

REAL ESTATE (REGULATION AND DEVELOPMENT) BILL, 2017

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A BILL

FOR

AN ACT TO PROMOTE AND REGULATE THE REAL ESTATE SECTOR AND TO ENSURE THAT SALE, RENT OR LEASE OF PLOT, APARTMENT OR BUILDING, AS THE CASE MAY BE, ARE CARRIED OUT IN A TRANSPARENT MANNER AND TO PROTECT THE INTEREST OF CONSUMERS IN THE REAL ESTATE SECTOR AND FOR MATTERS CONNECTED THEREWITH

Sponsored by Senator Peter Nwaoboshi

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1 1. The objectives of this Bill are:
- 2 (a) To regulate and promote Real Estate Business in Nigeria;
- 3 (b) To ensure that sales, rent or lease of plot, apartment or building
- 4 is done in a transparent manner;
- 5 (c) To discourage fraudulent practices in land transactions such as
- 6 the sale, rent or lease of plots, apartments, buildings or whatever name
- 7 called in Nigeria;
- 8 (d) To have a data base of all promoters of Real Estate, Agents,
- 9 middlemen, real estate brokers and other people who transact real estate
- 10 business in Nigeria;
- 11 (e) To create additional means of generating revenue by
- 12 appropriate Government.

Objectives of the Act

13 2.-(1) This Act shall apply only to promoters, real estate agents and

14 immovable property in urban cities across all the states of the Federal

15 Republic of Nigeria, including the Federal Capital Territory, Abuja.

Scope of the Act

16 (2) Notwithstanding the provisions of this section, the provisions

17 of this Act shall be in addition to, and not in derogation of, the provisions of

18 any other law for the time being in force.

1 (3) The provisions of this Act shall have effect, notwithstanding
2 anything inconsistent in any other law for the time being in force:

3 Provided that where a state has enacted a law for regulation of the real
4 estate sector, and such state law is not inconsistent with this Act, then, the state
5 government, to that extent, may not apply the provisions of this Act in the state;

6 Provided also that no persons in such States shall partake in real estate
7 transactions either as facilitators, agents or promoters without being registered
8 as provided by this Act.

Interpretation

9 3. In this Act, unless the context otherwise requires-

10 "advertisement" means any document described or issued as advertisement
11 through any form of media and includes any notice, circular or other
12 documents offering for sale of a plot, building or apartment or inviting persons
13 to purchase in any manner such plot, building or apartment or to make
14 advances or deposits for such purposes;

15 "allottee" in relation to a real estate project, means the person to whom a plot,
16 apartment or buildings, as the case may be, has been allotted, sold or otherwise
17 transferred by the promoter, and includes the person who subsequently
18 acquires the said allotment through sale, transfer or otherwise, but does not
19 include a person to whom such plot, apartment or building, as the case may be,
20 is given on rent;

21 "apartment" whether called dwelling unit, flat, premises, suite, tenement, unit
22 or by any other name, means a separate and self-contained part of any
23 immovable property located on one or more floors or any part thereof, in a
24 building or on a plot of land, used or intended to be used for residential
25 purposes, or for any other type of independent use ancillary to the purpose
26 specified and includes any covered garage, whether or not adjacent to the
27 building in which such apartment is located which has been provided by the
28 promoter for the use of the allottee for parking any vehicle, or as the case may
29 be, for the residence of any domestic help employed in such apartment;

30 "appropriate Government" means in respect of matters relating to:

- 1 (i) the Federal Government;
- 2 (ii) a State Government; or
- 3 (iii) the Minister of the Federal Capital Territory, Abuja.
- 4 "architect" means a person registered as an architect under the provisions of
- 5 the Architects (Regulation, Etc) Act, now in force;
- 6 "Authority" means the Real Estate Regulatory Authority established under
- 7 this Act.
- 8 "building" includes any structure or erection or part of a structure or erection
- 9 which is intended to be used for residential or other related purposes;
- 10 "carpet area" means the net usable floor area of an apartment, excluding the
- 11 area covered by the walls;
- 12 "Estate Director" means the Director in-charge of the Real Estate Regulatory
- 13 Authority appointed under this Act;
- 14 "commencement certificate" means any certificate issued by the competent
- 15 authority to allow or permit the promoter to begin development works on an
- 16 immovable property;
- 17 "common areas" mean -
- 18 (i) the part of the site or plot not occupied by buildings;
- 19 (ii) the stair cases, lifts, staircase and lift lobbies, fire escapes and
- 20 common entrances and exits of buildings;
- 21 (iii) the common basements, parks, play areas, parking areas and
- 22 common storage spaces;
- 23 (iv) The premises for the lodging of persons employed for the
- 24 management of the property including accommodation for watch and ward
- 25 staff;
- 26 (v) installations of central services such as electricity, gas, water
- 27 and sanitation, air-conditioning etc;
- 28 (vi) the water tanks, pumps, motors, fans, compressors, ducts and
- 29 all apparatus connected with installations for common use;
- 30 (vii) community and commercial facilities as may be provided;

1 (viii) all other portion of the property necessary or convenient for its
2 maintenance, safety, etc., and in common use;

3 "company" means a company incorporated and registered under the
4 Companies and Allied Matters Act now in force, and includes:

5 (i) a corporation established by or under any National Act or State
6 Law;

7 (ii) a development authority or any public authority established by the
8 Government in this behalf under any law for the time being in force;

9 "competent authority" means the local government or any authority created
10 under any law made by the appropriate Government which exercises authority
11 over land under its jurisdiction, and has powers to give permission for
12 development of such immovable property;

13 "completion certificate" means the completion certificate, or such other
14 certificate, as the case may be, issued by the competent authority permitting
15 occupation of any building under any law for the time being in force;

16 "development" with its grammatical variations and cognate expressions,
17 means carrying out the development of immovable property, engineering or
18 other operations in, on, over or under the land or the making of any material
19 change in any immovable property or land and includes re-development;

20 "development works" means the external development works and internal
21 development works on immovable property;

22 "engineer" means a person who is so qualified as engineer in line with the
23 provisions of the COREN Act or is registered as an engineer under any law for
24 the time being in force;

25 "estimated cost of real estate project" means the total cost involved in
26 developing the real estate project and includes the land cost;

27 "external development works" includes roads and road systems, landscaping,
28 water supply, sewerage and drainage systems, electricity supply transformer,
29 sub-station of any other work which may have to be executed in the periphery
30 of, or outside, a colony for its benefit, as may be specified under the rules or

- 1 bye-laws of the competent authority;
- 2 "High Court" means High Court of a state or Federal Capital Territory;
- 3 "immovable property" includes land, buildings, rights of ways, lights or any
4 other benefit arising out of land and things attached to the earth or
5 permanently fastened to anything which is attached to the earth, but not
6 standing timber or trees, standing crops or grass;
- 7 "interest" means the rates of interest payable by the promoter or the allottee,
8 as the case may be;
- 9 "internal development works" means roads, footpaths, water supply, sewers,
10 drains, parks, tree planting, street lighting, provision for community
11 buildings and for treatment and disposal of sewage and silage water, social
12 infrastructure such as educational, health and other public amenities or any
13 other work in a colony necessary for its proper development;
- 14 "local council" means the Federal Capital Territory, Local Government of
15 any State or any other Local Body constituted under any law for the time
16 being in force for providing municipal services or basic services, as the case
17 may be, in respect of areas under its jurisdiction;
- 18 "Member" means the member of the Real Estate Regulatory Authority
19 appointed under this Act and includes the Estate Director;
- 20 "notification" means a notification published in the Official Gazette and the
21 expression "notify" shall be construed accordingly;
- 22 "person" includes:
- 23 (i) an individual;
- 24 (ii) a Nigerian family;
- 25 (iii) a company;
- 26 (iv) a firm;
- 27 (v) a competent authority;
- 28 (vi) an association of persons or a body of individuals whether
29 incorporated or not;
- 30 (vii) a co-operative society registered under any law relating to co-

1 operative societies;

2 (viii) any such other entity as the appropriate Government may, by
3 notification specify in this behalf;

4 (viii) "planning area" means a planning area or a development area or
5 a local planning area or a regional development plan area, by whatever name
6 called, or any other area specified as such by the appropriate Government or
7 any competent authority and includes any area designated by the appropriate
8 Government or the competent authority to be a planning area for future planned
9 development, under the law relating to Town and Country Planning for the time
10 being in force;

11 (ix) "prescribed" means prescribed by rules made under this Act;

12 (x) "project" means the real estate project under this Act;

13 (xi) "promoter" means:

14 (i) a person who constructs or causes to be constructed an independent
15 building or a building consisting of apartments, or converts an existing
16 building or a part thereof into apartments, for the purpose of selling all or some
17 of the apartments to other persons and includes his assignees and also includes
18 a buyer who purchases in bulk for resale;

19 (ii) a person who develops a colony for the purpose of selling to other
20 persons all or some of the plots, whether with or without structures thereon; or

21 (iii) any development authority or any other public body in respect of
22 allottees of-

23 (a) buildings or apartments, as the case may be, constructed by such
24 authority or body on lands owned by them or placed at their disposal by the
25 government; or

26 (b) plots owned by such authority or body or placed at their disposal
27 by the Government, for the purpose of selling all or some of the apartments or
28 plots; or

29 (iv) any co-operative housing finance society and a primary co-
30 operative housing society which constructs apartments or buildings for its

1 Members or in respect of the allottees of such apartments or buildings;

2 (v) any other person who acts himself as a builder, colonizer,
3 contractor, developer, estate developer or by any other name or claims to be
4 acting as the holder of a power of attorney from the owner of the land on
5 which the building or apartment is constructed or colony is developed for
6 sale; or

7 (vi) such other person who constructs any building or apartment
8 for sale to the general public. For the purposes of this clause, where the
9 person who constructs or converts a building into apartments or develops a
10 colony for sale and the persons who sells apartments or plots are different
11 persons, both of them shall be deemed to be the promoters;

12 "prospectus" means any document described or issued as a prospectus or any
13 notice, circular, leaflet, flyer or other document offering for sale of any real
14 estate project or inviting any person to make advances or deposits for such
15 purposes;

16 "real estate agent" means any person, who negotiates or acts on behalf of one
17 person in a transaction of transfer of his plot, apartment or building, as the
18 case may be, in a real estate project, by way of sale, with another person or
19 transfer of plot, apartment or building, as the case may be, of any other
20 person to him and receives remuneration or fees or any other charges for his
21 services whether as a commission or otherwise and includes a person who
22 introduces prospective buyers and sellers to each other for negotiation for
23 sale or purchase of plot, apartment or building, as the case may be, and
24 includes property dealers, brokers, middlemen by whatever name called;

25 "real estate project" means the development of a building or a building
26 consisting of apartments, or converting an existing building or a part thereof
27 into apartments, or the development of a colony into plots or apartments, as
28 the case may be, for the purpose of selling all or some of the said apartments
29 or plots or buildings and includes the development works thereof;

30 "regulations" means the regulations made by the Authority under this Act.

Establishment
of Real Estate
Authority

1 4.-(1) Within a period of one year from the date of commencement of
2 this Act, the appropriate Government shall, by notification, establish a
3 department to be known as the Real Estate Regulatory Authority (hereinafter
4 referred to as the Authority) in their respective land registry, to exercise the
5 powers conferred on it and to perform the functions assigned to it under this
6 Act, provided that the appropriate Government of any state or local council
7 may, if it deems fit, establish one single and independent Authority for this
8 purpose, and provided further that the appropriate Government may, if it deems
9 fit, establish more than one Authority in a state or local council, as the case may
10 be.

11 (2) The Authority, as the case may be, shall be a body corporate by the
12 name aforesaid having perpetual succession and a common seal, with the
13 power, subject to the provisions of this Act, to acquire, hold and dispose of
14 property, both movable and immovable, and to contract, and shall, by the said
15 name, sue or be sued.

Registration of
Real Estate

16 5. From the commencement of this Act, no promoter shall book, sell
17 or offer for sale, or invite persons to purchase in any manner any plot,
18 apartment or building, as the case may be, in any real estate project, or part of it,
19 in any planning area, without registering the real estate project with the Real
20 Estate Regulatory Authority established under this Act: Provided however
21 that no such registration shall be required:

22 (a) where the area of land proposed to be developed does not exceed
23 two thousand square meters or the number of apartments proposed to be
24 developed does not exceed twelve, inclusive of all phases, or an area or number
25 of apartments as notified by the Federal Government on recommendations
26 from the appropriate Government, which may be different for different states
27 but not more than two thousand square meters or twelve apartments, as the case
28 may be;

29 (b) where the promoter has received all requisite approvals and the
30 commencement certificate for the development of the real estate project prior

1 to commencement of this Act: Provided however that all existing
2 promoters prior to this Act, shall register their estate within 6 months from
3 the commencement of this Act;

4 (c) for the purpose of renovation or repair or re-development which
5 does not involve re-allotment and marketing of the real estate project.

6 6.-(1) No promoter shall carry out the development of any real
7 estate, without making prior application to the Authority for registration of
8 the real estate project in such form and manner, within such time and
9 accompanied by such fee as may be specified by the regulations made under
10 this Act by the Authority.

Application to
the Real Estate
Authority

11 (2) The promoter shall enclose the following documents along
12 with the application referred to in sub-section (1), namely-

13 (a) a brief details of his enterprise including its name, registered
14 address, type of enterprise (proprietorship, societies, partnership,
15 companies, competent authority) and the particulars of registration;

16 (b) an authenticated copy of the commencement certificate from
17 the competent authority obtained in accordance with the laws as may be
18 applicable for the real estate project mentioned in the application, and where
19 the project is proposed to be developed in phases, an authenticated copy of
20 the approval and sanction from the competent authority for each of such
21 phases;

22 (c) the layout plan of the proposed project or the phase thereof, and
23 also the layout plan of the whole project as approved by the competent
24 authority;

25 (d) the plan of development works to be executed in the proposed
26 project and the proposed facilities to be provided thereof;

27 (e) sample of the agreements proposed to be signed with the
28 allottees;

29 (f) the number and the carpet area of apartments for sale in the
30 project;

1 (g) the names and addresses of his real estate agents, if any, for the
2 proposed project;

3 (h) the names and addresses of the contractors, architect, structural
4 engineer, if any, and other persons concerned with the development of the
5 proposed project;

6 (i) a declaration, supported by an affidavit, which shall be signed by
7 the promoter or any person authorised by the promoter, stating:

8 (a) that he has a legal title to the land on which the development is
9 proposed along with a legally valid authentication of such title if such land is
10 owned by another person;

11 (b) that the land is free from all encumbrances, or as the case may be,
12 of the encumbrances on such land including any rights, title, interest or name of
13 any party in or over such land along with details;

14 (c) the likely period of time within which he undertakes to complete
15 the project or phase thereof;

16 (d) that seventy percent, or such lesser percentage as notified by the
17 appropriate government, of the amounts realized for the real estate project
18 from the allottees, from time to time, shall be deposited in a separate account to
19 be maintained in a scheduled bank within a period of 28 days of its realization
20 to cover the cost of construction and shall be used only for that purpose. For the
21 purpose of this clause, the term "scheduled bank" means a bank authorized to
22 carry out banking by the Central Bank of Nigeria;

23 (e) that he has furnished such other documents as may be prescribed
24 by the rules or regulations made under this Act; and

25 (f) such other information and documents as may be prescribed by the
26 Authority.

Obligation on
existing promoters

27 7.-(1) Notwithstanding the provisions of this Act and any other
28 legislation to the contrary, all existing real estates and promoters that
29 commenced business before this Act shall within 30 days from the date of

1 commencement of this Act forward to the Authority the following
2 documents, that is-

3 (a) evidence of compliance with the relevant authority with regard
4 to registration as provided under section 6;

5 (b) a brief details of his enterprise including its name, registered
6 address, type of enterprise (proprietorship, societies, partnership,
7 companies, competent authority) and the particulars of registration;

8 (c) an authenticated copy of the commencement certificate issued
9 by the competent authority for the real estate project, whether as a whole or
10 developed in phases;

11 (d) the layout plan of the project or the phase thereof, and also the
12 layout plan of the whole project as approved by the competent authority;

13 (e) the plan of development works executed in the proposed project
14 and the proposed facilities provided thereof;

15 (f) sample of the agreements signed with the allottees, if any;

16 (g) the number and the carpet area of apartments sold in the
17 project;

18 (h) the names and addresses of the real estate agents engaged, if
19 any, for the proposed project;

20 (i) the names and addresses of the contractors, architect, structural
21 engineer, if any, and other persons concerned with the development of the
22 proposed project;

23 (j) such other information and documents that the Authority may
24 further require;

25 Provided that no existing real estate shall by any means be altered
26 to meet the specification of the this Act, and provided also that where the real
27 estate project is to be or developed in phases, every such phase shall be
28 considered as a standalone real estate project, and the promoter shall obtain
29 registration under the Act for each phase separately.

Provision of
Registration
number and Log-in
Identity

1 8.-(1) On receipt of the application under sub-section (1) of section 6,
2 the Authority shall within a period of 30 days-

3 (a) grant registration subject to the provisions of this Act and the rules
4 and regulations made hereunder, and provide a registration number and log-in
5 password to the applicant for accessing the website of the Authority and to
6 create his web page and to fill therein the details of the proposed project; or

7 (b) reject the application for reasons to be recorded in writing, if such
8 application does not conform to the provisions of this Act or the rules or
9 regulations made hereunder, provided that no application shall be rejected
10 unless the applicant has been given an opportunity of being heard in the matter.

11 (2) If the Authority fails to grant the registration or reject the
12 application, as the case may be, as provided under sub-section (1), the project
13 shall be deemed to have been registered, and the Authority shall within 35 days
14 of the expiry of the said 30 days, provide a registration number and a Login
15 Identity and password to the promoter for accessing the website of the
16 Authority and to create his web page and to fill therein the details of the
17 proposed project.

18 (3) The registration granted under this section shall be valid for a
19 period declared by the promoter under section 6 for completion of the project or
20 phase thereof, as the case may be.

21 (4) On completion of the registration of existing real estate and
22 promoter prior to the Act as provided under section 5, the Authority shall within
23 30 days, provide a registration number and a Login Identity and password to
24 the promoter for accessing the website of the Authority and to create his web
25 page and to fill therein the details of the existing project.

Extension of
Registration

26 9. The registration granted under this Act may be extended by the
27 Authority on an application made by the promoter under such conditions as
28 may be prescribed and in such form and on payment of such fee as may be
29 specified by the regulations made by the Authority;

30 Provided that no application for extension of registration shall be

1 rejected unless the applicant has been given an opportunity of being heard in
2 the matter.

3 10.-(1) The Authority may, on receipt of a complaint in this behalf
4 or on the recommendation of the competent authority, revoke the
5 registration granted under section 6, after being satisfied that-

Revocation of
Registration

6 (a) the promoter makes willful default in doing anything required
7 of him by or under the Act or the rules or the regulations made hereunder;

8 (b) the promoter violates any of the terms or conditions of the
9 approval given by the competent authority;

10 (c) the promoter is involved in any kind of unfair practice or
11 irregularities. For purposes of this clause, the term "unfair practice" means a
12 practice which, for the purpose of promoting the sale or development of any
13 real estate project adopts any unfair method or unfair or deceptive practice
14 including any of the following practices, namely:

15 (i) the practice of making any statement, whether orally or writing
16 or by visible representation which:

17 (a) falsely represents that the services are of a particular standard or
18 grade;

19 (b) represents that the promoter has approval or affiliation which
20 such promoter does not have;

21 (c) makes a false or misleading representation concerning the
22 services; or

23 (d) the promoter permits the publication of any advertisement or
24 prospectus whether in any newspaper or otherwise of services that are not
25 intended to be offered.

26 (2) The registration granted to the promoter under section 6 shall
27 not be revoked unless the Authority has given to the promoter not less than
28 30 days notice, in writing, stating the grounds on which it is proposed to
29 revoke the registration, and has considered any cause shown by the
30 promoter within the period of that notice against the proposed revocation.

1 (3) The Authority may, instead of revoking the registration under sub-
2 section (1), permit it to remain in force subject to such further terms and
3 conditions as it thinks fit to impose in the interest of the allottees, and any such
4 terms and conditions so imposed shall be binding upon the promoter.

5 (4) Upon the revocation of the registration, the Authority:

6 (a) shall debar the promoter from accessing its website in relation to
7 that project and specify his name in the list of defaulters on its website and also
8 inform the other Real Estate Regulatory Authorities in other states and local
9 government councils, including the FCT about such cancellation;

10 (b) may recommend to the competent authority to facilitate the
11 balance of the development works to be carried out in accordance with the
12 provisions of section 9 of this Act;

13 (c) may, to protect the interest of prospective buyers or in the public
14 interest, issue such directions as it may deem necessary.

Consultation with
appropriate
Government

15 11. Upon lapse of the registration or on revocation of the registration
16 under this Act, the Authority, may consult the appropriate Government to take
17 such action as it may deem fit including the carrying out of the remaining
18 development works by competent authority or by the association of allottees or
19 in any other manner, as may be determined by the Authority: Provided that no
20 direction, decision or order of the Authority under this section shall take effect
21 until the expiry of the period for fair hearing as provided under this Act.

Registration of
Real Estate Agents

22 12.-(1) No real estate agent shall facilitate the sale or purchase, rent or
23 lease of or act on behalf of any person to facilitate the sale or purchase of any
24 plot, apartment or building, as the case may be, in a real estate project or part of
25 it, being the part of the real estate project registered under section 4, being sold
26 by the promoter in any planning area, or given out for rent or lease as the case
27 may be, without obtaining registration under this section.

28 (2) Every real estate agent shall make an application to the Authority
29 for registration in such form, manner, within such time and accompanied by
30 such fee and documents as may be prescribed.

1 (3) The Authority shall, within such period, in such manner and
2 satisfying itself of the fulfillment of such conditions, as may be prescribed-

3 (a) grant registration to the real estate agent;

4 (b) reject the application for reasons to be recorded in writing, if
5 such application does not conform to the provisions of this Act or the rules or
6 regulations made hereunder:

7 Provided that no application shall be rejected unless the applicant
8 has been given an opportunity of being heard in the matter.

9 (4) Whereon the completion of the period specified under sub-
10 section (3) of this section, if the applicant does not receive any
11 communication about the deficiencies in his application or the rejection of
12 his application, he shall be deemed to have been registered.

13 (5) Every real estate agent who is registered as per the provisions of
14 this Act or the rules and regulations made hereunder, shall be granted a
15 registration number by the Authority, which shall be quoted by the real estate
16 agent in every sale or transaction facilitated by him under the Act.

17 (6) Every registration shall be valid for such period as may be
18 prescribed, and shall be renewable for a period in such manner and on
19 payment of such fee as may be prescribed.

20 (7) Where any real estate agent who has been granted registration
21 under this Act commits breach of any of the conditions thereof or any other
22 terms and conditions specified under this Act or any rules or regulations
23 made hereunder, or where the Authority is satisfied that such registration has
24 been secured by the real estate agent through misrepresentation or fraud, the
25 Authority may, without prejudice to any other provisions under this Act,
26 revoke the registration or suspend the same for such period as it thinks fit:
27 Provided that no such revocation or suspension shall be made by the
28 Authority unless an opportunity of being heard has been given to the real
29 estate agent.

30 (8) On completion of the registration of a real estate agent, the

Functions of
Real Estate Agents

1 Authority shall issue an accreditation card to the real estate agent. The
2 accreditation card shall have the photograph and details of the real estate agent.

3 **13.** Every real estate agent registered under section 12 of this Act
4 shall-

5 (a) not facilitate the sale or purchase, rent or lease of any plot,
6 apartment or building, as the case may be, in a real estate project or part of it,
7 being sold, leased or rented by the promoter in any planning area, which is not
8 registered with the Authority;

9 (b) maintain and preserve such books of account, records and
10 documents as may be prescribed;

11 (c) not involve himself in any unfair trade practices, namely:

12 (i) the practice of making any statement, whether orally or in writing
13 or by visible representation which-

14 (a) falsely represents that the services are of a particular standard or
15 grade;

16 (b) represents that the promoter has approval or affiliation which such
17 promoter does not have;

18 (c) makes a false or misleading representation concerning the
19 services;

20 (ii) permitting the publication of any advertisement whether in any
21 newspaper or otherwise of services that are not intended to be offered;

22 (d) facilitate the possession of all documents, as the allottee is
23 entitled to, at the time of booking of any plot, apartment or building, as the case
24 may be;

25 (e) discharge such other functions as may be prescribed.

Purchaser to
transact with only
Registered Agent

26 **14.-(1)** From the commencement of this Act, no person shall buy or
27 purchase, rent or lease any property from a person, agent, promoter or allottee
28 who is not registered with the Authority in accordance with this Act.

29 (2) Every prospective purchaser of a property shall request for a
30 convincing evidence from any person who holds himself forth as a real estate

1 agent, before transacting with such agent.

2 15.-(1) The promoter shall, upon receiving his Log-in Identity and
3 password as prescribed under this Act, create his web page on the website of
4 the Authority and enter all details of the proposed project as provided under
5 sub-section (2) of section 5, in all the fields as provided, including-

Functions and
duties of promoter

6 (a) details of the registration granted by the Authority;

7 (b) quarterly up-to-date list of number and types of apartments or
8 plots, as the case may be, booked;

9 (c) quarterly up-to-date status of the project; and

10 (d) such other information and documents as may be specified by
11 the regulations made by the Authority.

12 (2) The advertisement or prospectus issued or published by the
13 promoter shall mention prominently the website address of the Authority,
14 wherein all details of the registered project have been entered and include
15 the registration number obtained from the Authority and such other matters
16 incidental thereto.

17 (3) The promoter, upon entering into an agreement of sale with the
18 allottee shall be responsible to make available to the allottee, the following
19 information, namely:

20 (a) site and layout plans along with specifications, approved by the
21 competent authority, by display at the site or such other place as may be
22 specified by the regulations made by the Authority;

23 (b) the stage-wise time schedule of completion of the project,
24 including the provisions for water, sanitation and electricity.

25 (4) The promoter shall-

26 (a) be responsible to obtain a completion certificate from the
27 relevant competent authority as per local laws or other laws for the time
28 being in force and to make it available to the allottees individually or to the
29 association of allottees, as the case may be;

30 (b) be responsible for providing and maintaining the essential

1 services, as may be specified in the service level agreements, on reasonable
2 charges, till the taking over of the maintenance of the project by the association
3 of the allottees;

4 (c) take steps for the formation of an association or society or co-
5 operative society, as the case may be, of the allottees, or a federation of the
6 same, under the applicable laws.

7 (5) The promoter may cancel the allotment only in terms of the
8 agreement of sale, provided that the allottee may approach the Authority for
9 relief, if he is aggrieved by such cancellation and such cancellation is not in
10 accordance with the terms of the agreement of sale, unilateral and without any
11 sufficient cause.

12 (6) The promoter shall prepare and maintain all such other details as
13 may be specified, from time to time, by regulations made by the Authority.

Promoter to
compensate
consumers for
false statement

14 16. Where any person makes an advance or a deposit on the basis of
15 the information contained in the advertisement or prospectus and sustains any
16 loss or damage by reason of any incorrect, false statement included therein, he
17 shall be compensated by the promoter in the manner as provided under this Act,
18 provided that if the person affected by such incorrect, false statement contained
19 in the advertisement or prospectus, intends to withdraw from the proposed
20 project, he shall be refunded his entire investment along with interest at such
21 rate as may be prescribed.

Prior written
agreement
required before
collecting deposit

22 17.-(1) A promoter shall not accept a sum more than 5 percent of the
23 cost of the apartment, plot, or building, as the case may be, as an advance
24 payment or an application fee, from a person without first entering into a
25 written agreement for sale with such person.

26 (2) The agreement referred to in sub-section (1) shall be in such form
27 as may be prescribed and specify the particulars of development of the project
28 including the construction of building and apartments, along with
29 specifications and external development works, the dates and the manner by
30 which payments towards the cost of the apartment, plot, or building, as the case

1 may be, are to be made by the allottees and the likely date on which the
 2 possession of the apartment, plot, or building is to be handed over and such
 3 other particulars, as may be prescribed.

4 18.-(1) The proposed project shall be developed and completed by
 5 the promoter in accordance with the plans and structural designs and
 6 specifications as approved by the competent authorities.

Project to comply
with plans and
structural design

7 (2) Where any structural defect in such development is brought to
 8 the notice of the promoter within a period of 2 years by the allottee from the
 9 date of handing over possession, it shall be the duty of the promoter to rectify
 10 such defects without further charge, within reasonable time, and in the event
 11 of promoter's failure to rectify such defects within such time, the aggrieved
 12 allottees shall be entitled to receive appropriate compensation in the manner
 13 as provided under this Act.

14 19.-(1) The promoter shall take all necessary steps to execute a
 15 registered Deed of Conveyance in favour of the allottee along with the
 16 undivided proportionate title in the common areas including the handing
 17 over of the possession of the plot, apartment or building, as the case may be,
 18 in a real estate project, and the other title documents pertaining thereto.

Promoter to
execute deed of
transfer in favour
of allottee

19 (2) After obtaining the completion certificate and handing over
 20 physical possession to the allottees in terms of sub-section (1), it shall be the
 21 responsibility of the promoter to hand over the necessary documents and
 22 plans, including common areas, to the association of the allottees or the
 23 competent authority, as the case may be, in line with the applicable laws.

24 20.-(1) Where the promoter fails to complete or is unable to give
 25 possession of an apartment, plot or building,-

Refund of amount
and compensation t

26 (a) in accordance with the terms of the agreement or, as the case
 27 may be, duly completed by the date specified therein or any further date
 28 agreed to by the parties; or

29 (b) due to discontinuance of his business as a developer on account
 30 of suspension or revocation of his registration under this Act or for any other

1 reason, he shall be liable on demand to the allottees, without prejudice to any
2 other remedy available, to return the amount received by him in respect of that
3 apartment, plot, building, as the case may be, with interest at such rate as may
4 be prescribed in this behalf including compensation in the manner as provided
5 under this Act.

6 (2) If the promoter fails to discharge any other obligations imposed on
7 him under this Act or the rules or regulations made hereunder, he shall be liable
8 to pay such compensation to the allottees, in the manner as provided under this
9 Act.

Rights and
duties of allottee

10 21.-(1) The allottee shall be entitled to obtain the information relating
11 to site and layout plans along with the specifications, approved by the
12 competent authority and such other information as provided in this Act or the
13 rules and the regulations made thereunder or the agreement signed with the
14 promoter.

15 (2) The allottee shall be entitled to know stage-wise time schedule of
16 completion of the project, including the provisions for water, sanitation and
17 electricity.

18 (3) The allottee shall be entitled to claim the possession of apartment,
19 plot or building, as the case may be, as per the declaration given by the
20 promoter under this Act.

21 (4) The allottee shall be entitled to claim the refund of amount paid,
22 from the promoter, if the promoter fails to comply or is unable to give
23 possession of the apartment, plot or building, as the case may be, in accordance
24 with the terms of agreement or due to discontinuance of his business as a
25 developer on account of suspension or revocation of his registration under the
26 provisions of this Act or the rules or the regulations made hereunder.

27 (5) The allottee shall be entitled to have the necessary documents and
28 plans, including that of common areas, after handing over the physical
29 possession of the apartment or plot or building, as the case may be, to the
30 allottee by the promoter.

1 (6) Every allottee, who has entered into an agreement of sale to
 2 take an apartment, plot or building, as the case may be, under section 15,
 3 shall be responsible to make necessary payments in the manner and within
 4 the time as specified in the said agreement and shall pay at the proper time
 5 and place, the proportionate share of the registration charges, municipal or
 6 local taxes, water and electricity charges, maintenance charges, ground rent,
 7 and other charges, if any, in accordance with such agreement.

8 (7) The allottee shall be liable to pay interest, at such rate as may be
 9 prescribed, for any delay in payment towards any amount or charges to be
 10 paid under sub-section 6 of this section.

11 (8) The obligations of the allottee under sub-section 6 and the
 12 liability towards interest under sub-section 7 may be reduced when mutually
 13 agreed to between the promoter and such allottee.

14 **22.** Every allottee may, after taking possession of the apartment,
 15 plot or building, as the case may be, participate towards the formation of an
 16 association or society or co-operative society of the allottees, or a federation
 17 of the same.

Allottees to form
association after
taking possession

18 **23.** The Authority shall consist of a Chairman and such numbers of
 19 staff or employees as shall be determined by the appropriate Government.

Composition of
the Authority

20 **24.** The Chairman shall be a person with demonstrable experience
 21 of at least 15 years in the practice of law, urban or real estate development,
 22 planning or any other related field.

Qualification of
Chairman t

23 **25.-(1)** The Chairman shall hold office for a term not exceeding 5
 24 years from the date on which they enter upon their office, or until they attain
 25 the age of 65 years, whichever is earlier.

Tenure of Office
and Removal of
the Chairman

26 (2) Before appointing any person as a Chairman, the appropriate
 27 Government shall satisfy itself that the person does not have any such
 28 financial or other interest as is likely to affect prejudicially his functions as
 29 such.

30 (3) Notwithstanding anything contained under this section, the

1 Chairman may-

2 (a) relinquish his office by giving in writing, to the appropriate
3 Government, notice of not less than three months; or

4 (b) be removed from his office for gross misconduct or financial
5 impropriety.

6 (4) Any vacancy caused to the office of the Chairman shall be filled-
7 up within a period of 60 days from the date on which such vacancy occurs.

Salary and
Allowances of
Chairman

8 26. The salary and allowances payable to the Chairman, and other
9 terms and conditions of service shall be as prescribed by appropriate authority.

Administrative
powers of the
Chairman

10 27. The Chairman shall have powers of general superintendence and
11 directions in the conduct of the affairs of the Authority, and he shall, in addition
12 to presiding over the meetings of the Authority, exercise and discharge such
13 administrative powers and functions of the Authority as may be prescribed by
14 regulations made pursuant to this Act.

Appointment
of other Officers

15 28.-(1) The appropriate Government may, in consultation with the
16 Authority, appoint such officers and employees as it considers necessary for
17 the efficient discharge of their functions under this Act who would discharge
18 their functions under the general superintendence of the Chairman.

19 (2) The salary and allowances payable to the officers and employees
20 of the Authority appointed under sub-section (1) of this section shall be such as
21 may be prescribed by regulation.

Meetings of the
Authority

22 29.-(1) The meetings and proceedings of the Authority shall be
23 specified by regulation made pursuant to this Act.

Authority to
promote Real
Estate sector

24 30. The Authority shall in order to facilitate the growth and promotion
25 of a healthy, transparent, efficient and competitive real estate sector make
26 recommendations to the appropriate Government or the competent authority,
27 as the case may be, on:

28 (a) protection of interest of the allottees and promoter;

29 (b) measures to improve the processes and procedures for clearance
30 and sanction of plans and development of projects;

1 (c) measures to encourage construction of environmentally
2 sustainable and affordable housing, promote standardization, including
3 grading and use of appropriate construction materials, fixtures, fittings and
4 construction techniques;

5 (d) measures to facilitate amicable conciliation of disputes
6 between the promoters and the allottees through dispute settlement forums
7 set up by the consumer or promoter associations;

8 (e) any other issue that the Authority may think necessary for the
9 promotion of the real estate sector.

10 31. The functions of the Authority shall, include-

Functions of the
Authority

11 (a) to render advice to the appropriate Government in matters
12 relating to the development of real estate sector;

13 (b) to publish and maintain a website of records of all real estate
14 projects for which registration has been given, with such details as may be
15 prescribed, including information provided in the application for which
16 registration has been granted;

17 (c) to maintain a database, on its website, and enter the names of
18 promoters as defaulters including the project details, registration for which
19 has been revoked or have been penalized under the Act, with reasons
20 thereof, for access to the general public;

21 (d) to maintain a database, on its website, and enter the names of
22 real estate agents who have applied and registered under this Act, with such
23 details as may be prescribed, including those whose registration has been
24 rejected or revoked;

25 (e) to fix through regulations for each areas under its jurisdiction
26 the standard fees, to be levied on the allottees by the promoter or the
27 association of allottees, as the case may be;

28 (f) to ensure compliance of the obligations cast upon the
29 promoters, the allottees and the real estate agents under this Act and the rules
30 and regulations made hereunder;

1 (g) to ensure compliance of its regulations or orders or directions
2 made in exercise of its powers under this Act;

3 (h) to perform such other functions as may be entrusted to the
4 Authority by the appropriate Government as may be necessary to carry out the
5 provisions of this Act.

Power to call
for information
and conduct
investigations

6 32.-(1) Where the Authority considers it expedient to do so, on a
7 complaint relating to the Act or the rules or regulations made hereunder, it may,
8 by order in writing, call upon any promoter or allottee or real estate agent, as the
9 case may be, at any time to furnish in writing such information or explanation
10 relating to its affairs as the Authority may require and appoint one or more
11 persons to make an inquiry in relation to the affairs of any promoter or allottee
12 or the real estate agents, as the case may be.

13 (2) The Authority may, for the purpose of discharging its functions
14 under the provisions of this Act or the rules or the regulations made hereunder,
15 issue such directions from time to time, to the promoters and allottees or real
16 estate agents, as the case may be, as it may consider necessary and such
17 directions shall be binding on all concerned.

Power to impose
punishment

18 33.-(1) The Authority shall have powers to impose penalty or interest,
19 in regard to any contravention of obligations cast upon the promoters, the
20 allottees and the real estate agents, under this Act or the rules and the
21 regulations made hereunder.

22 (2) The Authority shall be guided by the principles of natural justice
23 and, subject to the other provisions of this Act and the rules made hereunder, the
24 Authority shall have powers to regulate its own procedure.

25 (3) If a promoter or an allottee or a real estate agent, as the case may
26 be, fails to pay any interest or penalty or compensation imposed on him under
27 this Act, it shall be recoverable from such promoter or allottee or real estate
28 agent, in such manner as may be prescribed.

Penalties for
contravention

29 34.-(1) If any promoter contravenes any provision of this Act, he shall
30 be liable to a penalty which may extend up to 10 percent of the estimated cost of

1 the real estate project as determined by the Authority.

2 (2). If any promoter knowingly provides false information or
3 contravenes the provisions of section 5 of this Act, he shall be liable to a
4 penalty, which may extend up to 5 percent of the estimated cost of the real
5 estate project, as determined by the Authority.

6 (3) If any real estate agent willfully fails to comply with or
7 contravenes the provisions of sections 12 or 13, he shall be guilty of an
8 offence and liable on conviction to 2 years imprisonment and or a forfeiture
9 of the amount realized from that transaction.

10 (4) Any promoter, who willfully fails to comply with, or
11 contravenes any of the orders or directions of the Authority, shall be guilty of
12 an offence and liable on conviction to a term of imprisonment not exceeding
13 3 years and or a fine, which shall not be less than 5 percent of the estimated
14 cost of the real estate project as determined by the Authority.

15 (5) An allottee, who willfully fails to comply with, or contravenes
16 any of the orders, decisions or directions of the Authority shall be liable to a
17 fine not less than Fifty Thousand Naira as the case may be, as determined by
18 the Authority

19 35.-(1) Where an offence under this Act has been committed by a
20 company, every person who was in charge, at the time the offence was
21 committed, or was responsible to the company for the conduct of the
22 business of the company, as well as the company, shall be deemed to be
23 guilty of the offence and shall be liable to be proceeded against and punished
24 accordingly: Provided that nothing contained in this sub-section, shall
25 render any such person liable to any punishment under this Act if he proves
26 that the offence was committed without his knowledge or that he had
27 exercised all due diligence to prevent the commission of such offence.

28 (2) Notwithstanding anything contained in sub-section (1) of this
29 section, where an offence under this Act has been committed by a company,
30 and it is proved that the offence has been committed with the consent or

Offences by
companies

1 connivance of, or is attributable to, any neglect on the part of any director,
 2 manager, secretary or other officer of the company, such director, manager,
 3 secretary or other officer shall also be deemed to be guilty of that offence and
 4 shall be liable to be proceeded against and punished accordingly. For the
 5 purpose of this section:

6 (a) "company" means anybody corporate and includes a firm or other
 7 association of individuals; and

8 (b) "director" in relation to a firm, means a partner in the firm.

Grants and Loans
 by the appropriate
 Government

9 36.-(1) The Federal Government may, after due appropriation made
 10 by the National Assembly in this behalf, make to the Authority grants and loans
 11 of such sums of money as that Government may consider necessary.

12 (2) The State Government may, after due appropriation made by State
 13 Legislature by law in this behalf, make to the Authority, grants and loans of
 14 such sums of money as the State Government may think fit for being utilised
 15 for the purposes of this Act.

Monies to be
 credited to the
 Consolidated
 Revenue and
 State Accounts

16 37.-(1) Notwithstanding the provisions of the generality of this Act,
 17 all revenue realized by the Authority in the Federal Capital Territory, shall be
 18 credited to the Consolidated Revenue Fund of Nigeria.

19 (2) All sums realized by a State, shall be credited to such account as
 20 the State Government may specify.

Authorities
 report to be laid
 before the
 Parliament

21 38.-(1) The Authority shall prepare once in every year, in such form
 22 and at such time as may be prescribed by the appropriate Government:

23 (a) a description of all the activities of the Authority for the previous
 24 year;

25 (b) the annual accounts for the previous year; and

26 (c) the programmes of work for the coming year.

27 (2) A copy of the report received under sub-section (1) shall be laid, as
 28 soon as may be after it is received, before each House of the National Assembly
 29 or, as the case may be, before the State Legislature or the Legislature of the
 30 Local Government council.

- 1 39.-(1) The appropriate Government may, by notification, make
2 rules for carrying out the provisions of this Act. Power of
appropriate
Government to
make rules
- 3 (2) In particular, and without prejudice to the generality of the
4 foregoing power, such rules may provide for all or any of the following
5 matters as provided under this Act, namely:
- 6 (a) the information and documents for application to Authority for
7 registration;
- 8 (b) the conditions under which registration of a promoter may be
9 renewed;
- 10 (c) the form and manner of making an application and fee and
11 documents to be accompanied with such application;
- 12 (d) the period, manner and conditions under which the registration
13 is to be granted;
- 14 (e) the validity of the period of registration and the manner and fee
15 for renewal;
- 16 (f) the maintenance and preservation of books of account, records
17 and documents;
- 18 (g) the discharge of other functions by the real estate agent;
- 19 (h) the rate of interest payable;
- 20 (i) the form and particulars of agreement to be made by the
21 promoter;
- 22 (j) the salaries and allowances payable to, and the other terms and
23 conditions of service of, the Chairman and other Members of the Authority;
- 24 (k) the administrative powers of the Chairman;
- 25 (m) the salaries and allowances payable to, and the other terms and
26 conditions of service of, the officers and other employees of the Authority;
- 27 (n) the details to be published and maintained on the website;
- 28 (o) the additional functions which may be performed by the
29 Authority;

	1	(p) the manner of recovery of interest, penalty and compensation; and
	2	(q) such other decisions as may be deemed appropriate to make under
	3	this Act.
Status of Chairman and other Staff	4	40. The Chairman, Members and other officers and employees of the
	5	Authority shall be deemed to be civil servants within the meaning of the Civil
	6	Servant Rules.
Court with jurisdiction	7	41. The High court shall have jurisdiction to try the offences under
	8	this Act.
Severability	9	42. Where any of the provisions of this Act or its application to any
	10	person or circumstance is held invalid in any court having jurisdiction, the
	11	invalidity will not affect other provisions or applications of this Act that can be
	12	given effect without the invalid provision or application.
Conflicting Laws	13	43. This Act does not restrict any person from complying with
	14	Federal Law or regulations and in the event of a conflict between this Act and
	15	other Federal, State or Local laws or regulations concerning real estate project,
	16	the provisions of this Act shall apply.
Effective date	17	44. The provisions of this Act shall take effect upon signature of the
	18	President.
Short Title	19	45. This Act may be cited as the Real Estate (Regulation and
	20	Development) Bill, 2017.

EXPLANATORY MEMORANDUM

This Bill seeks to provide a regulatory framework to regulate and promote the real estate sector and to ensure that sales and lease of plot, apartment or building (landed property) as the case may be, is done in transparent manner, especially, the protection of consumers in the real estate sector.