AN BILLE UM URRÚSÚ (FÁLTAIS Ó MHORGÁISTÍ ÁIRITHE), 1995

SECURITISATION (PROCEEDS OF CERTAIN MORTGAGES) BILL, 1995

EXPLANATORY MEMORANDUM

Background to Bill

In February this year, the High Court issued a judgement on foot of claims by certain married women that the State had breached EU law on equality of treatment for social security.

The Government accepted the Court's ruling and, as a consequence, sums of the order of £260m became payable by the Exchequer. The Government had included an amount of £60m in the 1995 Budget for this purpose. The Government decided to finance the additional sums due by the disposal of State assets, rather than by additional taxation or borrowing. The purpose of this Bill is to implement the Government decision by securitising part of the receipts arising from local authority mortgages.

In essence, a stream of income due to the local authorities from housing loans they have made, with finance borrowed from the Exchequer through the Local Loans Fund, will be paid to a company. In return for this assignment the company will pay the Exchequer a lump sum at the beginning of the transaction. The company will raise the sum concerned by issuing bonds. In this way the Exchequer receives money up front which, without a securitisation scheme, would have come to it in bi-annual payments from local authorities over a period of years.

Payments made to the securitising company by the local authorities will be treated, as far as their debt to the Local Loans Fund is concerned, as if they were payments to the Fund. The local authorities' debts to the Fund will be reduced to the extent of the payments to the company.

There will be no adverse effect whatever on the finances of local authorities and no change in the legal position of the local authorities' mortgagors. The same rights and obligations continue to apply.

Details of Bill

The Bill is mainly technical to provide for some legal changes necessary to allow the scheme to proceed.

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Section 1 is a definitions and interpretation section.

Section 2 requires that, other than for payments for the equal treatment arrears, the approval of the Dáil will be required to raise funds under this Act.

Section 3 amends Section 14 of the Housing (Miscellaneous Provisions) Act, 1992 which allows the Minister for the Environment to direct the sale, transfer or assignment of mortgages held by local authorities. This Bill provides that the Minister for the Environment can additionally direct a local authority to undertake an equitable assignment of mortgage debt. That is, the principal and interest payments less the normal collection charge will be transferred by the local authority to a new company. The mortgage between the local authority and the mortgagor is unaffected.

Section 4 allows the Minister to designate the body which will in future receive the money. Alternatively, if he wishes, he can establish a company himself.

Loans from the Local Loans Fund to local authorities are secured by a lien on the general revenue of the authorities. *Section 5* excludes the payments of securitised mortgage debts from that lien, by excluding these payments from the general revenue of the authorities. This is necessary to ensure that, in the future, should a local authority default on a debt to the Fund and should the Fund have to exercise its lien, the revenues due to the company will not be affected.

Section 6 provides that payments by a local authority to the designated body will be regarded as payments of the local authority's debts to the Local Loans Fund.

Section 7 allows the Minister to guarantee payments so that, for example, if there were to be a default by a local authority on a payment due to the designated body he would pay the body to ensure there would be no interruptions in payments to the bond holders. In turn, he would pursue the defaulting local authority.

Section 8 allows the Minister, acting through the Local Loans Fund, to act as agent for the collection and remission of the payments. This route is being followed so that there is no change to the present pattern of payments which go from the local authority to the LLF.

Section 9 requires that a local authority will provide any information required in relation to this Act.

Section 10 ensures that any surplus arising in the designated body will pass to the Exchequer on winding up.

Section 11 is a technical amendment to allow the Post Office Savings Bank Fund to purchase any securities issued by the designated body. This is a stand-by provision to allow the POSB Fund to help provide liquidity for the bonds.

Section 12 gives the power to the Minister (which will be delegated to the National Treasury Management Agency) to enter into transactions with the securitising company.

Section 13 allows for certain functions to be delegated to the NTMA by the Government.

Section 14 exempts the designated body from tax.

Section 15 gives the bonds issued by the designated body special tax status. The bonds will be treated similarly to Government bonds.

Section 16 requires the designated body to be audited by the Comptroller and Auditor General.

Section 17 allows any expenses to be paid from the Central Fund.

Section 18 is the short title.

An Roinn Airgeadais,
Samhain, 1995.

Wt. P38954/B/11. 1,025. 11/95. Cahill (X28891). G.16.

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