amendment Act, 1975.

No. 52 van 1975: Wysigingswet op die Landbank, 1975.

Act No. 52, 1975

LAND BANK AMENDMENT ACT, 1975

ACT

To amend the Land Bank Act, 1944, so as to repeal the provisions thereof providing for the making of advances to farmers in the form of cash credit accounts and on hypothec of movable property and to provide for the making of certain advances to a farmer on completion by him of a promissory note; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 12 June 1975.)

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

Amendment of section 21 of Act 13 of 1944, as amended by section 6 of Act 47 of 1959, section 2 of Act 35 of 1961, section 1 of Act 14 of 1964, section 5 of Act 46 of 1965, section 13 of Act 5 of 1968 and section 3 of Act 41 of 1972.

Substitution of heading before section 34 of Act 13 of 1944.

Substitution of section 34 of Act 13 of 1944, as amended by section 15 of Act 47 of 1959, section 8 of Act 46 of 1965 and section 9 of Act 5 of 1968.

1. Section 21 of the Land Bank Act, 1944 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for subparagraph (iii) of paragraph (a) of subsection (1) of the following subparagraph:
 “(iii) in such other manner as may be provided by this Act;” and
- (b) by the deletion of subparagraph (iv) of the said paragraph.

2. The following heading is hereby substituted for the heading immediately before section 34 of the principal Act:

“ADVANCES TO FARMERS FOR CARRYING ON FARMING”.

3. The following section is hereby substituted for sections 34 of the principal Act:

“Advances to farmers for carrying on farming.

34. (1) Notwithstanding the provisions of section 25 the board may, upon completion of a promissory note by a farmer, make an advance to him to enable him to defray any costs which, in the opinion of the board, are connected with the production, cultivation, gathering, processing or marketing of any crops by him or to pay any debts incurred by him to defray such costs, or to purchase live-stock or farming machinery or other implements or equipment and to install such machinery or equipment.

(2) If—

- (a) at any time payment of any sum of money, due in respect of any advance referred to in subsection (1), is in arrear, whether it is the capital sum or interest thereon; or

WET

Tot wysiging van die Landbankwet, 1944, ten einde die bepalings daarvan wat voorsiening maak vir die verstrekking van voorskotte aan boere in die vorm van kaskredietrekenings en teen hipoteek van roerende goed, te herroep en voorsiening te maak vir die verstrekking van sekere voorskotte aan 'n boer by voltooiing van 'n promesse deur hom; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Junie 1975.)

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

1. Artikel 21 van die Landbankwet, 1944 (hieronder die Hoofwet genoem), word hierby gewysig—
 - (a) deur subparagraaf (iii) van paragraaf (a) van subartikel (1) deur die volgende subparagraaf te vervang: „(iii) op die ander wyse by hierdie Wet bepaal;” en
 - (b) deur subparagraaf (iv) van genoemde paragraaf te skrap.

Wysiging van artikel 21 van Wet 13 van 1944, soos gewysig deur artikel 6 van Wet 47 van 1959, artikel 2 van Wet 35 van 1961, artikel 1 van Wet 14 van 1964, artikel 5 van Wet 46 van 1965, artikel 13 van Wet 5 van 1968 en artikel 3 van Wet 41 van 1972.
2. Die opskrif onmiddellik voor artikel 34 van die Hoofwet word hierby deur die volgende opskrif vervang:

„VOORSKOTTE AAN BOERE VIR DRYF VAN BOERDERY”.

Vervanging van opskrif voor artikel 34 van Wet 13 van 1944.
3. Artikel 34 van die Hoofwet word hierby deur die volgende artikel vervang:

„Voorskotte aan boere vir dryf van boerdery. 34. (1) Ondanks die bepalings van artikel 25 kan die raad aan 'n boer, by voltooiing van 'n promesse deur hom, 'n voorskot verstrek ten einde hom in staat te stel om die koste te bestry wat volgens die oordeel van die raad in verband staan met die produksie, bewerking, insameling, verwerking of bemarking van 'n oes deur hom of om skulde te delg wat deur hom aangegaan is om sodanige koste te bestry, of om lewende hawe of landboumasjinerie of ander -implemente of -toerusting aan te koop en sodanige masjinerie of toerusting te installeer.

Vervanging van artikel 34 van Wet 13 van 1944, soos gewysig deur artikel 15 van Wet 47 van 1959, artikel 8 van Wet 46 van 1965 en artikel 9 van Wet 5 van 1968.

(2) Indien—

 - (a) te eniger tyd betaling van 'n som geld, verskuldig ten opsigte van 'n voorskot bedoel in subartikel (1), agterstallig is, hetsy dit die hoofsom of rente daarop is; of

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- (b) in the opinion of the board, any such advance has not been applied for the purposes for which it was made; or
 - (c) any other condition to which the advance is subject has not been complied with; or
 - (d) the debtor becomes insolvent or is sentenced to imprisonment without the option of a fine, or judgment is obtained against the debtor for the payment of any sum of money, or any of his assets is by order of a competent court declared executable or is attached in pursuance of an order of any such court or under section 37 of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), or becomes the subject of a direction under subsection (1) of the said section 37; or
 - (e) the debtor is deceased and his estate is about to be dealt with in terms of the provisions of section 34 (2) or (5) of the Administration of Estates Act, 1965 (Act No. 66 of 1965), or has been sequestrated; or
 - (f) a notice has with reference to the debtor been published in terms of section 22 of the Agricultural Credit Act, 1966; or
 - (g) the debtor is a company which has been placed under judicial management or is being wound up; or
 - (h) the debtor is a company and any director or shareholder thereof is sentenced to imprisonment without the option of a fine; or
 - (i) the advance is not, within such time as the board may consider reasonable, applied to the purpose for which it was made,
- the board may proceed as in subsection (3) prescribed.

(3) Whenever any circumstance contemplated in subsection (2) arises, the board may—

- (a) refuse to pay any portion of the advance which has been approved, but not yet been paid;
- (b) after the expiry of seven days after demand for the repayment of the advance has been made by registered letter, addressed to the address of the debtor stated in the form of application for the advance, without recourse to a court of law, require any messenger of the court or any other person designated by the board for the purpose, to attach and (whether or not such messenger of the court or such other person is a licensed auctioneer) sell by public auction so much of the movable property of the debtor as may be necessary to liquidate the amount owing in respect of the advance, together with interest and costs in respect thereof, or the board may itself sell the property so attached by public tender and on the conditions which it may determine;
- (c) if, after the sale of all the available movable property of the debtor in terms of paragraph (b), an amount in respect of the advance and the said interests and costs is still owing, after due notice to mortgagees, and without recourse to a court of law, but subject to the provisions of subsection (4), attach any immovable property of the debtor by written notice thereof by registered letter, addressed to the debtor at the address referred to in paragraph (b), and to the

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- (b) volgens die raad se oordeel, so 'n voorskot nie aangewend is vir die doel waarvoor dit verstrekkend is nie; of
- (c) enige ander voorwaarde waaraan die voorskot onderworpe is, nie nagekom is nie; of
- (d) die skuldenaar insolvent raak of tot gevangenisstraf sonder die keuse van 'n boete gevonnis word, of vonnis vir die betaling van 'n som geld teen die skuldenaar verkry word, of van sy bates by bevel van 'n bevoegde hof eksekutabel verklaar word of ingevolge 'n bevel van so 'n hof of kragtens artikel 37 van die Wet op Landboukrediet, 1966 (Wet No. 28 van 1966), in beslag geneem word of die onderwerp word van 'n opdrag kragtens subartikel (1) van genoemde artikel 37; of
- (e) die skuldenaar oorlede is en met sy boedel ingevolge die bepalings van artikel 34 (2) of (5) van die Boedelwet, 1965 (Wet No. 66 van 1965), gehandel gaan word, of dit gesekwestreer is; of
- (f) 'n kennisgewing ingevolge artikel 22 van die Wet op Landboukrediet, 1966, met betrekking tot die skuldenaar gepubliseer is; of
- (g) die skuldenaar 'n maatskappy is wat onder geregtelike bestuur geplaas is of gelikwedeer word; of
- (h) die skuldenaar 'n maatskappy is en 'n direkteur of aandeelhouer daarvan tot gevangenisstraf sonder die keuse van 'n boete gevonnis word; of
- (i) die voorskot nie binne 'n tydperk wat die raad redelik ag, vir die doel waarvoor dit verstrekkend is, aangewend is nie,

kan die raad volgens voorskrif van subartikel (3) handel.

(3) Wanneer die een of ander omstandigheid bedoel in subartikel (2) ontstaan, kan die raad—

- (a) weier om enige deel van die voorskot wat goedgekeur maar nog nie uitbetaal is nie, uit te betaal;
- (b) na verstryking van sewe dae nadat terugbetaling van die voorskot per aangetekende brief gevorder is, gerig na die adres van die skuldenaar wat in die vorm van aansoek om die voorskot aangegee is, sonder geregtelike proses 'n geregsbode of enige ander persoon deur die raad vir die doel aangewys, aansê om soveel van die roerende goed van die skuldenaar in beslag te neem en (hetsy sodanige geregsbode of sodanige ander persoon 'n gelisensieerde afslaer is al dan nie) by openbare veiling te verkoop as wat nodig is om die bedrag te delg wat ten opsigte van die voorskot, tesame met rente en koste ten aansien daarvan, verskuldig is, of kan die raad self die goed waarop aldus beslag gelê is, by openbare tender verkoop op die voorwaardes wat hy bepaal;
- (c) indien daar na die verkoping van al die beskikbare roerende goed van die skuldenaar ingevolge paragraaf (b), nog 'n bedrag ten opsigte van die voorskot en genoemde rente en koste verskuldig is, na behoorlike kennisgewing aan verbandhouders, en sonder geregtelike proses, maar behoudens die bepalings van subartikel (4), op enige onroerende goed van die skuldenaar beslag lê deur skriftelike kennisgewing daarvan per geregistreerde brief, gerig aan die skuldenaar na die adres bedoel in paragraaf (b), en aan

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registrar of deeds concerned, who shall cause a note of the attachment to be made in his registers, and the board may in its discretion, but subject to the provisions of subsection (4), and upon such conditions as it may deem just, cause to be sold by public auction, through an auctioneer or a sheriff or a deputy sheriff, whether or not such sheriff or deputy sheriff is a licensed auctioneer, the said immovable property;

- (d) transfer the immovable property referred to in paragraph (c) which has been sold to the purchaser and give him a good and valid title thereto, notwithstanding that it may then be hypothecated or subject to a lien or charge in favour of some other person, and without production to the registrar of deeds of the title deed, provided it is certified that the board has been unable to obtain that title deed; and
- (e) make an advance in terms of the provisions of this Act and on such conditions as it may deem fit, to the purchaser of such immovable property, for the purpose of defraying the whole or part of the purchase price, notwithstanding that such advance may exceed the limits prescribed by section 26.

(4) A sale in terms of subsection (3) (c) shall not take place until the expiry of fourteen days since the publication in the *Gazette* and in some newspaper circulating in the district in which the property in question is situated, of a notice stating the date, hour and place of the sale, a description, according to the title deed, of that property, and the terms of payment of the purchase price, and unless the conditions of sale have been announced immediately before commencement of the sale, and if there was default only in respect of the circumstances contemplated in subsection (2) (a), the attachment and sale of immovable property of the debtor shall not take place until the expiry of three months from the date on which payment was due of the sum of money in respect of which the default has occurred.

(5) The proceeds of a sale referred to in subsection (3) (b) shall, after payment of the costs incurred in connection with the attachment and sale, be applied towards reducing or liquidating the amount owing in respect of the advance, together with interest and costs in respect thereof, and if any balance remains, it shall be paid to the debtor or his legal representative.

(6) The proceeds of a sale referred to in subsection (3) (c) shall, after payment of the costs incurred in connection with the attachment and sale, and after payment of the amount owing in terms of any bond or other real right, be applied towards reducing or liquidating the amount owing in respect of the advance, together with interest and costs in respect thereof, and if any balance remains, it shall be paid out in accordance with the provisions of section 56.

(7) To enable the bank, for the purpose of the recovery of an amount owing under an advance referred to in subsection (1), to participate in any sale in the execution of a judgment of any court, or to take steps in terms of section 65 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), in respect of a debtor, a decision of the board in terms of subsection (3) (b) or (c) to attach movable

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- die betrokke registrateur van aktes, wat die beslaglegging in sy registers moet laat aanteken, en kan die raad na goeëdunke, maar behoudens die bepalings van genoemde subartikel (4), genoemde onroerende goed op die voorwaardes wat hy billik ag, by openbare veiling laat verkoop deur 'n afslaer of 'n balju of onderbalju, hetsy daardie balju of onderbalju 'n gelisensieerde afslaer is al dan nie;
- (d) die onroerende goed bedoel in paragraaf (c) wat verkoop is, aan die koper transporteer en aan hom 'n regsgeldige titel daarop gee, al is dit dan verhipotekeer of onderhewig aan 'n retensiereg of beswaring ten gunste van iemand anders, en sonder om die titelbewys aan die registrateur van aktes oor te lê, mits gesertifiseer word dat die raad daardie titelbewys nie kon kry nie; en
- (e) op die voorwaardes wat hy goeëvind, 'n voorskot ingevolge die bepalings van hierdie Wet aan die koper van daardie onroerende goed verstreë tot algehele of gedeeltelike delging van die koopprys, al gaan daardie voorskot die perke voorgeskryf by artikel 26 te bowe.
- (4) 'n Verkoping ingevolge subartikel (3) (c) mag nie plaasvind nie voordat veertien dae verstryk het sedert publikasie in die *Staatskoerant*, en in 'n nuusblad in omloop in die distrik waarin die betrokke goed geleë is, van 'n kennisgewing waarin die datum, die uur en die plek van die verkoping, 'n beskrywing, volgens titelbewys, van daardie goed, en die voorwaardes van betaling van die koopsom, vermeld word, en tensy die voorwaardes van verkoop onmiddellik voor die aanvang van die verkoping afgekondig is, en indien daar slegs ten opsigte van die omstandighede bedoel in subartikel (2) (a) 'n versuim was, mag die inbeslagneming en verkoping van onroerende goed van die skuldenaar nie geskied nie voor die verloop van drie maande vanaf die vervaldatum vir die betaling van die bedrag ten opsigte waarvan die versuim plaasgevind het.
- (5) Die opbrings van 'n verkoping bedoel in subartikel (3) (b), word, na betaling van die koste aangegaan in verband met die inbeslagneming en verkoping, aangewend ter vermindering of delging van die bedrag wat ten opsigte van die voorskot, tesame met rente en koste ten aansien daarvan, verskuldig is, en as daar 'n oorskot is, word dit aan die skuldenaar of sy regsvertegenwoordiger uitbetaal.
- (6) Die opbrings van 'n verkoping bedoel in subartikel (3) (c), word, na betaling van die koste aangegaan in verband met die inbeslagneming en verkoping, en na betaling van die bedrag verskuldig ingevolge 'n verband of ander saaklike reg, aangewend ter vermindering of delging van die bedrag wat ten opsigte van die voorskot, tesame met rente en koste ten aansien daarvan, verskuldig is, en as daar 'n oorskot is, word dit ooreenkomstig die bepalings van artikel 56 uitbetaal.
- (7) Ten einde die bank in staat te stel om, ter invordering van 'n bedrag wat kragtens 'n voorskot bedoel in subartikel (1) verskuldig is, te deel in 'n verkoping by die tenuitvoerlegging van 'n vonnis van 'n hof, of stappe ingevolge artikel 65 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), ten opsigte van 'n skuldenaar te doen, word 'n besluit van die raad ingevolge subartikel (3) (b) of (c) om op roerende of onroerende goed van die

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or immovable property of the debtor, shall be deemed to be a judgment of a court of law.

(8) Notwithstanding anything to the contrary in this Act contained, such fees as the board may determine, and no other fees, shall be payable in connection with any application for an advance referred to in subsection (1).

(9) Any person who obstructs or hinders the attachment or sale of any property in terms of subsection (3) shall be guilty of an offence and liable on conviction of a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment."

Repeal of heading before section 34*bis* and of section 34*bis*, of Act 13 of 1944.

4. The heading immediately before section 34*bis*, and section 34*bis*, of the the principal Act are hereby repealed.

Amendment of section 69 of Act 13 of 1944, as amended by section 28 of Act 47 of 1959.

5. Section 69 of the principal Act is hereby amended by the deletion of paragraph (i) of subsection (1).

Substitution of section 71 of Act 13 of 1944, as amended by section 29 of Act 47 of 1959.

6. The following section is hereby substituted for section 71 of the principal Act:

"Inspections on behalf of bank. 71. For the purpose of ascertaining whether an advance has been or is properly applied and whether the conditions of any advance are being observed, the board may by means of any of the staff, or by means of inspectors or other persons deputed by it, institute such inspections as it may deem advisable."

Advances in terms of sections 34 and 34*bis* prior to substitution or repeal thereof.

7. (1) Unless within a period of three months from the date of commencement of this Act the board has otherwise decided in respect of a particular case and has notified the registrar of deeds or magistrate concerned, as the case may be, of the decision, any advance granted in terms of the provisions of section 34 or 34*bis* of the principal Act prior to the substitution or repeal thereof, respectively, by the provisions of this Act, shall be deemed to be an advance in respect of which the provisions of the said section 34, as so substituted, are applicable, and as from the expiration of the said period of three months.

(2) Except in respect of a case in respect of which the board has otherwise decided and given notice, as contemplated in subsection (1)—

- (a) any notes of the registrar of deeds in terms of section 34 of the principal Act as it existed immediately prior to the substitution thereof by this Act; and
- (b) such copies of any deeds or hypothecation completed for the purposes of section 34*bis* of the said Act prior to the repeal thereof by this Act, as may, in terms of the said section, have been transmitted to a magistrate, shall lapse at the expiration of the period of three months mentioned in the said subsection (1).

Short title and commencement.

8. This Act shall be called the Land Bank Amendment Act, 1975, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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skuldenaar beslag te lê, geag 'n vonnis van 'n geregs-hof te wees.

(8) Ondanks andersluidende bepalings van hierdie Wet is die gelde wat die raad bepaal, en geen ander gelde nie, betaalbaar in verband met 'n aansoek om 'n voorskot bedoel in subartikel (1).

(9) Iemand wat die inbeslagneming of verkoping van goed ingevolge subartikel (3) belemmer of ver-hinder, is aan 'n misdryf skuldig en by skuldig-bevinding strafbaar met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met beide sodanige boete en sodanige gevangenisstraf."

4. Die opskrif onmiddellik voor artikel 34*bis*, en artikel 34*bis*, van die Hoofwet word hierby herroep.

Herroeping van opskrif voor artikel 34*bis*, en van artikel 34*bis*, van Wet 13 van 1944.

5. Artikel 69 van die Hoofwet word hierby gewysig deur paragraaf (i) van subartikel (1) te skrap.

Wysiging van artikel 69 van Wet 13 van 1944, soos gewysig deur artikel 28 van Wet 47 van 1959.

6. Artikel 71 van die Hoofwet word hierby deur die volgende artikel vervang:

„Inspeksie
namens
bank.

71. Ten einde vas te stel of 'n voorskot behoorlik aangewend is of word en of die voorwaardes van 'n voorskot nagekom word, kan die raad deur iemand van die personeel of deur inspekteurs of ander persone wat hy daartoe aanwys, die inspeksies laat uitvoer wat hy raadsaam ag."

Vervanging van artikel 71 van Wet 13 van 1944, soos gewysig deur artikel 29 van Wet 47 van 1959.

7. (1) Tensy die raad binne 'n tydperk van drie maande vanaf die datum van inwerkingtreding van hierdie Wet ten opsigte van 'n bepaalde geval anders besluit, en die betrokke registrateur van aktes of landdros, na gelang van die geval, van die besluit in kennis gestel het, word 'n voorskot wat ingevolge die bepalings van artikel 34 of 34*bis* van die Hoofwet verstrekkend is voor die vervanging of herroeping daarvan, onderskeidelik, deur die bepalings van hierdie Wet, geag 'n voorskot te wees ten opsigte waarvan die bepalings van genoemde artikel 34, soos aldus vervang, van toepassing is, en wel vanaf die beëindiging van genoemde tydperk van drie maande.

Voorskotte ingevolge artikels 34 en 34*bis* voor vervanging of herroeping daarvan.

(2) Behalwe ten opsigte van 'n geval ten opsigte waarvan die raad anders besluit en kennis gegee het, soos in subartikel (1) beoog, verval, by beëindiging van die tydperk van drie maande vermeld in dié subartikel—

(a) alle aantekeninge van die registrateur van aktes ingevolge artikel 34 van die Hoofwet soos dit bestaan het onmiddellik voor die vervanging daarvan deur hierdie Wet; en

(b) sodanige afskrifte van alle hipoteek-aktes voltooi vir die doeleindes van artikel 34*bis* van genoemde Wet voor die herroeping daarvan deur hierdie Wet, as wat ingevolge genoemde artikel aan 'n magistraat gestuur is.

8. Hierdie Wet heet die Wysigingswet op die Landbank, 1975, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Kort titel en inwerkingtreding.

