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THE BUILDING SOCIETIES (AMENDMENT) BILL, 1992

(Bill No. 17 of 1992)

(To be presented by the Minister of Finance)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend the Building societies Act, 1962 so as:

- (a) to enable building societies to accept call deposits and to operate transmission accounts;
- (b) to provide for the acceptance by building societies of fixed deposits of less than 12 months maturity;
- (c) to provide for endowment mortgage and greater levels of fixed term advances with a view to lowering monthly mortgage payments to enable more people to own houses, providing cost savings for endowment mortgage bond holders and allowing for greater investment of building society funds in secured mortgage loans;
- (d) to provide for joint venture financing in order to increase investment opportunities;
- (e) to provide for increase in the capital base of building societies to allow for their long term growth;
- (f) to provide for sufficient investment in land and buildings to facilitate service by building societies to a large client base;
- (g) to enable the registrar to prescribe the minimum local assets to be maintained by building societies.

A.F.M. THWALA
Attorney -General

A BILL
entitled

An Act to amend the Building Societies Act, 1962

ENACTED by the King and the Parliament of Swaziland.

Short title.

This Act may be cited as the Building Societies (Amendment) Act, 1992 and shall be read as one with the Building Societies Act, 1962 referred to in this Act as the "principal Act".
Amendment of Section 2.

Section 2 of the principal Act is amended as follows

- (a) by inserting after the definition "building society" the following new definition:
"call deposit" means a deposit which can be withdrawn on demand";
- (b) by inserting after the definition "terminating society" the following new definition:
"transmission account" means an account opened on behalf of a depositor into which the depositor may deposit money and from which the building society may in accordance with the instructions of the depositor make a payment on demand to the depositor or any other person or transfer an amount to any other account, and the building society may, subject to such conditions as it may determine, allow such payment from the account to exceed the depositor's credit balance in the account;"

Amendment of Section 17.

3. Section 17 of the principal Act is amended as follows:

- (a) by replacing the proviso to paragraph (a) of subsection (1) with the following -
"Provided that the total value of land acquired and buildings erected shall not, without the consent in writing of the registrar, exceed an amount equal to ten per centum of the total assets as stated in the most recent report submitted to the registrar in the prescribed form.
- (b) by numbering paragraphs (m) and (n) of subsection (1) as paragraphs (p) and (q) respectively;
- (c) by inserting after paragraph (1) of subsection (1) the following new paragraph -
 - "(m) receive call deposits;
 - (n) enter into any contract whereby, in return for one or more sums of money paid to the society, the society agrees to pay a sum of money at a future date or a series of sums of money at future dates, and issues a certificate to the depositor which entitles the holder to receive such sums of money;
 - (o) operate a transmission account;"
- (d) by replacing subsection (2) with the following:
"(2) A building society shall not undertake any business other than that authorised by this section."

Amendment of Section 19.

4. Section 19 of the principal Act is amended as follows:

- (a) by inserting figure (1) "after the figure "19";
- (b) by replacing paragraphs (a), (c) and (d) with the following -

"(a) accept as a savings deposit, fixed deposit, call deposit or other deposit as referred to in Section 17(1) (n) and (o);

"(c) allow any savings deposit to be withdrawn except after due notice given in accordance with its rules;

(d) allow any deposit to be withdrawn by cheque, draft or order payable on demand;"

(c) by the deletion of paragraph (b);

(d) by the addition of the following new subsection:

"(2) The directors in their discretion may authorise the withdrawal of a fixed deposit before its due date."

Repeal of Section 20.

5. Section 20 of the principal Act is repealed.

Replacement of Section 23.

6. Section 23 of the principal Act is replaced with the following:

"Maximum Share holding by individual

No building society shall, except with the written consent of the registrar and subject to such conditions as he may determine, allow any one person to hold fixed-period or subscription shares in excess of forty-nine per centum of the total value of such shares."

Amendment of Section 25.

7. Section 25 of the principal Act is amended as follows:

(a) by replacing the words "five and one half years" occurring in Subsection (4) with the words "thirty years";

(b) by replacing the words "ten per cent" occurring in Subsection (5) with the words "fifty per cent".

Amendment of Section 26.

8. Section 26 of the principal Act is amended by replacing Subsection (1) with the following:

"(1) Subject to Subsection (2), no building society shall make an advance on the security of a mortgage or cession in excess of one hundred per centum of the value of the property mortgaged or the lease ceded as determined at the time of making the advance."

Replacement of Section 30.

9. Section 30 of the principal Act is replaced with the following:

"Advance on property already mortgaged prohibited.

30 No building society shall advance money on the property of immovable property which is subject to an existing mortgage bond unless such existing mortgage bond

is in favour of the society but a building society and another party may jointly advance money on the security of immovable property."

Repeal of Section 32.

10. Section 32 of the principal Act is repealed.

Amendment of Section 41.

11. Section 41 of the principal Act is amended as follows:

(a) by replacing Subsection (1) with the following:-

"(1) Subject to this section, a building society shall manage its affairs in such a way that the sum of its permanent share capital and that portion of its fixed-period share capital which consists of shares which are not due for redemption within the ensuing three years and the amount of its statutory funds does not at anytime amount to less than an amount which represents a prescribed percentage of the sum of amounts calculated by multiplying all balance sheet and off-balance sheet amounts by risk weights expressed as percentages."

(b) by the insertion after subsection (1) of the following new subsection -

"(1) bis The Registrar may from time to time by notice in the Gazette prescribe both the risk weights and the percentage capital ratio requirement."

Addition of Section 42 bis.

12. The principal Act is amended by the addition after section 42 of the following new section -

"Minimum local assets.

42 bis The Registrar may from time to time, by notice in the Gazette, prescribe that a building society shall maintain minimum local assets that is to say assets (other than claims) situate in Swaziland and assets consisting of claims payable in Swaziland, of an amount to be determined as a percentage, not exceeding one hundred per centum, of the aggregate of its total capital reserves and liabilities to the public in Swaziland as stated in the most recent report submitted to the registrar in the prescribed form:

Provided that a building society shall be afforded a reasonable period within which to comply with the requirements of such notice; and provided further that no such building society shall be required to augment its holdings of local assets during any calendar month by an amount in excess of ten per centum of the aggregate value referred to in this section."

Amendment of Section 80.

13. Section 80 of the principal Act is amended by the deletion of the figure "32" occurring in subsection (1) thereof.

Amendment of Section 82.

14. Section 82 of the principal Act is amended by the deletion of the figure "20" occurring in

subsection (1) thereof.

Repeal of First and Second Schedules.

15. The First and Second Schedules to the principal Act are repealed.