



WHAT IS BRIDGING FINANCE?

Bridging finance is a fast and flexible, short-term financial solution that can be approved and released within a matter of days. It is a highly useful tool for bridging the gap between two property transactions and a practical solution for those needing extra time to arrange suitable long-term finance.



Property Seller Finance



Agents Commission Advance



Bond Applicant Finance



Property-Backed finance

APPLICABLE LEGISLATION

National Credit Act (No. 34 of 2005)

- Compliance with maximum interest rates as stipulated in the regulations from time to time.
- Compliance with affordability provisions
- Registration with the National Credit Registrar

Property Practitioners Act (No. 22 of 2019)

- The Act defines 'property practitioners' to include **everyone involved in the selling, purchasing, letting, renting, financing and marketing of property.** ... “A property practitioner cannot accept a mandate unless the seller or lessor has provided a fully completed and signed disclosure form.”
- This includes auctioneers, property developers, property managers, franchisees, providers of bridging finance and bond brokers (aside from financial institutions) and, for purposes of certain provisions all directors, trustees, and/or employees of property practitioners.

APPLICABLE LEGISLATION

Limitations of Relationships between Attorneys and Property Practitioners in terms of PPA

- Section 58 provides that a Property Practitioner may not enter into an arrangement whereby a consumer is obligated or encouraged to use a particular service provider, including an attorney to render any service of which that Property Practitioner was the effective cause.

- **Conveyancers and money lending**
 - a) Speed up work flow
 - b) To solicit business
 - c) To conduct a bridging finance business

- **Legal Practice Act (LPA) (code of conduct Part III, S14)**

An Attorney may not effect payment, directly or indirectly, of agent's commission in advance of the date upon which such commission is due and payable...

- **Conveyancers as money lenders not excluded from definition of Property Practitioner**

INTERESTING CASE LAW

1. **Bridgeway Ltd vs Markam 2008 (6) SA 123(W)**

- Lending outside of the provisions of the National Credit Act. A discounting agreement is not a credit agreement. A discounting fee is not an interest charge.

2. **Rodel vs Naidoo 2013 (3) SA 151 (KZD)**

- Defence of monies advanced outside of the provisions of the National Credit Act. Rate of interest charged in excess of prescribed maximum rate.

3. **Stupel & Berman vs Rodel Financial Services 2015 (3) SA 36 (SCA)**

- Termination of Undertaking to pay net proceeds of purchase price to Rodel. Is an Attorney, acting as agent entitled to revoke its irrevocable undertaking upon clients instructions. Court a quo found Stupel & Berman were not entitled to withdraw its undertakings. Appeal Court found that Stupel & Berman as agent cannot be compelled to honour the undertaking after termination of its mandate by the principle.

INTERESTING CASE LAW

4. The Attorney's Fidelity Fund v Prevrance Capital (Pty) Ltd 2018 135 (SCA)

- Whether money paid to Attorneys trust accounts as entrustment as contemplated in terms of s26 (a) of Attorneys Act 53 of 1979.

5. Honey & Partners Inc and Others vs Quince Property Finance (Pty) Ltd 2011 345 (SCA)

- Attorneys signing undertaking rendering law firm liable for clients debts.



OTHER PRODUCTS



Security Bonds and Master related products

Deceased Estates

Curatorships

Liquidations

Sequestrations



Fiduciary and Trust services

Disability Trusts

Medical Malpractice

Road Accident Fund