

**COMMENTS BY THE LAW SOCIETY OF SOUTH AFRICA (LSSA) ON
THE LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES AMENDMENT BILL**

The comments of the Law Society of South Africa (LSSA) regarding the Bill are as follows:

The definition of “residential property” has been changed to read: “... property of which the primary use or permitted use is for residential purposes, excluding such property used to accommodate persons other than the owner for gain;” (our underlining).

This amendment will affect the residential property letting industry. If a property that is rented out for residential purposes is no longer classed as a residential property for rates purposes, it would be anticipated that rates would increase, as rates on residential properties are normally lower than rates on commercial properties. This would have the effect of increasing the cost to the landlord, which would in turn be passed onto the tenant by increasing the rental payable.

The second aspect, which we submit has far more serious unintended consequences, is the case of short term rental. It frequently happens that a person lets out his residential property on a short term basis.

Reasons for this could include:

- The fact that a person is trying to sell his existing dwelling pursuant to purchasing another dwelling and has put a tenant in on a short term basis in an attempt to minimize some of his holding costs while the property is being sold;

- People who are transferred for work purpose on a short term often do not wish to sell their property as they will be returning to it in the foreseeable future. They wish to put a tenant in the property to cover bond costs and rates while they are away.

We are of the view that it would be unreasonable and inappropriate to burden these people with commercial rates on a short term basis and that this would create hardship and huge confusion.

A consideration of a more practical nature is where a property is let while the owner is trying to sell it and the municipality changes the rates from residential to commercial. A few months later the property is sold, the tenant moves out and the new owner moves in. It is a concern that it could take very long for the municipality to change the rates back from commercial to residential under these circumstances.

The LSSA is further of the view that the proposed legislation relating to residential properties would be unconstitutional, as it would impede on the right of access to adequate housing as entrenched in Section 26 of the Constitution.