Property Rates Bill

The Local Government Municipal Property Rates Bill came into effect on the 1 July 2004 and regulates the power which the 284 municipalities have to levy rates on property.

The municipalities must exercise their powers to impose rates so as to not only enhance certainty, uniformity and simplicity but to also take into account historical imbalances and the rates burden on the poor.

Each municipality must adopt a policy consistent with the Rates Bill in respect of the levying of rates. A rates policy adopted takes effect on the effective date of the first valuation roll prepared by the municipality, must treat all persons liable for rates equitably, and determines the criteria to be applied by the municipality in arriving at its rates policy.

Before a municipality can adopt its rates policy, the municipality must follow a process of community participation. The municipal manager must conspicuously display the draft rates policy for a period of at least 30 days at the municipality's head and satellite offices and libraries.

If the municipality has a website, it must display such draft rates policy on its website, and advertise in the media inviting the local community to submit comments and representations to the municipality concerned within a specific period which may not be less than 30 days.

After approval, the draft rates policy becomes the final rates policy which must be reviewed annually. Rates must be levied on all rateable property. Rates may differ depending on the use and the permitted use of the property and the geographical area in which the property is situated.

The Rates bill makes provision for various categories of rateable property, for example, residential, industrial, business and commercial, farm, small holdings, state-owned municipal properties, public service infrastructure, privately owned towns and formal and informal settlements.

With sectional title units, the rate must be levied on the individual sectional title units and not on the property as a whole.

The municipality may not recover the rate on a sectional title unit from the Body Corporate and the Body Corporate may not apportion and collect rates from the owners of the sectional title units.

The rate levied by the municipality on property must be a certain amount in the Rand calculated on the market value of the property. The rate becomes payable from the start of the municipality's financial year and must be passed by a majority resolution by the municipal council. This resolution must be promulgated by publishing it in the provincial gazette.

A municipality may exempt a specific category of owners of property from payment of the rate levied. Property owners that may qualify for an exemption, reduction or rebate include owners who are dependant on pensions or social grants for their livelihood, and owners temporarily without income.

Municipalities may not exercise this power to levy rates in a way that would materially and unreasonably prejudice the national economic policies or economic activities across its boundaries.

The rate levied on a newly rateable property (a property in respect of which rates have not been levied before) must be phased in over a period of 3 financial years in order to assist such owners.

The rate levied must be paid by the owner. Joint owners are jointly and severally liable for the amount due.

A municipality must furnish each person liable for the payment with a written account specifying the amount due for rates, the date on or before which the amount is payable, how the amount was calculated and the market value of the property. However, the onus is on the property owner to ensure that he receives such written account.

The municipality must prepare a valuation roll of all properties within its area. To do so a municipality must designate a municipal valuer whose duties include valuing all properties and preparing a valuation roll.

Such municipal valuers must be a registered professional valuer or a professional associated valuer. The municipal valuer may, between 07h30 and 19h00 on any day except a Sunday or public holiday, enter any property in the municipal area and inspect the property. The property owner must provide any additional information required by the municipal valuer.

All properties must be valued in accordance with generally recognized valuation practices to determine the market value. A physical inspection of the property to be valued is optional.

Comparative, analytical and other techniques may be used. If the available market-related data is not sufficient to determine the market value, then the municipal valuer may value the property in accordance with any mass valuation technique approved by the municipality concerned.

Ultimately the market value of a property is defined as the amount the property would have realized if sold on the date of valuation in the open market by a willing seller to a willing buyer.

Once all properties have been valued, a valuation roll is prepared listing all properties within the municipality's area. It must reflect the registered description, physical address and market value of the property and the name of the owner.

The municipal manager must within 21 days from receipt of the valuation roll publish it in the provincial gazette and in the media, and must clearly state that the roll is open for public inspection for a period of not less than 30 days. Should any property owner be unhappy with the new valuation, he can object to the same.

The objection must be made in writing to the municipal valuer who must consider the objection and adjust or add to the valuation roll in accordance with his decision.

Should a property owner not be satisfied with the decision taken after an objection has been decided lodged, he may lodge an appeal to an Appeal's Board.

If an appeal is lodged, such appeal does not defer a property owner's liability for payment of rates during the period of the appeal.

There is no doubt that the new Rates Bill has caused much controversy. If it is applied fairly, it should not have a great impact on the property market.

The public must however use every opportunity to ensure that the rate charged is fair and reasonable and that the monies collected are not wasted.