

A BILL

FOR

AN ACT TO PROVIDE FOR THE REGISTRATION AND REGULATION OF PERSONS WHO, BY WAY OF BUSINESS, NEGOTIATE OR OTHERWISE DEAL IN RELATION TO THE SELLING, PURCHASING OR LETTING OF LAND AND BUILDINGS, AND FOR CONTROL OF THE PROFESSIONAL CONDUCT OF SUCH PERSONS; AND FOR RELATED MATTERS

Sponsored by Hon. James Abiodun Faleke

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

1 PART 1 - ESTABLISHMENT AND MEMBERSHIP OF THE BOARD

2 1- (1) There is Established a Board to be known as the Estate
3 Agents Registration Board Establishment
of the Board

4 (2) The Board shall be:

5 (a) a body corporate with perpetual succession and a common seal;

6 (b) capable of suing and being sued;

7 (c) capable of acquiring, holding and disposing of movable and
8 immovable property.

9 (3) The provisions of the Schedule shall have effect in relation to
10 the Board.

11 2. The Board shall consist of the following to be appointed by the
12 Minister:

13 (a) a chairman, who shall be appointed from any of the chapters of
14 the Institution of Surveyors of Nigeria namely Valuation and Estate
15 Management, Building Surveyors and Land Management;

16 (b) two public officers who are members of the Institution of
17 Surveyors of Nigeria;

18 (c) two members of the Institution Surveyors of Nigeria who are in

1 private practice;

2 (d) three persons to represent the interest of the general public;

3 (e) one person who shall be a legal practitioner to be appointed by the

4 Attorney-General of the Federation.

Tenure of office

5 3.-(1) A Member of the Board shall hold office for a period of four
6 years, and may be re-appointed for another period of four years and no more.

7 (2) a Member of the Board may vacate his office, if he:

8 (a) resigns;

9 (b) becomes bankrupt or insolvent;

10 (c) dies while in office;

11 (d) is removed by the Minister either arising out of infirmity of mind
12 or ill health.

13 (3) Where any Member representing a particular interest either
14 resigns, dies or is removed from office, the Minister may appoint another person
15 to fill that interest and such members may serve office for the unexpired term of
16 that member who either resigned, died or is removed.

Functions of
the Board

17 4. The Board shall be charged with the responsibility of registering
18 estate agents and of ensuring that the competence and conduct of practicing
19 estate agents are of a standard sufficiently high to ensure the protection of the
20 public, and for that purpose may exercise the power conferred and shall
21 perform the duties imposed, upon the Board by the provisions of this Act.

Limitation of
liability of
members

22 5. No member of the Board shall be personally liable for any act or
23 default of the Board done or omitted to be done in good faith in the course of
24 carrying out the responsibilities and functions of, or exercising the powers
25 conferred upon, the board.

26 PART II - THE REGISTRAR AND THE REGISTER

Appointment
of Registrar

27 6.-(1) The Minister shall appoint a Registrar for the Board.

28 (2) The Registrar:

29 (a) shall be a Public Servant in accordance with the term of his
30 appointment;

1 (b) may hold and vacate office in accordance with the terms of his
2 appointment.

3 7.-(1) The Registrar shall keep and maintain a register in which the Registrar of the
4 name of every person for registration as a member under this Act shall be Estate Agents
5 entered showing:

- 6 (a) the date of the entry in the register;
7 (b) the address of the person registered;
8 (c) the qualifications of the person; and
9 (d) such other particulars as the Board may from time to time direct

10 (2) All changes in the particulars registered under subsection (1)
11 shall be entered in the register by the registrar

12 (3) The register shall remove from the register any name which is
13 ordered to be removed from the Board.

14 8.-(1) Where the name of a person is entered in the register the Registrar of
15 registrar shall issue to him a certificate of registration in such form as the Registration
16 Board may prescribe and the certificate shall remain the property of the
17 Board.

18 (2) Where the name of a person is removed from the register the
19 Board shall give notice to that person, or if he is dead, to his legal personal
20 representative, requiring him to surrender the certificate of registration to
21 the Board.

22 (3) Any person who fails to comply with the requirements of a
23 notice given under subsection (2) within twenty-one days after the receipt by
24 him of the notice shall be guilty of an offence and liable to a fine not
25 exceeding one hundred thousand naira.

26 (4) A certificate of registration issued by the registrar shall be valid
27 for one year, but shall be renewable on the payment of the prescribed fee;
28 and if the prescribed fee has been paid before the renewal date and there is no
29 order for the name of the holder of the certificate to be removed from the
30 register, the certificate shall remain on force until it is renewed.

Licensing of
dual occupations

1 9.-(1) Where any person to whom section 8 applies carries on more
2 than one professional occupation at the same time, such person shall elect in
3 writing which of such occupations shall be deemed to be his primary
4 occupation.

5 (2) A person to whom subsection (1) applies shall be required to
6 obtain an annual licence in respect of his primary occupation to the extent that
7 no such person shall pay more than one annual licence in anyone year.

Publication of
Register and list

8 10.-(1) The Registrar shall cause to be published in the gazette, as
9 soon as may be practicable after entry in the register, the name, address and
10 qualification of each registered estate agent and, subject to the directions of the
11 Board, he may cause to be so published any amendment to the register.

12 (2) The Registrar shall cause to be published in the gazette, at the
13 beginning of each year, a list containing the names, addresses and
14 qualifications of all registered estate agents then remaining on the register.

Publication

15 11. Publication of registration under section 10 shall be prima facie
16 evidence that the persons named therein are registered estate agents and the
17 deletion from the register of the name of any person notified by the publication,
18 or the absence of the name of any person from the publication, shall be prima
19 facie evidence that the person is not registered.

Inspection of
Register

20 12. Any person may, during normal office hours and on payment of
21 the prescribed fee, inspect the register and any document relating to any entry
22 therein and may obtain from the registrar a copy or extract from the register or
23 of or from any such document.

Proof of
documents

24 13.-(1) In any legal proceedings, a document purporting to be a copy
25 of an extract from the register or from any document kept or published by the
26 registrar, and purporting to be certified by the registrar as a true copy or extract
27 shall be admissible as prima facie evidence of the contents of the register or
28 document.

29 (2) The registrar shall not, in any legal proceedings to which he is not a
30 party, be compelled:

1 (a) to produce the register or any document if its contents can be
2 proved under subsection (1);

3 (b) to appear as a witness to prove any entry in the register or the
4 matters recorded in the register or any document, unless the court for special
5 cause so orders.

6 PART IV - REGISTRATION

7 14.-(1) Subject to this Act, a person who is a citizen of Nigeria shall
8 be entitled, on making an application to the Board in the prescribed form and
9 on payment to the Board of the prescribed fee, to be registered under this Act
10 and to have his name entered in the register if he is:

Conditions and
qualifications
for registration

11 (a) a full member of the Institution of Surveyors Nigeria in the
12 chapters of Valuation and Estate Management Surveyors, Building
13 Surveyors and Land Management Surveyors;

14 (b) a corporate member of the Institution of Chartered
15 Surveyors (in the General Practice or Land Agency or Agriculture sections)
16 and he is qualified to be or is a full member of the Institution of Surveyors of
17 Nigeria in the chapters of Valuation and Estate Management Surveyors,
18 Building Surveyors and Land Management Surveyors;

19 (c) a holder of a degree, diploma or licence from any University or
20 College or School which is recognized for the time being by the Board; or

21 (d) a person who:

22 (i) is the holder of a degree, diploma or licence of a University or
23 College or School or a member of an institution the membership of which is
24 recognized for the time being by the Board; and

25 (ii) has had, to the satisfaction of the Board, practical post-
26 qualification experience in such practice of not less than two years of which
27 not less than six months has been in Nigeria; or

28 (e) a person who is not qualified under paragraphs (a), (b), (c) or
29 (d) but is of good character and satisfies the Board that he has not been
30 convicted (whether in Nigeria or elsewhere) of an offence involving fraud

1 or dishonesty.

2 (2) Notwithstanding the fact that he has sufficient qualifications
3 under subsection (1), the Board may require an applicant for registration as an
4 estate agent under this Act to satisfy that his professional and general conduct
5 has been such that, in the opinion of the Board, a fit and proper person to be
6 registered under this Act.

Acceptance for
Registration

7 15.-(1) Upon application being made to the Board in the prescribed
8 form by a person claiming to be qualified for registration under section 14 and
9 upon payment of the prescribed fee the Board shall consider the application
10 and, if it is satisfied that the person is so qualified, it shall accept that person for
11 registration and shall direct the registrar to enter his name in the register.

12 (2) The consideration of an application under this section shall be
13 undertaken by the Board and shall not be delegated to any Committee of the
14 Board.

Removal of name
from register

15 16.-(1) The Board may, at any time after being satisfied that a
16 registered person has:

17 (a) died;

18 (b) failed to pay his renewal or registration fee; or

19 (c) requested his name to be removed from the register;

20 (2) Any person who contravenes subsection (1) shall be guilty of an
21 offence and liable to a fine not exceeding twenty thousand Naira' or to
22 imprisonment for a term not exceeding two years or to both.

Carrying on
practice for
purposes of
winding up, etc.

23 17. Notwithstanding any other provision of this Act, where a person
24 ceases to carry on a lawful practice as an estate agent by reason of his death or
25 insolvency, or by reason of having been adjudged as being of unsound mind,
26 the practice may be carried on for the purpose of winding-up or disposing of the
27 practice by any person authorized by law to deal with the property of that
28 person for a period not exceeding twelve months from the date of death or
29 commencement of the disability.

PART VI - REGULATION OF PRACTICE

1
2 18.-(1) The Board shall, with the approval of the Minister, publish Code of Conduct
3 a statement specifying acts or omissions which, if done or made by a
4 practicing estate agent in his capacity as such would, in the opinion of the
5 Board, be contrary to the public interest or amount to professional
6 misconduct by the person so practicing.

7 (2) The statement published under this section:

8 (a) shall serve as a guide to practising estate agents but the
9 mentioning or failure to mention in it of any particular act or omission shall
10 not be taken as conclusive;

11 (b) may at any time be amended or replaced in like manner as it is
12 made.

13 19.-(1) The Minister may, after consultation with the Board, make Rules of practice,
14 rules: etc

15 (a) prescribing the charges which may be made for services
16 rendered by way of practice as an estate agent;

17 (b) relating to the keeping of accounts by practicing estate agents
18 and to the opening of separate bank accounts for money held on behalf of
19 clients;

20 (c) setting out the occasions on which a practicing estate agent is
21 required to account for interest on the money so held and the manner of such
22 accounting;

23 (d) providing for the methods by which it can be ascertained that
24 the rules are being complied with by practising, estate agents;

25 (e) providing for the conduct of the business of the Board and the
26 procedure to be followed by the Board at an inquiry under this Act;

27 (f) prescribing anything which may be prescribed under this Act,
28 and may in like manner make such other rules for the regulation of practice
29 as an estate agent as he may consider necessary.

30 (2) Notwithstanding any other provision of this Act, the breach by a

1 practicing estate agent of my rules made under subsection (1)(a) to (c)
2 (inclusive) shall constitute professional misconduct by that estate agent.

3 (3) The Minister may, by notice in the Gazette, amend the Schedule.

Allegations against
Estate Agents

4 **20.**-(1) An inquiry into any act or omission contrary to public interest
5 or the professional, misconduct of a registered estate agent may be instituted by
6 the Board either on its own initiative or upon receipt of a written complaint
7 addressed to the Board by or on behalf of any other person alleging such act,
8 omission or professional misconduct against the estate agent.

9 (2) Where the Board is of the opinion that an inquiry may be instituted
10 it shall as soon as practicable proceed to hold the inquiry.

Action of Board
in case of
conviction, etc.

11 **21.** If a registered estate agent is convicted of an offence under this Act
12 or is after due inquiry found to have been guilty of an act or omission contrary
13 to the public interest or amounting to professional misconduct the Board may:

14 (a) direct that during such period as the Board may specify, his
15 registration under this Act shall be suspended;

16 (b) caution the person and may also order that such caution shall be
17 entered on the register;

18 (c) impose a fine not exceeding five thousand naira upon that person;

19 (d) order that the name of the person shall be deleted from the register.

20 **PART VII - MISCELLANEOUS PROVISIONS**

Dishonest
Practices

21 **22.** Any person who:

22 (a) fraudulently makes or causes or permits to be made any false or
23 incorrect entry in the register or any copy thereof;

24 (b) fraudulently procures or attempts to procure the entry in the
25 register of any name or other particulars whether on his own behalf or on behalf
26 of any other person;

27 (c) knowingly and willfully makes any statement, oral or written,
28 which is false in any material particular or misleading with a view to gaining
29 any advantage or privilege under this Act, whether for himself or for any other
30 person shall be guilty of an offence and liable to a fine not exceeding twenty

1 thousand Naira or to imprisonment for a term not exceeding three years or to
 2 both other than members who are public officers in receipt of a salary;
 3 (d) make such other payments as may be necessary to give effect to
 4 the provisions of this Act.

5 23. Where an offence under this Act is committed by a body
 6 corporate with the consent or connivance of any director, secretary or other
 7 similar officer of the body corporate, or any person purporting to act as any
 8 such officer; the director or that other person shall be guilty of offence and
 9 liable on conviction to a fine not exceeding Twenty Thousand naira only.

Offences by a
body corporate

10 24. The Board or any person actions on its behalf shall prosecute
 11 any offender under this Bill.

Prosecuting P

12 25. A Federal High Court shall try an offence committed in this
 13 Bill.

Jurisdiction

14 26.-(1) In this Act, unless the context otherwise requires:
 15 "Board" means the Estate Agents Registration Board established by section
 16 3;

Interpretation

17 "Minister" means the Minister for the time being, responsible for matters
 18 relating to Land and Housing;

19 "practice as an estate agent" means the doing in connection with the selling,
 20 mortgaging, charging, letting or management of immovable property or of
 21 any house, shop or other building forming part thereof, of any of the
 22 following acts:

23 (a) bringing together, or taking steps to bring together, a
 24 prospective vendor, lessor or lender and a prospective purchaser, lessee or
 25 borrower; or

26 (b) negotiating the terms of sale, mortgage, charge or letting as an
 27 intermediary between or on behalf of either of the principals;

28 "Register" means the register kept under Section 7;

29 "Registrar" means the registrar of the Board appointed under Section 6.

30 (2) For the purposes of this Act, a person shall be treated as being a

1 practicing estate agent if he or a partnership of which he is a member:

2 (a) receives payment for acts done by way of practice as an estate
3 agent by him, or by a Partner of his, or by an employee of his or of the
4 partnership or by any person acting on, his behalf; or holds himself or itself out
5 as being prepared, in return for payment, to undertake the doing by any such
6 person of acts by way of practice as an estate agent:

7 Provided that in this subsection;

8 "Payment" shall not include payment limited to the reimbursement of expenses
9 or payment of salary by an employer to an employee.

10 (3) Nothing in this Act shall extend to the doing of any acts which
11 would constitute practice as an estate agent:

12 (a) by a corporation which is incorporated directly by an Act of
13 National assembly;

14 (b) by a local authority;

15 (c) by an advocate in the course of his practice;

16 (d) by a newspaper, magazine or other periodic publication in the
17 course of so much of its business as relates to the publishing or advertisements
18 on behalf of others;

19 (e) by the owner of a right or interest in an immovable property in
20 relation to that immovable property; or,

21 (f) by a licensed auctioneer selling immovable property or any
22 interest therein by auction.

23 (4) In subsection (3)(f), the expression;

24 "licensed auctioneer" has the meaning assigned to it in section 2 of the
25 Auctioneers Act.

Short Title

26 27. This Bill may be cited as the Estate Agents (Regulation of
27 Business) Bill, 2017.

SCHEDULE

1
2 1.-(1) The Minister shall appoint the chairman under paragraph 1
3 (a) and the Board shall elect one of its members, other than the chairman, to
4 be the vice-chairman of the Board.

5 (2) The chairman and vice-chairman shall hold office for a period
6 of three years from the date of appointment or election, as the case may be,
7 unless they cease to be members of the Board before the expiration of that
8 period.

Meetings of the Board

9
10 (1) The chairman of the Board shall convene an ordinary meeting
11 of the Board whenever it may be necessary or expedient, but at least once in
12 every three months, for the transaction of its business and shall appoint a
13 suitable time, place and date for holding the meeting.

14 (2) The chairman of the Board may convene a special meeting of
15 the Board at any time, and shall cause a special meeting of the Board to be
16 held within twenty days after receiving a written request to do so signed by
17 not less than three members of the Board.

Quorum at meetings of the Board

18
19 (1) The chairman or vice-chairman and three other members of the
20 Board shall constitute a quorum at any meeting of the Board.

21 (2) All acts, matters and things authorized to be done by the Board
22 shall be decided by resolution at a meeting of the Board at which a quorum is
23 present.

24 (3) A decision of the majority of the members present and voting at
25 a meeting of the Board shall be deemed to be a decision of the Board.

26 (4) Every member of the Board shall have one vote, and in the
27 event of an equality of votes the person presiding shall have a second or
28 casting vote in addition to his deliberative vote.

Minutes of meetings and appointment of secretary

29
30 (1) Minutes in proper form of each meeting of the Board shall be

1 kept, and shall be Confirmed by the Board at the next meeting and signed by the
2 person presiding at the meeting.

3 (2) The registrar shall be the secretary to the Board.

4 *Procedure*

5 Subject to this Schedule, the Board may regulate its own procedure.

6 *The Seal of the Board*

7 The seal of the Board shall not be affixed to any instrument except in the
8 presence of the chairman or the vice-chairman and one other member of the
9 Board.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the Registration and Regulation of Persons who, by way of business, negotiate or otherwise deal in relation to the selling, purchasing or letting of land and buildings, and for control of the Professional Conduct of such persons: