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## **My modest Contributions towards the PROPERTY PRACTITIONERS BILL –**

Upon the calling the National Assembly for the public contributions towards the Property Practitioners Bill, and being already in the industry and being exposed to the painful realities of the home owners/ Landlord in the rental contracts, I have already complained about the Customers Protection Act (CPA) that disastrously cripples or indebts the landlords by the fault of defaulting tenants, who often do not pay their rentals and attached charges.

Thus may even lead them to have their bonded properties repossessed or being sold in auction.

It is indeed the State right to protect the consumers - Citizens against landlords or any type of services and goods providers. As it has often been exposed the collusions and price fixing that happens out there.

However, that protection Act, is on the other side of the same medal a nightmare for the Landlord who happens to accommodate bad and even very bad tenants.

That is my purpose of my modest contributions in this debate. I deeply hope that the Law makers of the Land will take some time to look into it and rectify what did miss previously in order to balance the rights and obligations of all parties in the Rental contract in South Africa.

### **1/ Below is an over view of the Property Practitioners Bill:**

#### **CHAPTER 10**

#### **CONSUMER PROTECTION**

#### **CHAPTER 1**

#### **DEFINITIONS, APPLICATION, OBJECTS AND ESTABLISHMENT OF AUTHORITY**

#### **Application of Act**

2. This Act applies to the marketing, promotion, managing, sale, letting, financing and purchase of immovable property, and to **any rights, obligations, interests, duties** or powers associated with or relevant to such property.

#### **Objects of Act**

3. The objects of the Act are to—

- (a) provide for the regulation of property practitioners;
- (b) provide for the establishment of the Authority;

- (c) provide for the powers, functions and governance of the Authority;
- (d) provide for the protection and promotion of the interests of consumers;**
- (e) provide for a dispute resolution mechanism in the property market;**
- (f) provide for the education, training and development of property practitioners and candidate Property Practitioners;
- (g) provide for a framework for the licensing of property practitioners;
- (h) provide for a just and equitable legal framework for the marketing, managing, financing, letting, renting, sale and purchase of property;**

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### Functions of Authority

6. The functions of the Authority are to—

- (a) regulate the conduct of estate agents in dealing with the consumers;
- (b) regulate the conduct of estate agents in so far as marketing, managing, financing, letting, renting, hiring, sale and purchase of property are concerned;**
- (c) regulate and ensure that there is compliance with the provisions of the Act; 9 5 10 15 20 25 30 35 40 45 50 55
- (d) ensure that the consumers are protected from undesirable and sanctionable practices as set out in section 61 and section 62;**
- (e) regulate any other conduct which falls within the ambit of the Act in as far as estate agents and consumers in this market are concerned;
- (f) provide for the education, training and development of property practitioners and candidate property practitioners;
- (g) educate and inform consumers about their rights as set out in section 68; and**

## **2/ Negative Impacts of the CPA on the Landlord in the Rental Contract of Property with a default tenant:**

What is currently the rights of a Landlord towards a defaulting tenant who does not pay the monthly rental, nor the water, electricity, refuse bill?

There is nothing catered for the landlord by the law.

He has to approach the tribunal for an eviction process, that may go up to six full months with costs and compiling bills that the tenant will leave to him.

## **3/ Consequences of the Default bond re-payment on the Home owner (Landlord – Default Home owner)**

Let see in detail the extend the costs and consequences for the landlord during these six months:

Direct Debts generated by defaulting tenant to the landlord		Debts resulting to the defaulting rental payments to the landlord		Consequences for Landlord for accumulated debts
Description of the Landlord Cost	Amounts	Descriptions	Amounts	
Electricity Bill	X	Monthly Bond repayment	X	Better of the case - Bank Distress sales of the property
Water bills	X	Rates & Tax	X	Worse situation -Repossession of the property
Refuges	X	Monthly Levy	X	Sale by Auction
Interest for late payment	X	Body Corporate Bill / Home owner association bill	X	Remaining debts to be paid
Disconnection by Eskom	X	House Insurance	X	Black listing of the landlord
Reconnection Fees	X	Evictions Costs	X	
Costs of Legal actions against the landlord	X	Eventual refurbishment of the property	X	

#### 4/ Excessive blind protection of tenant to the disadvantage of the Landlord.

During that period, the landlord is not allowed to have the electricity, nor the water be disconnected. Therefore, the bills keep compiling, to the point to even loose his property. Turning what was supposed to be a passive income for him into nightmare with the claws of the law – the Customers Protection act (CPA)

#### What about the Tenant in all that he has created?

He will freely walk away with not worry at all, but to be in some cases only be black listed in the credit bureau.

#### 5/ Equitable laws to protect the rights of the landlord and of the tenant.

What should then be the legal attitudes of the landlord when facing that kind of situations? Already with the non-payment of the rental, the landlord is not able to service the re-payment of the bond, it should not be allowed to the tenant to add extra debts to the landlord by consuming the electricity and water as these are his direction personal human basic needs that should not be to charge of someone else.

**NB:** Here I would like to emphasize that there are indeed some people who may experience serious challenges or difficulties at certain stage in their life. That may be the causes of the defaulting payments.

But, there are also those will a very bad intension and habit not to pay their rental as they know the way forward throughout the eviction process that they master very well.

As it is said: **“The more you know the law, the more the law serves you”**

Therefore, an individual approach should be taken for each and every default rental payment. And depending the case the eviction process should shorten and less expensive as it the affected landlord who safer the lost again of the eviction costs.

All the costs directly generated by the tenant for example: (Water, electricity, refuse, and any late payments fees and reconnection) should be paid by him.

### **6/ Approach solution protect the landlord and Tenant:**

With the practice, I have realized there are more and more fake documents that are provided by tenants when applying for a rental for the credit check/record: (Forged bank statements, payslips, previous landlord reference).

The Property Practitioners have therefore the obligations to seriously screen the applications before approving them.

As, once the basis is faulted, the result will not change – it is what goes in that comes out. Though some tenants may change along the way.

I would therefore like to suggest some solutions.

So far, all the rental management agencies have not been able to efficiently assist the distressed landlord with defaulting tenants, somewhere due to the CPA that limits their actions.

Therefore a Specialised Property bank or institution should be established.

And willing landlord, who reality has in his heart to run a passive income activity through the rental of his property should honestly handover the management of that property to that bank or institution. So instead of the rental management agencies that can not help the landlord, those institutions should be empowered to collect the rental from the tenant and pay everyone that the landlord has to pay such as the Eskom/ City Power, the water company, the counsel, the bank for the bonds and SARS should it be the case. And if there still some rest, bank it for the landlord. So should there be late payment or non-payment at all, the bank will immediately identify the defaulting party and take the necessary action to fix the problem.

That bank will therefore create employments in order to follow all her clients.

I hope that humble contributions will be mind opening to the suffering of too many landlords across the country. And having been exposed to those issues, it was in my duties to bring them to the attention of the Law Makers of the Land through the opportunity given by the Property Practitioners Bill.

I am available for any further information that you may require.

Yours Sincerely;

- *When You know you will partake to a mean, you blow the fire during it cooking!!!*
- *The child who loose his parents is called orphan  
The one who loose his or her spouse is called widow  
What about the one who loose a child, how do we call him or her?*

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