

THE ANALYSIS OF THE MISCELENEOUS AMMENDMENT ACT (NO.2) BROUGHT JOINTLY BY TANGIBLE INITIATIVES FOR LOCAL DEVELOPMENT TANZANIA (TIFLD) IN COLLABORATION WITH TANZANIA NETWORK OF LEGAL AID PROVIDERS (TANLAP).



Tangible initiatives for Local Development Tanzania (TIFLD) in collaboration with Tanzania Network of Legal Aid Providers (TANLAP) conducted an analysis of amendments to the Miscellaneous Amendment Act (No 2) of 2019 1992. The recommendations were jointly submitted and presented before the Parliamentary Standing Committee. We thank the Parliamentary Committee for the Invitation to recommend on this bill.

GENERAL OVERVIEW

Generally, the objective of the amendment bill is good. Our recommendations on this amendment bill has based on the rate set, time frame and the use of legal languages that may affect the effectiveness of the implementation of law. We have noted that some of the propositions are format issues. Specifically our recommendations based on the following;

1. We have noted that, the Objective of amending Part IV of the Bill that amends the Local Government Authority (Rating) Act (Cap 289) to a great extent is good. However, the reasoning does not include the broader consideration of the use and management of natural resources such as Land. Our recommendation on S.11 is more detailed on the proposed approach to address this.
2. Secondly the amendments have used subjective language, which might hinder the effectiveness of the amendments. We recommend otherwise as provided in S.19 of our submission.

SECTION IN THE BILL	PROPOSED BILL	OBJECTIVE AND REASONING	OUR OPINION	PROPOSAL/RECOMMENDATIONS
PART IV AMMENDMENT OF LOCAL GOVERNMENT AUTHORITY (RATING) ACT (CAP 289)				
S.11	<u>Amendment of Section 16</u> The bill propose for the amendment of section 16 which provides for the charged property rate as follows: (1) there shall be charged property rate at the rate of- (a) incase of	The main objective of this amendment is to set a flat rate for the property tax and enable the Tanzania Revenue Authority to be the sole collector of property Tax in Tanzania.	The objective of this amendment is good however our opinion is that the objective has not covered the bigger picture of the use and management of resources such as land. Imagine if I plan to have five houses in urban area, according to this proposed rate, its cheaper to build all of them separate and use more land than building one storey building. Besides the gap between	We propose the provision to be read as follows; - <i>(1) There shall be charged property rate at the rate of- (a) incase of city council and town council areas (i) Ten thousand shillings for ordinary building (ii) twenty thousand shillings for each store building</i>

	<p>city council and town council areas (i) Ten thousand shillings for ordinary building (ii) fifty thousand shillings for each storey building</p> <p>(b) In the case of district council areas (i) Ten thousand shillings for each ordinary building (ii) Twenty thousands shillings for storey building</p>		<p>the two rates is too big. We need to enact laws that promote better use and management of natural resources.</p>	
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PART V
AMMENDMENT OF THE MINING ACT (CAP1230)

<p>S. 19</p>	<p><u>Amendment of Section 9</u> This section amend section 9 of the Principle act by deleting subsection (4) and substitute it with the following;</p> <p>(4) Consent of the licensing Authority</p>	<p>S. 9 of the Principle act is amended to include tax clearance as a precondition for transfer of Mineral rights. The proposed amendment is intended to</p>	<p>The objective of amending this provision is good and we endorse. However there is one word in Subsection (4) (2) (a) "SUBSTANTIAL DEVELOPMENT". We think the words SUBSTINTIAL DEVELOPMENT is subjective and may hinder the effectiveness of transfer of mineral rights.</p> <p>The questions like What is</p>	<p>We recommend the word SUBSTANTIAL to be removed and the new amendments to include minimum requirement that will be used to conclude that there is a proof of considerable development that has been effected by the holder of the mineral rights</p>
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	<p>where it is required under subsection (2) shall not be given unless (a) there is a proof that Substantial development have been effected by the holder of the mineral rights (b) there is a Tax Clearance Certificate issued by the Tanzania Revenue Authority and; (c) there is a proof that other charges, fees and payables have been cleared</p>	<p>ensure that taxes relating to mineral rights are paid before affecting transfer of such rights.</p>	<p>substantial? Who will determine that there is a substantial development? What requirements equals to substantial?</p>	
s. 86C (2)	<p><u>Regulations on the importation of Minerals</u></p> <p>(2) The Mineral Import Permit issued under this section shall be valid for such time as may be stated in the permit</p>	<p>This section is introduced to provide for matters relating to Mineral Importation permit</p>	<p>Subsection (2) of this provision is too general and may hinder effectiveness of the objective of this amendment because it does not set minimum and /or maximum time limit</p>	<p>We recommend that the new amendment should set time frame and be read as follows;</p> <p><i>(2) The Mineral Import Permit issued under this section shall be valid for a period not less than (set time) and not exceeding (set time)</i></p>

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