

SECTION 65 OF THE CONSUMER PROTECTION ACT (CPA), NO. 68 OF 2008

Section 65: Supplier to hold and account for consumer's property

- (1) *Subsection (2) does not apply to a supplier that is—*
- (a) *a bank, as defined in the Banks Act, 1990 (Act No. 94 of 1990);*
 - (b) *a mutual bank, as defined in the Mutual Banks Act, 1993 (Act No. 124 of 1993); Or*
 - (c) *any other financial institution that is similarly licensed and authorised to conduct business and take deposits from the public in terms of any national legislation.*
- (2) *When a supplier has possession of any prepayment, deposit, membership fee, or other money, or any other property belonging to or ordinarily under the control of a consumer, the supplier—*
- (a) *must not treat that property as being the property of the supplier;*
 - (b) *in the handling, safeguarding and utilisation of that property, must exercise the degree of care, diligence and skill that can reasonably be expected of a person responsible for managing any property belonging to another person; and*
 - (c) *is liable to the owner of the property for any loss resulting from a failure to comply with paragraph (a) or (b).*
- (3) *A person who assumes control of a supplier's property as administrator, executor or liquidator of an estate—*
- (a) *has a duty to the consumer—*
 - (i) *to diligently investigate the circumstances of the supplier's business to ascertain the existence of any money or other property belonging to the consumer and in the possession of the supplier; and*
 - (ii) *to ensure that any such money or property is dealt with for the consumer's benefit in accordance with this section; and*
 - (b) *is liable to the consumer for any loss, unless that person has acted—*
 - (i) *in good faith; and*
 - (ii) *without knowledge of the existence of the consumer's interest.*