

CHIEF REGISTRAR'S CIRCULAR NO. 2 OF 2006

LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, 2004 (ACT NO. 6 OF 2004)

1. COMMENCEMENT OF THE ACT

The Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), herein after referred to as the Act, came into operation on 2 July 2005 (see notice number R.28, 2005 in Government Gazette Number 27720, dated 29 June 2005).

2. PURPOSE OF THE ACT

The purpose of the Act is, amongst other things, to regulate the power of a municipality to impose rates on property.

3. IMPACT OF CERTAIN PROVISIONS OF THE ACT ON THE REGISTRATION PROCEDURES

3.1 DEFINITION OF PROPERTY

3.1.1 “Property”, in terms of section 1 of the Act, means—

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure.

3.2 LODGEMENT OF RATES CLEARANCE CERTIFICATE WITH THE REGISTRATION OF A TRANSFER OF PROPERTY

3.2.1 In terms of section 3 of the Act a municipality must adopt a policy on levying rates. Such policy takes effect on the effective date of the first valuation roll prepared by the municipality in terms of the Act. The Department of Provincial and Local Government has agreed that a municipality has to notify all registrars of deeds of the date of the implementation of such municipality's valuation roll.

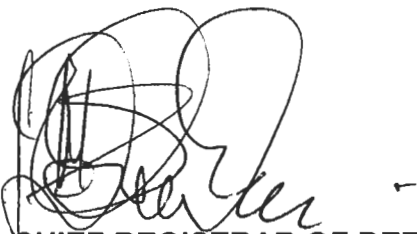
3.2.2 On receipt of a notice by a municipality, as referred to in paragraph 3.2.1 *supra*, a registrar of deeds must call for rates clearance certificates with the registration of the transfer of all properties (including sectional title units/exclusive use areas) registered within the jurisdiction of such municipality.

3.2.3 Until a municipality prepares a valuation roll in terms of the Act it may continue to use a valuation roll that was in force before the commencement of the Act (section 89(1)). Section 89(3), however, provides for the lapsing of section 89(1) four years from the commencement of the Act.

3.2.4 In view of the provisions of section 89(3) of the Act registrars of deeds are compelled to call for rates clearance certificates with the registration of the transfer of all properties as from 2 July 2009, regardless of whether a notice referred to in paragraph 3.2.2 has been received or not.

3.3. LODGEMENT OF RATES CLEARANCE CERTIFICATE WITH THE REGISTRATION OF A CESSION OF A RIGHT REGISTERED AGAINST IMMOVABLE PROPERTY

3.3.1 Paragraph (b) of the definition of "Property" refers to a right registered against immovable property. A registrar of deeds can therefore only insist on the production of a rates clearance certificate with the registration of a cession of an already registered right over immovable property. A rates clearance certificate can not be called for with the registration of a creation of a right.



CHIEF REGISTRAR OF DEEDS

DATE: 13 FEBRUARY 2006

REFERENCE: A. 6/2/P and A. 1/3/1/186
RINGBINDER 68

CHIEF REGISTRAR OF DEEDS
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