

# Bill gives consumers more protection

## BONNY FOURIE

A bill governing estate agents and other property practitioners has been gazetted by Parliament, and if passed, will finally give consumers an added level of protection against illegal and unscrupulous agents.

The Property Practitioners Bill, published on March 31, aims to replace the Estate Agency Affairs Act and has been welcomed by industry professionals.

But they are concerned the 30-day deadline for comments is unrealistic.

The bill's biggest change, say Barry Davies, director of Chas Everitt International, and Hennie Mouton, director of Smith Tabata Buchanan Boyes law firm, is the establishment of a Property Practitioners' Ombuds Office.

This will provide alternative dispute resolution mechanisms for consumers and property practitioners involved in disputes over such matters as financing, marketing, managing, letting, hiring, selling and

purchasing property.

The bill also clearly defines and sets expectations of property practitioners, says Adrian Goslett, regional director and CEO of Re/Max of Southern Africa.

"Through definition, it throws the net wider than just that of the estate agent. It intimates authority over, or at least responsibility by, third parties and facilitators...

"The bill should help the Estate Agency Affairs Board eradicate illegal agents."

Currently, consumers have no recourse once dealings with such agents "go south", says Goslett, but enforcement will be necessary.

Under the bill, a regulatory body – the Property Practitioners Regulatory Authority – will replace the Estate Agency Affairs Board and its mandate will be to regulate the conduct of all property practitioners in all their dealings with consumers.

Davies and Smith note that the bill generally does not apply to people selling their

own residential properties privately, or to attorneys, candidate attorneys, or a sheriff of the court.

In a joint statement, they say a Property Practitioners Fidelity Fund – currently the Estate Agents Fidelity Fund – will finance the reimbursement of people who have suffered financial loss due to the theft of trust money by registered property practitioners.

"Consumers should note that they will not be able to lodge a claim on the fund unless they have first laid a criminal charge against the property practitioner for misappropriation or theft of trust funds.

"The minister of human settlements will be entitled to put a cap on the amount the fund may pay out."

Jan le Roux, CEO of the Real Estate Business Owners of South Africa, says: "From an industry perspective, we are glad that this has at long last happened, as the existing Estate Agency Affairs Act, that dates from 1977, is

totally out of date in today's economy.

"The act has been amended a number of times, but a total overhaul was undoubtedly overdue."

However, the organisation is still studying the bill, and Le Roux believes stakeholders are "being put under pressure" to comment within 30 days.

Considering there are a number of public holidays in the next few weeks, this amounts to only 18 working days.

These sentiments are shared by Lew Geffen, chairman of Lew Geffen Sotheby's International Realty, who says the bill is a sizeable piece of legislation.

"The government has largely kept us in the dark about the contents of the bill since it was proposed some four years ago, and we now have 30 days only in which to offer considered comment.

"That is not long enough, especially as this period includes the Easter long weekend."