



ESTATE AGENCY AFFAIRS BOARD  
OF SOUTH AFRICA

NOTICE TO: THE LAW SOCIETY OF SOUTH AFRICA  
ALL ESTATE AGENTS; AND TO  
ALL STAKEHOLDERS

1. INTRODUCTION

Section 34A of the Estate Agency Affairs Act 112 of 1976 provides that:

- (1) *No estate agent shall be entitled to any remuneration or other payment in respect of or arising from the performance of any act referred to in subparagraphs (i), (ii), (iii) or (iv) of paragraph (a) of the definition of 'estate agent', unless at the time of performance of the act a valid fidelity fund certificate has been issued -*
- (a) *to such estate agent; and*
  - (b) *if such an estate agent is a company, to every director of such company or, such an estate agent is a close corporation, to every member referred to in paragraph (b) of the definition of 'estate agent' of such corporation.*
- (2) *No person referred to in paragraph (c)(ii) of the definition of 'estate agent', and no estate agent who employs such person, shall be entitled to any remuneration or other payment in respect of or arising from the performance by such person of any act referred to in that paragraph, unless at the time of the performance of the act a valid fidelity fund certificate has been issued to such person.*

It is, therefore, to be emphasised that, in accordance with the provisions of Section 34A of Act 112 of 1976:

- estate agency practitioners who perform any of the functions and activities of an estate agent at a time when such persons have not been issued with fidelity fund certificate by the Estate Agency Affairs Board are not entitled to receive any commission and/or remuneration for such estate agency work if, at the time when such work was performed, the estate agents concerned had not been issued with a valid fidelity fund certificate by the Estate Agency Affairs Board; and
- Before paying any commission and/or remuneration to any estate agent resulting from the performance of estate agency work by such estate agent, consumers should always insist

that the estate agent first produce a fidelity fund certificate, valid for the calendar year in question, for inspection.

If there is any doubt as to whether or not an estate agent is registered or has been issued with a valid fidelity fund certificate consumers should not hesitate to contact the Estate Agency Affairs Board to confirm and verify the registration status of that estate agent.

## 2. ROLE TO BE PLAYED BY THE LAW SOCIETY

The Law Society of South Africa is hereby instructed to inform its members, and especially practicing conveyancers, to ensure that any estate agent/agency claiming payment of commission/remuneration, after the registration of transfer of immovable property into the name of a purchaser, be required to submit a certified copy of their valid fidelity fund certificate issued to that estate agent by the Estate Agency Affairs Board before any such payment is made. Failure by the estate agent to furnish the requisite proof of registration by the Estate Agency Affairs Board shall disqualify that estate agent from earning any commission/remuneration on the relevant transaction.



Issued by:  
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**02 April 2012**