

FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

VRYSTAAT

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<p>GENERAL NOTICE 5 OF 2009</p> <p>PUBLICATION OF THE FREE STATE INVESTMENT AND DEVELOPMENT AGENCY ACT, 2009</p> <p>It is notified for general information and comment that the above-mentioned Bill is hereby published in terms of Rule 147 of the Rules and Orders of the Free State Legislature.</p> <p>Any comments or remarks must be submitted to the Secretary: Free State Legislature, Private Bag X20561, Bloemfontein, 9300 to reach her not later than 27 November 2009.</p> <p>TB PHITSANE ACTING SECRETARY: FREE STATE LEGISLATURE</p>	<p>ALGEMENE KENNISGEWING 5 VAN 2009</p> <p>PUBLIKASIE VAN DIE WETSONTWERP OP DIE VRYSTAATSE BELEGGINGS- EN ONTWIKKELINGSAGENTSAP, 2009</p> <p>Dit word vir algemene kennisname en kommentaar bekendgemaak dat bostaande Wetsontwerp hierby gepubliseer word in terme van Reël 147 van die Reëls en Orders van die Vrystaatse Wetgewer.</p> <p>Enige kommentaar of opmerkings moet gestuur word aan die Sekretaris: Vrystaatse Wetgewer, Privaatsak X20561, Bloemfontein, 9300 om haar nie later as 27 November 2009 te bereik nie.</p> <p>TB PHITSANE WAARNEMENDE SEKRETARIS: VRYSTAATSE WETGEWER</p>
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BILL

To provide for an Agency for investment opportunities for the Province; to stimulate economic growth; to assist small and medium enterprises with financial assistance; to promote economic activity within the Province; to provide for trade promotion; and for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Free State Province as follows:-

Definitions

- | | | |
|----|---|----|
| 1. | In this Act, unless the context otherwise indicates - | 5 |
| | “ Agency ” means the Free State Investment and Development Agency established in terms of section 2 of the Free State Investment and Development Agency Act, 2009; | 10 |
| | “ Board ” means the governing body of directors of the Agency contemplated in terms of section 6; | |
| | “ Board of Directors ” means the Board of Directors of the Agency; | 15 |
| | “ business ” means a business incidental to the object of the Agency set out in section 4; | |
| | “ Companies Act ” means the Companies Act, 1973 (Act No. 61 of 1973); | 20 |
| | “ Constitution ” means the Constitution of the Republic of South Africa, 1996; | |
| | “ dissolved agency ” means an agency established by or under a repealed Act; | |
| | “ dissolved corporation ” means a corporation established by or under a repealed Act; | 25 |
| | “ financial year ” means the period starting from 1 April in any year to 31 March in the next succeeding year; | 30 |
| | “ Legislature ” means the Free State Provincial Legislature as contemplated in section 104 of the Constitution, 1996; | |
| | “ Public Finance Management Act ” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); | 35 |
| | “ repealed Act ” means an Act referred to in the Schedule; | |

WETSONTWERP

Om voorsiening te maak vir 'n Agentskap vir beleggingsgeleenthede vir die Provinsie; om ekonomiese groei te stimuleer; om te help met finansiële bystand aan klein en medium sake-ondernemings; om ekonomiese aktiwiteite binne die Provinsie te bevorder; om voorsiening te maak vir die bevordering van handel; en vir sake wat daarmee verband hou.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Vrystaat, soos volg:-

Woordomsrywings

1. In hierdie Wet, tensy die samehang anders aandui, beteken -

“**Agentskap**” die Vrystaatse Beleggings- en Ontwikkelingsagenstskap wat in die lewe geroep is ingevolge artikel 2 van die Wet op die Vrystaatse Beleggings- en Ontwikkelingsagenstskap, 2009;

“**besigheid**” ‘n besigheid wat gepaard gaan met die oogmerke van die Agenstskap soos uiteengesit in artikel 4;

“**boekjaar**” die tydperk beginnende 1 April van enige jaar tot 31 Maart van die daaropvolgende jaar;

“**Direksie**” die Direksie van die Agentskap;

“**Grondwet**” beteken die Grondwet van die Republiek van Suid-Afrika, 1996;

“**herroep Wet**” ‘n Wet waara verwys word in die Bylae;

“**Maatskappywet**” die Maatskappywet, 1973 (Wet Nr. 61 van 1973);

“**om as makelaar op te tree**” die fasilitering of andersins van die bevordering van ontwikkeling ooreenkomstig die Agentskap se hoof- en gepaardgaande oogmerke waarvoor dit in die lewe geroep is;

“**Ontbinde agentskap**” ‘n agentskap gestig deur of kragtens ‘n Wet wat herroep is;

“**Ontbinde korporasie**” ‘n korporasie gestig deur of kragtens ‘n Wet wat herroep is;

“**Provinsie**” die Provinsie Vrystaat soos beskryf in artikel 104 van die Grondwet;

“**responsible Member**” means the Member of the Executive Council of the Province responsible for Economic Development;

“**to act as broker**” means the facilitation or otherwise advancement of development in line with the Agency’s main and ancillary objects for which it was established. 5

Establishment of the Agency

2. A juristic person to be known as the Free State Investment and Development Agency is hereby established. 10

Objects of the Agency

3. The objects of the Agency must be - 15

(a) to promote investment and trade within the Province and to identify, analyze, publicize and market investment and trade opportunities in the Province, in such manner and by such means as the Board may from time to time deem appropriate; 20

(b) to undertake, at the request of the responsible Member or other stakeholders or agencies, activities for which the necessary resources can be raised and which, in the opinion of the Board, will contribute to the strengthening of the Provincial economy; 25

(c) to perform or promote urban and rural development in the Province with special emphasis on the promotion and development on small business as referred to in the National Small Enterprises Act, 1996 (Act No. 102 of 1996) with regard to any matter within the functional areas specified in Schedule 4 and 5 of the Constitution; 30

(d) to assist Free State based small and medium enterprises with funding by advancing loans; 35

(e) to assist Free State based small and medium enterprises in financial distress; and

(f) to initiate economic empowerment projects that would benefit the Free State. 40

“Raad” beheerliggaam van direkteure van die Agentskap soos beoog kragtens artikel 6;

“verantwoordelike Lid” beteken die Lid van die Uitvoerende Raad verantwoordelik vir Ekonomiese Ontwikkeling;

“Wet op Openbare Finansiële Bestuur” die Wet op Opnebare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

Stigting van die Agentskap

2. ‘n Regspersoon wat as die Vrystaatse Toerisme Beleggings- en Ontwikkelingsagentskap bekend staan word hiermee tot stand gebring.

Oogmerke van die Agentskap

3. Die oogmerke van die Agentskap moet wees-

(a) om belegging en handel binne die Provinsie te bevorder en beleggings- en handelsgeleenthede in die Provinsie te identifiseer, ontleed en bekend te stel op so ‘n wyse soos wat die Raad van tyd tot tyd toepaslik sal ag;

(b) om, op versoek van die verantwoordelike Lid of ander belanghebbendes of agentskappe, aktiwiteite te onderneem waarvoor die nodige hulpbronne verkry kan word en wat, na die mening van die Raad, sal bydra tot die versterking van die Provinsiale ekonomie;

(c) om stedelike en landelike ontwikkeling in die Provinsie te bevorder en uit te voer met die klem veral op die bevordering en ontwikkeling van klein sake-ondernemings soos na verwys word in die Nasionale Kleinsakewet, 1996 (Wet Nr. 102 van 1996) met betrekking tot enige aangeleentheid binne die funksionale areas soos gespesifiseer in Bylaes 4 en 5 van die Grondwet;

(d) om klein en medium kleinsake-ondernemings wat in die Vrystaat gesetel is by te staan met befondsing deur lenings voor te skiet;

(e) om bystand te verleen aan klein en medium sake-ondernemings wat in die Vrystaat gesetel is en wat in finansiële nood verkeer ; en

(f) om projekte vir ekonomiese bemagtiging waarby die Vrystaat sal baat vind te inisieer.

Powers of Board of Directors

4. The powers of the Board of Directors shall be to endeavour to achieve all the main and ancillary objects for which the Agency is established and to exercise all the plenary and common powers of the Agency and without detracting from the generality of this section, the powers of the Board shall include the following: 5
- (a) to plan, finance, co-ordinate, promote, establish or carry on any business or undertaking in respect of the matters referred to in section 4 or to acquire or dispose of such business or undertaking or any portion thereof; 10
 - (b) to ensure adherence to corporate governance;
 - (c) to plan, finance, co-ordinate, promote or carry out, or to assist in the planning, financing, co-ordinating, promoting or carrying out of any project or part thereof, for the economic development of the Province or its residents; 15
 - (d) to grant or guarantee loans, provide capital or other means to any person, company, close corporation, co-operative society, partnership or other association of persons, whether corporate or not, for the purpose of achieving the Agency's objects; 20
 - (e) to take such securities as it may deem fit; 25
 - (f) to raise loans or borrow money with the written consent of the responsible Member, subject to conditions as determined by him or her;
 - (g) in the execution of its operations, to acquire, develop, rent, sell, lease, burden, or otherwise alienate or dispose of movable or immovable property, whether corporeal or incorporeal, including rights therein or thereto; 30
 - (h) to employ officers and employees under such conditions and to pay them such remuneration and benefits as it may determine; 35
 - (i) to enter into and finance joint ventures or act as agent;
 - (j) to furnish technical and other assistance and expert and specialized advice, information and guidance, in accordance with the approved budget to any person, company, close corporation, co-operative society, partnership or other association of persons, whether corporate or not; 40

Bevoegdheids van die Direksie

4. Die bevoegdheids van die Direksie sal wees om te poog om alle hoof en aanvullende oogmerke waarvoor die Agentskap gestig is te verwesenlik en om alle volle en gewone bevoegdheids van die Agentskap uit te oefen en sonder om af te doen aan die algemeenheid van hierdie artikel, sal die bevoegdheids van die Direksie die volgende insluit:
- (a) om die beplanning, finansiering, koördinerings, stigting of bedryf van enige sake-onderneming te doen ten opsigte van aangeleenthede waarna verwys word in artikel 4 of om sodanige sake-onderneming of gedeelte daarvan te verkry of te verkoop;
 - (b) om te sorg dat gehou word by korporatiewe bestuur;
 - (c) om, vir die ekonomiese ontwikkeling van die provinsie of sy inwoners, enige projek of gedeelte daarvan, te beplan, te finansier, te koördineer of uit te voer, of te help met die beplanning, finansiering, koördinerings of uitvoerings daarvan;
 - (d) om lenings toe staan of te waarborg, kapitaal of ander middele te voorsien aan enige persoon, maatskappy, beslote korporasie, ko-operatiewe vereniging, vennootskap of ander vereniging van persone, hetsy korporatief of nie, met die oog op die verwesenlikings van die Agentskaps se doelstellings;
 - (e) om sodanige sekuriteite te ontvang as wat hy nodig ag;
 - (f) om lenings aan te gaan of geld te leen met die skriftelike toestemming van die verantwoordelike Lid, onderhewig aan die voorwaardes soos vasgestel deur hom of haar;
 - (g) om, in die uitvoering van sy werksaamhede roerende of onroerende eiendom, hetsy liggaamlik of onliggaamlik, insluitende regte daarin of daartoe, te verkry, ontwikkel, huur, verkoop, uithuur, belas, of andersins vervreem of wegdoen;
 - (h) om amptenare en werknemers onder sodanige voorwaardes in diens te neem en hulle sodanige vergoeding of voordele te betaal as wat hy mag vasstel;
 - (i) om gesamentlike ondernemings aan te gaan en te finansier of as agent op te tree;
 - (j) om tegniese en ander bystand en deskundige en gespesialiseerde advies, inligting en leiding te voorsien, in ooreenstemming met die goedgekeurde begroting aan enige persoon, maatskappy, beslote korporasie, ko-operatiewe vereniging, vennootskap of ander vereniging van persone, hetsy korporatief of nie;

- (k) to issue, negotiate, accept, endorse or discount debentures, bills of exchange and other negotiable instruments;
- (l) to take deposits offered by any person or juristic person for investment and to hold such deposits on such conditions as may be agreed upon, and to arrange and to decide upon the investment and application thereof; 5
- (m) to control, carry out, guarantee, underwrite, finance or bring about the issue of any loan or of any shares, stock or debentures, or to advance money for that purpose; 10
- (n) to apply the Agency's funds or moneys to the establishment of a reserve fund, or to invest any funds or moneys not immediately required for its affairs; 15
- (o) to accept unconditional donations and moneys and with the prior written approval of the responsible Member, conditional donations and moneys;
- (p) in the execution of the Agency's operations, to issue guarantees, or provide indemnities, or enter into any suretyship; 20
- (q) to act as director, manager, executor, testamentary executor, administrator, liquidator, judicial manager, trustee or agent of any concern, estate, trust, company, close corporation, person or juristic person, and to appoint any person or persons to act on the Agency's behalf for such purpose; 25
- (r) to cause any company, close corporation or other juristic person that might be the Agency's debtor or in which the Agency has any interest, to be liquidated or placed under judicial management, or to cause the estate of any of the Agency's debtors to be sequestrated; 30
- (s) to plan, promote, undertake or finance the training of manpower in respect of the matters referred to in section 3;
- (t) to pay all expenses in connection with the Agency's own administration; 35
- (u) to operate on existing banking accounts or accounts with other financial institutions, to open new accounts and operate thereon, and to close any account; 40
- (v) to establish, assist in establishing, acquire an interest in, or finance companies;

- (k) om skuldbriewe, wissels en ander verhandelbare stukke uit te reik, te aanvaar, endosseer of verdiskonteer;
- 5 (l) om deposito's te ontvang vir belegging wat aangebied word deur enige persoon of regs persoon op sodanige voorwaardes as wat ooreengekom is, en te reël en te besluit oor die belegging en toepassing daarvan;
- 10 (m) om die uitreiking van enige lening of enige aandele, effekte of skuldbriewe te beheer, uit te voer, te waarborg, te onderskryf, te finansier of te bewerkstellig, of om geld vir daardie doel voor te skiet;
- 15 (n) om die Agentskap se fondse of gelde aan te wend vir die totstandbrenging van 'n reserwefonds, of om enige fondse of gelde te belê wat nie onmiddellik benodig word nie;
- (o) om onvoorwaardelike skenkings en gelde te ontvang en, met die voorafverkreë skriftelike toestemming van die verantwoordelike Lid, skenkings en gelde;
- 20 (p) om, in die uitvoering van die Agentskap se werksaamhede, waarborge uit te reik, of vrywarings te voorsien, of enige borgstelling aan te gaan;
- 25 (q) om op te tree as direkteur, bestuurder, eksekuteur, testamentêre eksekuteur, administrateur, likwidateur, geregtelike bestuurder, trustee of agent van enige saak, boedel, trust, maatskappy, beslote korporasie, persoon of regs persoon, en om enige persoon of persone aan te stel om namens die Agentskap vir sodanige doel op te tree;
- 30 (r) om enige maatskappy, beslote korporasie of ander regs persoon wat moontlik 'n skuldenaar van die Agentskap is of waarin die Agentskap enige belang het, te laat likwideer of onder geregtelike administrasie te plaas, of om die boedel van enige skuldenaars van die Agentskap te laat likwideer;
- 35 (s) om die opleiding van mannekrag ten opsigte van die aangeleenthede waarna verwys word in artikel 3 te beplan, te bevorder, te onderneem of te finansier;
- (t) om alle uitgawes in verband met die Agentskap se eie administrasie te betaal;
- 40 (u) om bestaande bankrekenings of rekenings met ander finansiële instellings te bedryf, om nuwe rekenings te open en te bedryf, en om enige rekening te sluit;
- 45 (v) om maatskappye te stig, te help stig, 'n belang daarin te verkry, of te finansier;

- (w) to adopt such measures as it may deem necessary or desirable in order to ensure that businesses of which the Agency is the owner are managed and conducted, and that services are performed at such businesses in a manner which is, in its opinion, orderly, economical and effective; 5
- (x) to exercise any other powers stated in Schedule 2 of the Companies Act, 1973, which is necessary for the achievement of the Agency's objects, in consultation with the responsible Member.

Board of Directors of the Agency 10

5. (1) The affairs of the Agency shall be managed and controlled by a Board of Directors which may exercise the powers of the Agency and the Board may delegate these powers and functions to the chairperson of the Board, its committees, the management or employees of the Agency. 15
- (2) The Board of Directors shall consist of not more than 10 persons.

Procedure for appointment of Board 20

6. (1) The responsible Member, after consultation with the Executive Council must, subject to subsection (5), determine and appoint the members of the Board. 20
- (2) The responsible Member may appoint two directors as executive directors to the Board after fulfilling the requirements of subsection (1). 25
- (3) The responsible Member must invite interested parties by notice in the *Provincial Gazette* and other media to nominate candidates for his or her consideration. 30

Period of office and remuneration of directors

7. (1) A director shall be appointed for a period not exceeding five years. 35
- (2) Any person whose period of office as a director has expired may, subject to the provisions of section 5, be reappointed.
- (3) A director shall hold office upon such conditions (including the payment of remuneration and allowances) as the responsible Member may determine, after consultation with the Member of the Executive Council responsible for Finance. 40

Vacation of office by directors and filling of vacancies 45

8. (1) A director shall vacate his or her office –
- (a) if his or her estate is sequestrated;

(w) om sodanige maatreëls as wat hy nodig of wenslik ag te tref ten einde te verseker dat ondernemings waarvan die Agentskap die eienaar is bedryf en bestuur word, en dat dienste gelewer word by sodanige ondernemings op 'n wyse wat, na sy mening, ordelik, ekonomies en doelmatig geskied;

(x) om enige bevoegdheid soos gestel in Bylae 2 van die Wet op Maatskappye, 1973, uit te oefen, wat nodig is vir die verwesenliking van die Agentskap se oogmerke, in raadpleging met die verantwoordelike Lid.

Direksie van die Agentskap

5. (1) Die sake van die Agentskap moet bestuur en beheer word deur 'n Direksie wat die bevoegdhede van die Agentskap moet uitoefen en die Direksie kan hierdie bevoegdhede en funksies deleger aan die voorsitter van die Direksie, sy komitees, die bestuur of werknemers van die Agentskap.

(2) Die Direksie bestaan uit hoogstens 10 persone.

Prosedure by aanstelling van die Direksie

6. (1) Die verantwoordelike Lid stel, na raadpleging met die Uitvoerende Raad, behoudens subartikel (5), die lede van die Direksie aan.

(2) Die verantwoordelike Lid kan twee direkteure op die Direksie aanstel as uitvoerende direkteure nadat die vereistes van subartikel (1) nagekom is.

(3) Die verantwoordelike Lid moet belanghebbende partye by wyse van kennisgewing in die *Provinsiale Koerant* en ander media versoek om kandidate te benoem om deur hom of haar oorweeg te word.

Dienstermyn en vergoeding van direkteurs

7. (1) 'n Direkteur word aangestel vir 'n tydperk van hoogstens vyf jaar.

(2) Enige persoon wie se dienstermyn as direkteur verstryk het kan, onderhewig aan die bepalings van artikel 5, heraanstelling word.

(3) 'n Direkteur sal sy of haar amp beklee op sodanige voorwaardes (insluitende die betaling van vergoeding en toelaes) soos wat die verantwoordelike Lid mag bepaal, ná raadpleging met die Lid van die Uitvoerende Raad verantwoordelik vir Finansies.

Neerlegging van amp deur direkteure en en vul van vakatures

8. (1) 'n Direkteur moet sy of haar amp neerlê -

(a) indien sy of haar boedel gesekwestreer word;

- (b) if he or she becomes mentally ill as defined in the Mental Health Care Act, 2002 (Act No. 17 of 2002);
 - (c) if he or she is convicted of an offence and is sentenced to imprisonment without the option of a fine; 5
 - (d) if he or she resigns as a director;
 - (e) if he or she is removed from office in terms of subsection (2); 10
 - (f) upon his or her election as a member of the National Assembly or National Council of Provinces or Provincial Legislature or Municipal Council.
- (2) A director may, on good cause shown, at any time be removed from office by the responsible Member. 15
- (3) If a director ceases to hold office, the responsible Member shall, subject to the provisions of section 5, appoint a person to fill the vacancy on the Board of Directors. 20

Chairperson and acting chairperson

9. (1) The responsible Member shall designate one of the directors as chairperson of the Board of Directors of the Agency. 25
- (2) If the chairperson of the Board of Directors ceases to hold office as director or as chairperson of the Board of Directors, the responsible Member shall, subject to the provisions of subsection (1), designate a new chairperson. 30
- (3) Whenever the chairperson is absent or unable to perform his or her functions as chairperson, the responsible Member may designate another director to act as chairperson during the absence or incapacity of the chairperson. 35
- (4) Such director shall, whilst acting as chairperson, have all the powers and perform all the functions of the chairperson.

Committees of the Board

10. (1) The Board may from time to time appoint a committee to exercise the powers and perform the functions delegated or assigned to it by the Board. 40
- (2) A committee shall consist of – 45
- (a) such members of the Board as the Board may designate; or

- 5
- (b) indien hy of sy geestelik ongesteld raak soos omskryf in die “Mental Health Care Act, 2002” (Wet Nr. 17 van 2002);
- (c) indien hy of sy skuldig bevind word aan ‘n misdryf en gevonniss word tot gevangenisstraf sonder die keuse van ‘n boete;
- 10
- (d) indien hy of sy as direkteur bedank;
- (e) hy of sy ingevolge subartikel (2) uit sy of haar amp verwyder word;
- (f) by sy of haar verkiesing as ‘n lid van die Nasionale Vergadering of Nasionale Raad van Provinsies of Provinsiale Wetgewer of Munisipale Raad.
- 15
- (2) ‘n Direkteur kan, by aanvoering van goeie gronde, te eniger tyd uit sy of haar amp deur die verantwoordelike Lid verwyder word.
- 20
- (3) Indien ‘n direkteur ophou om sy of haar amp te beklee, moet die verantwoordelike Lid, onderhewig aan die bepalinge van artikel 5, ‘n persoon aanstel om die vakature op die Direksie te vul.

Voorsitter en waarnemende voorsitter

- 25
9. (1) Die verantwoordelike Lid moet een van die direkteure aanwys as voorsitter van die Direksie van die Agentskap.
- (2) Indien die voorsitter van die Direksie ophou om sy amp as direkteur of voorsitter van die Direksie te beklee, moet die verantwoordelike Lid, onderhewig aan die bepalings van subartikel (1) ‘n nuwe voorsitter aanwys.
- 30
- (3) Wanneer die voorsitter afwesig of nie in staat is om sy of haar funksies as voorsitter waar te neem nie, kan die verantwoordelike Lid ‘n ander direkteur aanwys om as voorsitter op te tree gedurende die afwesigheid of onvermoë van die voorsitter.
- 35
- (4) Sodange direkteur, gedurende sy of haar optrede as voorsitter, moet oor al die bevoegdhede beskik en alle funksies van voorsitter uitvoer.

Komitees van die Raad

- 40
10. (1) Die Direksie kan van tyd tot tyd ‘n komitee aanstel om die bevoegdhede uit te oefen en die funksies uit te voer wat deur die Direksie aan hom gedelegeer of toegewys is.
- 45
- (2) ‘n Komitee sal bestaan uit -
- (a) sodanige Lede van die Direksie soos wat die Direksie mag aanwys; of

- (b) such members of the Board as the Board may designate and such other persons as the Board may co-opt in terms of section 11.
- (3) The Board shall designate the chairperson of the committee. 5
- (4) (a) A committee shall exercise its powers and perform its functions subject to the provisions of this Act and such directives of the Board as are not in conflict with such provisions.
- (b) Any delegated power or function so exercised or performed shall be deemed to have been exercised or performed by the Board. 10

Co-opting of persons

11. (1) If the Board is of the opinion that a particular person is able to assist the Board in the consideration of a particular matter by the Board, the Board may co-opt that person for that purpose. 15
- (2) A person so co-opted shall not be entitled to vote at any meeting of the Board or a committee of the Board. 20
- (3) A person who is co-opted and not employed by government may, in respect of their services, be paid such remuneration and allowances from the funds of the Board as may be determined by the responsible Member, after consultation with the Member of the Executive Council responsible for Finance. 25

Chief Executive Officer

12. (1) The responsible Member, after consultation with the Board, shall appoint a person as the Chief Executive Officer of the Agency for a period not exceeding five years. 30
- (2) A Chief Executive Officer must hold office on such conditions (including the payment of remuneration and allowances) as determined by the responsible Member, after consultation with the Board. 35
- (3) The Chief Executive Officer is an *ex-officio* member of the Board.

Vacation of office by the Chief Executive Officer 40

13. (1) The Chief Executive Officer of the Agency must vacate office –
- (a) if he or she resigns;

(b) sodanige lede van die Direksie soos wat die Direksie mag aanwys en sodanige ander persone as wat die Direksie mag koöpteer ingevolge artikel 11.

5 (3) Die Raad moet die voorsitter van die komitee aanwys.

10 (4) (a) 'n Komitee moet sy bevoegdhede uitvoer en sy funksies verrig onderhewig aan die bepalings van hierdie Wet en sodanige voorskrifte van die Direksie soos wat nie teenstrydig is met sodanige bepalings nie.

(b) Enige sodanige bevoegdheid of funksie aldus uitgeoefen of verrig moet geag word as synde uitgeoefen of verrig is deur die Direksie.

15 **Koöptering van persone**

20 11. (1) Indien die Direksie van mening is dat 'n bepaalde persoon in staat is om die Direksie by te staan in die oorweging van 'n besondere aangeleentheid deur die Direksie, kan die Direksie daardie persoon vir daardie doel koöpteer.

(2) 'n Persoon wat so gekoöpteer is sal nie geregtig wees om te stem nie by enige vergadering van die Direksie of 'n komitee van die Direksie.

25 (3) 'n Persoon wat gekoöpteer en nie in diens van die regering is nie kan, ten opsigte van sy of haar dienste, sodanige vergoeding en toelaes betaal word uit die fondse van die Direksie soos wat vasgestel is deur die verantwoordelike lid, ná raadpleging met die Lid van die uitvoerende Raad verantwoordelik vir Finansies.

30 **Hoof Uitvoerende Beampte**

35 12. (1) Die verantwoordelike Lid, ná raadpleging met die Raad, moet 'n persoon as Hoof Uitvoerende Beampte van die Agentskap aanstel vir 'n tydperk van hoogstens vyf jaar.

(2) 'n Hoof Uitvoerende Beampte moet sy amp beklee op sodanige voorwaardes (met inbegrip van die betaling van vergoeding en toelaes) soos wat vasgestel is deur die verantwoordelike lid, ná raadpleging met met die Direksie.

40 (3) Die hoof Uitvoerende Beampte is 'n *ex officio* lid van die Direksie.

Ontruiming van amp deur Hoof Uitvoerende Beampte

45 13. (1) Die Hoof uitvoerende beampte moet sy of haar amp ontruin –

(a) indien hy of sy bedank;

(b) if he or she is removed from office under subsection (2).

- (2) The Chief Executive Officer of the Agency may, on good cause shown, at any time be removed from office by the responsible Member, after consultation with the Board. 5
- (3) If the Chief Executive Officer ceases to hold office, the responsible Member must, within reasonable time and subject to the provisions of section 12(1), appoint another Chief Executive Officer. 10

Appointment of company secretary

14. (1) The Board shall appoint the secretary of the Board.
- (2) The secretary of the Board shall hold office on such terms and conditions (including the payment of remuneration and allowances) as determined by the Board. 15
- (3) The secretary of the Board must be qualified to be admitted to practice as a legal practitioner in the Republic. 20
- (4) The secretary of the Board shall be responsible for all administrative work in connection with the performance of the duties or the exercise of the powers of the Board. 25
- (5) The secretary of the Board has the responsibilities of a company secretary as prescribed by the Companies Act, 1973.

Meetings and decisions

15. (1) A meeting of the Board must be held at a time and place to be determined by the chairperson. 30
- (2) The proceedings at a meeting of the Board shall, in as far as it has not been prescribed, be determined by the Board. 35
- (3) The quorum for a meeting of the Board shall be a majority of the members of the Board.
- (4) The decision of the majority of the directors present at a meeting of the Board must be a decision of the Board, and in an event of an equality of votes relating to any matter, the chairperson of the Board or the person acting as such, as the case may be, must have a casting vote in addition to his or her deliberative vote. 40

(b) hy of sy ingevolge subartikel (2) uit sy of haar amp verwyder word;

(2) Die Hoof Uitvoerende Beampte van die Agentskap kan, by aanvoering van goeie gronde, te eniger tyd deur die verantwoordelike Lid uit sy amp verwyder word, ná raadpleging met die Direksie.

(3) Indien die Hoof Uitvoerende Beampte ophou om sy of haar amp te beklee, moet die verantwoordelike Lid, binne 'n redelike tydperk en onderhewig aan die bepalinge van artikel 12(1), 'n ander Hoof Uitvoerende beampte aanstel.

Aanstelling van maatskappy sekretaris

14. (1) Die Raad moet 'n sekretaris van die Direksie aanstel.

(2) Die sekretaris van die Direksie moet sy of haar amp beklee op sodanige voorwaardes (met inbegrip van die betaling van vergoeding en toelaes) soos deur die Direksie vasgestel.

(3) Die sekretaris van die Direksie moet gekwalifiseer wees om as 'n regspraktisyn in die Republiek toegelaat te kan word.

(4) Die sekretaris van die Direksie moet verantwoordelik wees vir alle administratiewe werk in verband met die uitvoer van pligte of die uitoefening van die bevoegdhede van die Direksie.

(5) Die sekretaris van die Direksie is soos voorgeskryf deur die Wet op Maatskappye, 1973.

Vergaderings en besluite

15. (1) 'n vergadering van die Direksie moet gehou word op 'n plek en tyd soos vasgestel deur die voorsitter.

(2) Die verrigtinge by 'n vergadering van die Direksie moet, insoverre dit nie voorgeskryf word nie, deur die Direksie vasgestel word.

(3) Die kworum vir 'n vergadering van die Direksie is 'n meerderheid van die lede van die Direksie.

(4) Die besluit van die meerderheid direkteurs teenwoordig by 'n vergadering van die Direksie is 'n besluit van die Direksie, en in die geval van 'n gelyke stemming oor enige saak, moet die voorsitter van die Direksie of die persoon wat as voorsitter waarneem, wat die geval ook al mag wees, 'n beslissende stem bykomend tot sy beraadslagende stem uitbring.

- (5) No decision taken by the Board of Directors or act performed under authority of the Board of Directors shall be invalid by reason only of a vacancy on the Board or by reason of the fact that a person, who is not entitled to sit as a director, sat as a director at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the directors who were present at the time and entitled to sit as directors. 5

Accountability, audit and annual report

16. (1) This Act is subject to the Public Finance Management Act, 1999. 10
- (2) The Chief Executive Officer shall –
- (a) be charged with the responsibility of accounting for money received or paid out for or on account of the Board; and 15
- (b) cause the necessary accounting and other related records to be kept.
- (3) The records referred to in subsection (2)(b) shall be audited annually by the Auditor-General. 20
- (4) The Board shall report to the responsible Member quarterly on its activities, and the responsible Member shall cause such reports, including the annual financial statements of the Board, to be tabled promptly in the Provincial Legislature. 25
- (5) The financial year of the Agency shall terminate on 31 March in each year.

Disclosure of interest by directors 30

17. (1) The provisions of section 234, 235, 237(1), (4) and (5) of the Companies Act, 1973 (Act No. 61 of 1973) shall, *mutatis mutandis*, apply in respect of the director, and in such application, unless the context indicates otherwise, any reference therein to a company, a director or an officer of a company shall be construed as a reference to the Agency, director or an officer of the Agency, as the case may be. 35
- (2) Any declaration of interest made in terms of subsection (1), shall be recorded in the minutes of the meeting of the Board at which the declaration was made. 40

- 5 (5) Geen besluit wat deur die Direksie geneem word of optrede gemagtig deur die Direksie sal ongeldig wees slegs omdat 'n vakature in die Direksie bestaan of omdat 'n persoon wat nie geregtig is om sitting in te neem as 'n direkteur, as 'n direkteur waargeneem het toe die besluit geneem is of die optrede gemagtig is, indien die besluit geneem is of die optrede gemagtig is deur die vereiste meerderheid van die direkteure wat teenwoordig was op daardie tydstip en geregtig was om as direkteur op te tree.

10 Verantwoordelikheid, oudit en jaarverslag

16. (1) Die Wet is onderhewig aan die Wet op Openbare Finansiële Bestuur, 1999.
- (2) Hoof Uitvoerende Beamppte moet -
- 15 (a) die verantwoordelikheid opgedra word om rekenskap te gee vir enige geld wat vir die rekening van die Direksie ontvang of uitbetaal word of; en
- (b) toesien dat die nodige rekenkundige en ander verwante rekords
- 20 gehou word.
- (3) Die rekords waarna verwys word in subartikel (2)(b) moet jaarliks geoudit word deur die Ouditeur-generaal.
- 25 (4) Die Direksie moet kwartaalliks verslag doen by die verantwoordelike Lid oor sy bedrywighede, en die verantwoordelike Lid moet toesien dat sodanige verslae, met inbegrip van die jaarlikse finansiële state van die Direksie, stiptelik in die Provinsiale Wetgewer ter tafel gelê word.
- 30 (5) Die boekjaar van die Agentskap loop op 31 Maart van elke jaar ten einde.

Bekendmaking van belange deur direkteurs

- 35 17. (1) Die bepalings van artikel 234,235, 237 (1), (4) van die Wet op Maatskappye, 1973 (Wet Nr. 61 van 1973) moet, *mutatis mutandis*, van toepassing wees op die direkteur, en in sodanige toepassing, tensy die samehang andersins aandui, moet enige verwysing daarin na 'n maatskappy, 'n direkteur of 'n amptenaar van 'n maatskappy vertolk word as verwysende na die Agentskap, direkteur of 'n amptenaar van die Agentskap, wat die geval ook
- 40 al mag wees.
- (2) Enige verklaring van belang wat ingevolge subartikel (1) gemaak word, moet in die notule van die vergadering van die Direksie waar die verklaring gemaak is, opgeteken word.

Loans to directors

18. No loan shall be made directly or indirectly out of the funds of the Agency or any other funds administered by the Agency to a director, without the prior written consent of the responsible Member. 5

Insurance

19. The Agency may provide insurance cover - 10
- (a) for a director in respect of bodily injury, disablement or death, or any other loss or damage, resulting solely and directly from the performance of his or her duties as a director; and
 - (b) for the Agency against any loss, damage, risk or liability which it may suffer or incur. 15

Funding of the Agency

20. (1) The funds of the Board consist of money appropriated by the Legislature, as well as from income received through its operations. 20
- (2) The Agency must under no circumstances distribute its profits to any person and is obliged to utilize all of its funds solely for the objects for which the Agency has been established. 25

Regulations

21. The responsible Member may, after consultation with the Board, make regulations on any matter which he or she may regard as necessary for the facilitation of the establishment of the Agency or the achievement of the objects of this Act. 30

Repeal of laws and saving

22. (1) Subject to the provisions of subsections (2) and (3), the laws referred to in the Schedule are hereby repealed. 35
- (2) At the commencement of this Act –
- (a) all assets, liabilities, rights and obligations of a dissolved corporation and agency shall vest in the Agency: Provided that the responsible Member may by notice in the *Provincial Gazette* further regulate matters relating to the assets, liabilities, rights and obligations of the Agency, including the transfer thereof to any entity, person or body: 40

Lenings aan direkteure

5 18. Geen lening moet regstreeks of onregstreeks uit die fondse van die Agentskap of enige ander fondse wat deur die Agentskap geadministreer word gemaak word aan 'n direkteur, sonder die voorafverkreë skriftelike toestemming van die verantwoordelike Lid.

Versekering

10 19. Die Agentskap kan versekeringsdekking voorsien -

(a) vir 'n direkteur ten opsigte van liggaamlike besering, ongeskiktheid of dood, of enige ander verlies of skade, wat uitsluitlik en regstreeks spruit uit die verrigting van sy of haar pligte as direkteur; en

15 (b) vir die Agentskap teen enige verlies, skade, risiko of aanspreeklikheid wat hy mag ly of opdoen.

Befondsing van die Agentskap

20 20. (1) Die fondse van die Direksie bestaan uit geld wat deur die Wetgewer toegewys word, asook van inkomste verkry deur sy besigheid.

(2) Die Agentskap moet onder geen omstandighede sy winste aan enige persoon uitdeel en is verplig om al sy fondse slegs aan te wend vir die oogmerke waarvoor die Agentskap gestig is.

25

Regulasies

30 21. Die verantwoordelike Lid kan, ná raadpleging met die Direksie, regulasies uitvaardig oor enige aangeleentheid wat hy of sy as noodsaaklik beskou vir die fasilitering van die stigting van die Agentskap of die verwesenliking van die oogmerke van hierdie Wet.

Herroeping van wette en voorbehoudbepalings

35 22. (1) Onderhewig aan die bepalinge van subartikels (2) en (3), word die wette waarna in die Bylae verwys word hiermee herroep.

40 (2) Met die inwerkingtreding van hierdie Wet -

(a) moet alle bates, laste, regte en verpligtinge van 'n ontbinde korporasie en agentskap berus by die Agentskap: met dien verstande dat die verantwoordelike Lid sake wat verband hou met bates, laste, regte en verpligtinge van die Agentskap, met inbegrip van die oordrag daarvan aan enige entiteit, persoon of liggaam, by wyse van kennisgewing in die *Provinsiale Koerant* verder kan reguleer:

45

- Provided further that such administrative records and other documents of a dissolved corporation and agency as may be determined by the responsible Member shall be transferred to the Agency or such entity, person or body; 5
- (b) any person who immediately before such commencement was an employee of a dissolved corporation or agency shall become an employee of the Agency: Provided that the appointment of such an employee to a post within the Agency and the determination of the location where such an employee will be stationed shall be done by the responsible Member: Provided further that the responsible Members may by notice in the *Provincial Gazette* regulate matters relating to the further transfer of an employee of the Agency; 10
- (c) any person who immediately before such commencement was a director of a dissolved corporation or agency shall retire: Provided that the responsible Member may appoint such person as a director of the Agency. 15
- (3) Anything done before the commencement of this Act in terms of the provisions of repealed Act – 20
- (a) by or on behalf of a dissolved corporation or agency and which could have been done by the responsible Member in terms of the provisions of this Act, shall be deemed to have been done by the responsible Member in terms of the latter provisions; 25
- (b) by or on behalf of the responsible Member and which could have been done by him or her in terms of the provisions of this Act, shall be deemed to have been done by the responsible Member in terms of the latter provisions; 30
- (c) by or on behalf of a dissolved corporation or agency and which could have been done by the Agency in terms of the provisions of this Act, shall be deemed to have been done by the Agency in terms of the latter provisions. 35
- (4) The Registrar of Deeds concerned shall as soon as may be practicable after the commencement of this Act make such entries or endorsements in or on any relevant register, title deed or other document in his or her office or submitted to him or her, as he or she may deem necessary in order to give effect to the provisions of subsection (2)(a). 40

Short title

23. This Act is called the Free State Investment and Development Agency Act, 2009. 45

Met dien verstande ook dat sodanige administratiewe rekords en ander dokumente van 'n ontbinde korporasie en agentskap soos wat deur die verantwoordelike Lid vasgestel kan word oorgedra sal word aan die Agentskap of sodanige entiteit, persoon of liggaam;

5

(b) enige persoon wat onmiddellik voor sodanige inwerkingtreding 'n werknemer was van 'n ontbinde korporasie of agentskap sal 'n werknemer word van die Agentskap: met dien verstande dat die aanstelling van sodanige werknemer in 'n pos binne die Agentskap en die vasstelling waar sodanige werknemer gestasioneer sal wees, gedoen sal word deur die verantwoordelike Lid: met dien verstande verder dat die verantwoordelike Lede by wyse van kennisgewing in die *Provinsiale Koerant* sake wat verband hou met die verdere oordrag van 'n werknemer van die Agentskap verder kan reguleer;

10

15

(c) enige persoon wat onmiddellik voor sodanige inwerkingtreding 'n direkteur van 'n ontbinde korporasie of agentskap was moet uit diens tree: met dien verstande dat die verantwoordelike Lid sodanige persoon as 'n direkteur van die Agentskap aanstel.

20

(3) Enigiets wat gedoen is voor die inwerkingtreding van hierdie Wet ingevolge die bepalings van herroepe Wet -

25

(a) deur of namens 'n ontbinde korporasie of agentskap en wat gedoen kon word deur die verantwoordelike Lid ingevolge die bepalings van hierdie Wet, sal geag word asof dit gedoen is deur die verantwoordelike Lid ingevolge laasgenoemde bepalings;

30

(b) deur of namens die verantwoordelike Lid en wat deur hom of haar gedoen kon word ingevolge die bepalings van hierdie Wet, sal geag word asof dit gedoen is deur die verantwoordelike Lid ingevolge laasgenoemde bepalings;

35

(c) deur of namens 'n ontbinde korporasie of agentskap en wat gedoen kon word deur die Agentskap ingevolge die bepalings van hierdie Wet, sal geag word asof dit gedoen is deur die Agentskap ingevolge laasgenoemde bepalings.

40

(4) Die betrokke Registrateur van Aktes moet so gou as wat moontlik is na die inwerkingtreding van hierdie Wet sodanige inskrywings of endossemente in of op enige relevante register, titelakte of ander dokument in sy of haar kantoor doen of wat by hom of haar ingedien is, soos wat hy of sy nodig mag ag ten einde uitvoering te gee aan die bepalings van subartikel (2)(a).

45

Korttitel

23. Die Wet heet die Wet op die Vrystaatse Beleggings- en Ontwikkelingsagentskap, 2009.

SCHEDULE**Laws repealed**

Name and Year of Law	Extent of Repeal
1. Free State Development Corporation Act, 1995 (Act No. 61 of 1995)	The whole
2. Investment Free State Agency Act, 1998 (Act No. 18 of 1998)	The whole
3. Free State Development Corporation Amendment Act, 1999 (Act No. 9 of 1999)	The whole
4. Investment Free State Agency Amendment Act, 2006 (Act No. 3 of 2006)	The whole
5. Free State Development Corporation Amendment Act, 2006 (Act No. 4 of 2006)	The whole

BYLAE**Wette wat herroep word**

Naam en jaar van Wet	Omvang van herroeping
1. Vrystaatse Ontwikkelingskorporasiewet, 1995 (Wet Nr. 61 van 1995)	In geheel
2. Wet op die Vrystaat Investeringsagentskap, 1998 (Wet Nr. 18 van 1998)	In geheel
3. Vrystaatse Ontwikkelingskorporasie Wysigingswet, 1999 (Wet Nr. 9 van 1999)	In geheel
4. Wysigingswet op die Vrystaat Investeringsagentskap, 2006 (Wet Nr. 3 van 2006)	In geheel
5. Vrystaatse Ontwikkelingskorporasie Wysigingswet, 2006 (Wet Nr. 4 van 2006)	In geheel

MEMORANDUM

Purpose

This Bill gives effect to the intention to align activities, etc. of public entities where possible. The nature of the activities, etc. of the Free State Investment Agency and the Free State Development Corporation are reconcilable. Therefore, this Bill provides that the Free State Investment and Development Agency may provide for investment opportunities for the Province; to stimulate economic growth; to assist small and medium enterprises with financial assistance; to promote economic activity within the Province; to provide for trade promotion; and for matters connected therewith.

Clause 1

This clause deals with the definitions.

Clause 2

This clause deals with the establishment of the Agency.

Clause 3

This clause deals with the objects of the Agency.

Clause 4

This clause deals with the powers of the board of directors.

Clause 5

This clause deals with the board of directors of the Agency.

Clause 6

This clause deals with the procedure for the appointment of the Board.

Clause 7

This clause deals with the period of office and remuneration of directors.

Clause 8

This clause deals with the vacation of office by directors and filling of vacancies.

Clause 9

This clause deals with the appointment of the chairperson and the acting chairperson.

MEMORANDUM

Doel

Hierdie Wetsontwerp gee uiting aan die bedoeling om waar moontlik aktiwiteite, ens. van openbare entiteite in lyn te bring. Die aard van die aktiwiteite, ens. van die Vrystaat Investeringsagentskap en die Vrystaatse Ontwikkelingskorporasie is versoenbaar. Dus, maak hierdie Wetsontwerp voorsiening dat die Vrystaatse Investerings- en Ontwikkelingsagentskap voorsiening kan maak vir beleggingsgeleenthede vir die Provinsie; om ekonomiese groei te stimuleer; om te help met finansiële bystand aan klein en medium sake-ondernemings; om ekonomiese aktiwiteite binne die Provinsie te bevorder; om voorsiening te maak vir die bevordering van handel; en vir sake wat daarmee verband hou.

Klousule 1

Hierdie klousule handel oor die woordomsrywings.

Klousule 2

Hierdie klousule handel oor die stigting van die Agentskap.

Klousule 3

Hierdie klousule handel oor die oogmerke van die Agentskap.

Klousule 4

Hierdie klousule handel oor die bevoegdhede van die direksie.

Klousule 5

Hierdie klousule handel oor die direksie van die Agentskap.

Klousule 6

Die klousule handel oor die prosedure vir die aanstelling van lede van die Direksie.

Klousule 7

Hierdie klousule handel oor die ampstermyn en vergoeding van lede van die Direksie.

Klousule 8

Hierdie klousule handel oor die ampsbeëindiging van lede van die Direksie en die vul van vakatures.

Clause 10

This clause deals with committees of the Board.

Clause 11

This clause deals with co-option of persons to the Board.

Clause 12

This clause deals with the appointment of the chief executive officer.

Clause 13

This clause deals with vacation of office by the chief executive officer.

Clause 14

This clause deals with the appointment of the company secretary.

Clause 15

This clause deals with the meetings and decision of the Board.

Clause 16

This clause deals with accountability, audit and annual reports of the Board.

Clause 17

This clause deals with the disclosure of interest by directors of the Board.

Clause 18

This clause deals with loans to directors of the Board.

Clause 19

This clause deals with the insurance cover that the Agency must provide to the directors of the Board.

Klousule 9

Die klousule handel oor die prosedure vir die aanstelling van die voorsitter en waarnemende voorsitter van die Direksie.

Klousule 10

Hierdie klousule handel oor die Komitees van die Direksie.

Klousule 11

Hierdie klousule handel oor die koöptering van persone tot die Direksie.

Klousule 12

Hierdie klousule handel oor die aanstelling van die hoof uitvoerende beampte.

Klousule 13

Hierdie klousule handel oor die ontruiming uit sy pos van die hoof uitvoerende beampte.

Klousule 14

Hierdie klousule handel oor die aanstelling van die maatskappy sekretaris.

Klousule 15

Hierdie klousule handel oor die vergaderings en besluite van die Direksie.

Klousule 16

Hierdie klousule handel oor die verantwoordelikheid, ouditering en jaarverslae van die Direksie.

Klousule 17

Hierdie klousule handel oor die bekendmaking van belange van direkteure van die Direksie.

Klousule 18

Hierdie klousule handel oor lenings aan direkteure van die Direksie.

Klousule 19

Hierdie klousule handel oor versekeringsdekking wat die Agentskap moet voorsien aan direkteure van die Direksie.

Clause 20

This clause deals with funding of the Agency.

Clause 21

This clause empowers the responsible Member to make regulations.

Clause 22

This clause deals with repeal of laws and saving.

Clause 23

This clause gives the short title.

Klousule 20

Hierdie klousule handel oor die befondsing van die Agentskap.

Klousule 21

Hierdie klousule magtig die verantwoordelike Lid om Regulasies te maak.

Klousule 22

Hierdie klousule handel oor die herroeping van wette en voorbehoudsbepalings.

Klousule 23

Hierdie klousule gee die kort titel.