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Title: Expropriation laws will undermine access to capital - Agri SA

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Author: Bekezela Phakathi

● ANC and GOOD push through new legislation in National Assembly

Expropriation laws will undermine access to capital — Agri SA

'Examples from similar land policies implemented in countries like Zimbabwe and Venezuela illustrate the potentially disastrous impact that these policies can have on agriculture, the broader economy, and society'

Bekezela Phakathi

Agricultural industry body Agri SA has cautioned that promulgating the Expropriation Bill will undermine access to capital and capital formation, which will be devastating for the sector and the broader economy.

This means the agricultural sector is likely to contract due to limited access to funding as property rights come under threat and the value of property as security drops, with many investors looking to divest from property to avoid future losses.

The ANC, which was backed by public works minister Patricia de Lille's GOOD party, used its majority to push through the contentious bill in the National Assembly on Wednesday.

The bill, which will now be referred to the National Council of Provinces for concurrence, seeks to provide clarity on how expropriation in broad terms can be done and on what basis, in the public inter-

est and public purpose.

"The bill that was passed by the National Assembly continues to allow for the possibility of nil compensation for expropriation in terms of clause 12(3) and (4)," Agri SA's executive director, Christo van der Rhee, said yesterday.

In its initial submissions to the government on the bill, Agri SA commissioned two studies to inform and support its position.

"Our position [based on studies] remains that the inclusion of the nil-compensation clause will undermine access to capital and capital formation for the sector and economy," Van der Rhee said.

"Examples from similar land policies implemented in countries like Zimbabwe and Venezuela illustrate the potentially disastrous impact that these policies can have on agriculture, the broader economy, and society."

Another significant issue with the bill is how it defines expropriation itself, which Agri SA believes is too narrow.

"This essentially opens the door to a form of indirect expropriation through the limitation of property rights without compensation being payable," Van der Rhee said.

"These issues will have a negative impact on our shared national commitment to building a more inclusive agricultural sector.

"It will weaken the protections afforded to private property and this could see an exodus of capital from the agricultural sector and the broader economy.

"The anticipated loss of jobs and investment will impact both emerging and established farmers alike.

"As the bill now makes its way to the National Council of Provinces, we call on legislators in that body to take into account the bill's apparent flaws and its likely devastating economic impact.

"A further assault on the certainty of property rights will only add to a climate that deters investment in, among

other things, the agriculture sector which will undermine the country and region's food security."

Van der Rhee emphasised that property rights were the cornerstone of economic development.

Critics contend that the bill is an attempt by the ANC-led administration to enable expropriation without compensation through the back door after its push to change a property clause in the constitution failed to receive the required two-thirds majority in parliament in December last year.

The DA, which vehemently opposes the bill, said the proposed legislation was unconstitutional.

"This bill seeks to undermine private property rights in favour of state ownership, by sneaking expropriation without compensation through the back door inside of ordinary legislation," DA MP Samantha Graham-Mare said.

"Resultantly, the DA believes this bill is unconstitutional

and violates Section 25 of the constitution.

"Instead of opting to present an Expropriation Bill that effectively outlines the procedure for government land acquisition, GOOD and the ANC have delivered a dangerous piece of legislation that directly assaults private property rights and threatens property ownership.

"This will take us on a very dangerous journey in the footsteps of failed states like Venezuela and Zimbabwe."

The DA had tabled two amendments to the proposed bill, which would have provided substantial protection of private property rights.

This was by ensuring that only state-owned property could draw an initial offer of nil compensation, and further that indirect expropriation, such as custodianship and regulatory takings, fall within the definition of expropriation to ensure that these acts attract compensation for the owners of property that have been indirectly expropriated. — *BusinessLIVE*