

IS YOUR CLIENT IN DISPUTE WITH HIS/HER BANK?

IS THERE A DISPUTE ON THE AMOUNTS BEING DEMANDED?

IS THE BANK, OR ITS AUCTIONEERS, THREATENING TO SELL YOUR CLIENT'S PROPERTY?

IS YOUR CLIENT UNDER THREAT OF RECEIVERSHIP?

IRAC OFFERS LITIGATION SUPPORT BY ASSISTING IN QUANTIFYING THE CORRECT AMOUNTS DUE TO THE BANK ACCORDING TO THE CONTRACT OR THE GOVERNING LAWS.

Effective **1st May 2007**, Section 44 (A) of **The Banking Act** limits the interest recoverable by a lender.

The maximum amount recoverable by the bank is limited to;

1. Principal amount when account became non-performing
2. Interest according to the contract not exceeding the principal owing when account became non-performing
3. Expenses incurred by the debtor in recovering the amounts owed.

IRAC will assist in establishing this limit by;

1. Determining the non-performing point as read against the terms of the contract and according to The CBK prudential Guidelines
2. Recalculating the interest according to the strict terms of the contract
3. Determining the In-Duplum point and the amounts due as at this point
4. **For those facilities that were advanced pre-1st May 2007**, IRAC will assist in determining the correct amount owed on 1st May 2007. In determining this, the following are applied;
 - Section 39 of **The Central Bank of Kenya Act** which set the maximum interest rates on loans and advances from **July 1991** up to **18th April 1997** (70 months).
 - Section 39 of **The Central Bank of Kenya (Amendment) Act 2000** which set the maximum interest rates between **1st January 2001** and **31st July 2005** (55 months).

- Section 44 of **The Banking Act** which requires that all charges and the interest rates be approved by the minister prior to their being charged into the account.

- Applying the strict terms of the contract to ensure that the lending and penal rates (penalty interest, interest on excess, interest on arrears and default interest) are applied and charged correctly by the bank.

Finally, IRAC offers **EXPERT EVIDENCE** in court when required to do so in support of its findings.

Talk to us for further discussion on the above and on some relevant cases that have been settled in and out of court.