

A BILL FOR AN ACT TO ESTABLISH THE REAL ESTATE REGULATORY COUNCIL OF NIGERIA TO PROVIDE EFFICIENT, EFFECTIVE AND TRANSPARENT ADMINISTRATION OF THE BUSINESS OF REAL ESTATE DEVELOPMENT, AND PRESCRIBE MINIMUM STANDARDS FOR THE CONDUCT OF THE BUSINESS OF REAL ESTATE DEVELOPMENT IN NIGERIA; AND FOR RELATED MATTERS, 2021 (SB. 540)

{ } Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

1. The objectives of this Bill are to:

Objective of this Bill

- (a) standardize the business of real estate development in Nigeria by regulating the conduct of transactions in the real estate sector;
- (b) provide enabling environment and transparency in the business of real estate development in Nigeria;
- (c) make the business of real estate development in Nigeria conform to international best practices and safeguard the ultimate interest of all stakeholders in the business;
- (d) curb fraudulent practices in the business of real estate development in Nigeria;
- (e) to ensure the real estate business conforms with the National Building Code in Nigeria.
- (f) create an innovative and sustainable environment to promote Nigeria as a real estate investment destination in Africa and the world, and,
- (g) ensure real estate business in Nigeria conforms with the Money Laundering Prohibition Act, 2011 (as amended) and Nigeria Financial Intelligence Unit (NFIU) Act, 2018 in terms of anti-money laundering and counter terrorism financing due diligence compliance.

2. This Bill applies to the Federal Capital Territory, Abuja and all States of the Federal Republic of Nigeria.

Application.

3. (1) There is established the Real Estate Regulatory Council of Nigeria (in this Bill referred to as "the Council");

Establishment of the Real Estate Regulatory Council of Nigeria (RERCON).

(2) The Council:

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue or be sued in its corporate name;
- (c) may acquire, hold or dispose of any property, movable or immovable, for the purpose of performing its functions; and
- (d) shall be self-funding.

(3) The headquarters of the Council shall be situated in the Federal Capital Territory, Abuja.

- (4) The Council may establish offices in each State of the Federation as the Council deems necessary.
4. The Council shall:
- (a) regulate the business of real estate development in Nigeria in consultation with REDAN;
 - (b) promote sustainable development of the business of real estate as championed by REDAN;
 - (c) provide and promote strategic collaborations with investors in the business of real estate development to provide suitable housing programmes;
 - (d) collaborate with relevant government and private institutions to bridge housing deficit in Nigeria;
 - (e) protect the interest and funds of investors and other stakeholders in the business of real estate development in Nigeria;
 - (f) register and license all real estate developers in Nigeria through the institutional guidelines of REDAN;
 - (g) renew the license of real estate developers annually, upon payment of the prescribed fees and fulfillment of all requirements prescribed under this Bill as recommended by REDAN;
 - (h) register, maintain and update register of all real estate development projects ratified by REDAN to have met set standards of industry practices;
 - (i) monitor and inspect the progress of registered real estate development projects to ensure compliance with this Bill and other relevant legislation in the business of real estate development in Nigeria;
 - (j) work through REDAN to monitor, investigate and sanction registered and licensed real estate developers that violate the provisions of this Bill;
 - (k) work through REDAN to investigate and penalize unlicensed real estate developers that violate the provisions of this Bill;
 - (l) receive complaints and petitions against real estate developers from aggrieved clients or members of the public;
 - (m) investigate complaints and petitions under paragraph (l) and take necessary action as prescribed under this Bill;
 - (n) maintain a register of all licensed real estate developers in Nigeria;
 - (o) create and update a unified central database of real estate developers in Nigeria;
 - (p) create and maintain a website for the business of real estate development in Nigeria;
 - (q) sensitize and create awareness in the public on the need to patronize registered and licensed real

estate developers; ~

(r) organize continuing education programmes on best practices in the business of real estate development in Nigeria;

(s) collaborate with relevant government authorities to promote compliance with the laws regulating the business of real estate development in Nigeria;

(t) collaborate with relevant government authorities and investors to promote suitable housing schemes including introduction of programmes and projects to reduce housing deficit in Nigeria;

(u) cooperate with government institutions charged with the responsibility for preventing fraud, investigating financial crimes and money laundry or terrorism financing involving a registered and or licensed real estate developer or real estate development project

(v) prescribe fees, fines, and charges to be paid under this Bill as recommended by REDAN;

(w) perform other functions as may be directed by the Minister; and

(x) do other things that are necessary to meet the objectives of this Bill.

5. There is established for the Council, a Governing Council (in this Bill referred to as 'The Council'), which shall be responsible for the general governance and oversight of the Council which shall consist of:

Establishment,
Composition of
the Members of
the Governing
Council

(i) a Chairman who shall be appointed by the Minister on the recommendation of the Real Estate Developers Association of Nigeria (REDAN); the Chairman shall be the Chief Accounting Officer of the Council, accountable to the Council and the Minister.

(ii) one representative of the Federal Ministry in charge of Housing

(iii) two (2) persons from each of the six (6) geopolitical zones in Nigeria to represent REDAN;

(iv) representative of Minister of the Federal Capital Territory; either the Executive Secretary of the Federal Capital Development Authority (FCDA), the Director charged with the responsibility for Development Control or the Director charged with the responsibility for Lands in Abuja Geographic information Systems

(v) a Commissioner for Lands, Housing and Urban Development of each State of the Federation in alphabetical order.

(vi) one representative each from Council of Professional Bodies in the Built Industry, namely:

(a) Council for the Regulation of Engineering in Nigeria (COREN)

(b) Architects Registration Council of Nigeria (ARCON)

(c) Council of Registered Builders of Nigeria (CORBON)

(d) Estate Surveyors and Valuers Registration Council of Nigeria (ESVARBON)

(e) Quantities Surveyors Registration Council of Nigeria (QSRBON)

(f) Surveyors Council of Nigeria (SURCON)

(g) Town Planners Registration Council of Nigeria (TOPREC)

(vii) one person each to represent the:

(a) Central Bank of Nigeria,

(b) Standards Organization of Nigeria,

(c) Securities and Exchange Commission,

(d) Federal Mortgage Bank of Nigeria,

(e) Nigerian Financial Intelligence Unit

(f) National Insurance Commission

(g) Assets Management Corporation of Nigeria

(h) Infrastructure Corporation of Nigeria

(i) The Secretary of the Council; who shall be appointed by the Council on the recommendation of the Real Estate Developers Association of Nigeria (REDAN).

(j) Members of the Council nominated under paragraph (vii), shall not be below the grade of a Director or its equivalent.

(k) Members of the Council, except the Chairman and the Secretary shall be nominated based on the recommendations of the various agencies or Professional Bodies which they represent.

(l) The provisions of the Schedule to this Bill shall have effect with respect to subsequent appointments, and other matters mentioned in the Schedule.

(m) The Minister may give the Council directions of a general nature or relating generally to particular matters but not to any individual person with regards to the exercise by the Council of its functions.

6. (1) A person is qualified for appointment to the office of the Chairman or nominated as a member of the Council, if the person:

(a) is a citizen of Nigeria;

(b) has attained the age of 30 years;

Qualification of
the Chairman
and members of
the Council.

- (c) possesses the requisite qualification of the interest which he represents;
- (d) is a duly registered member of REDAN except persons representing the interests under paragraphs (iv) to (vii);
- (e) has not been adjudged to be mentally unfit;
- (f) has not been declared bankrupt; and
- (g) has not been convicted by any court of competent jurisdiction.

(2) The Chairman shall preside at the meetings of the Council, but in the event of his death, resignation, incapacity or inability to perform the functions of his office for any reason, the Council shall elect a fit and proper member of the Council to act in his stead for the unexpired portion of the term of office only.

7. Subject to the provisions of this Bill:

Tenure.

- (a) a person appointed as Chairman and Secretary of the Council shall hold office for a term of four years and renewable for another term and no more;
- (b) persons nominated to represent the interest of the States within the six (6) geopolitical zones under clause 5 b(iii) shall remain members of the Council on 4-year renewable term;
- (c) persons nominated under clause 5 (vi) and (vii) shall continue to be members of the Council while they are in the service of the agencies they represent unless they are removed by their agencies.

8. (1) The Minister may, remove the Chairman of the Council from office on the recommendation of the Council and or REDAN, if the Minister is of the opinion that it is not in the interest of the Council for the Chairman to continue in office.

Removal and cessation.

- (2) The Minister shall first notify the Chairman of the Council under sub clause (1).
- (3) The Minister shall not remove the Chairman of the Council under sub clause (1) unless the Chairman has been given the opportunity to make representations regarding the issues warranting his removal reported by the Council and or REDAN.
- (4) Members of the Council except the Chairman and the Secretary as well as 12 members of REDAN representing the six (6) geopolitical zones to the Council are part-time members.
- (5) A member of the Council shall cease to be a member of the Council if he:
 - (a) resigns his membership by notice in writing to the Council;
 - (b) becomes of unsound mind or is incapable of discharging the duties of his office;
 - (c) becomes bankrupt;

- (d) is convicted of a felony or any offence involving dishonesty;
- (e) is guilty of serious misconduct in relation to his duties; or
- (f) in the case of a person possessed of professional qualifications, is disqualified or suspended from practicing his profession in any part of Nigeria by the order of a competent authority made with respect to him personally.

9. For the purpose of this Bill, the Council shall have powers to:

Powers of the Council.

- (a) collaborate with the relevant government authority or agencies;
- (b) make policies to maintain a conducive macro-economic environment to deepen housing financial market in Nigeria including maintenance of low inflation, exchange rates;
- (c) collaborate with relevant government authorities to make policies to deepen housing financial market and liberalize access to financial market on a long-term basis for all categories of income;
- (d) collaborate with competent authorities, relevant government agencies and professionals in all sectors of the Built Industry to ensure that locally produced building materials are available in adequate quantity;
- (e) make policies and engage in partnership to develop infrastructure to encourage resurgence of the artisan class in the business of real estate development and built industry;
- (f) make rules, regulations and guidance to develop the business of real estate development market;
- (g) make staff regulations for all staff of the Council and provide pension, gratuities, allowances and welfare schemes for the staff;
- (h) make standard operating procedure and code of conduct for the business of real estate development in Nigeria;
- (i) establish such offices, departments, units and branches of the Council in the FCT and any State in Nigeria as may be required for the proper administration and operation of the Council;
- (j) impose penalty or interest with regard to contravention of obligations upon developers and allottees under this Bill or rules and regulations made pursuant to this Bill;
- (k) issue guidelines for the purpose of this Bill;
- (l) subject to the provisions of this Bill, regulate its own procedure; and
- (m) take actions and do things as may be necessary for the performance of the functions of the Council.

10. The Council shall make recommendations to the relevant government authority on:

Recommendations to Government.

- (a) ways to protect the interest of allottees and developers;

- (b) how to create a single window system to ensure time-bound project approvals and clearances for timely completion of the project;
 - (c) how to create a transparent and robust grievance redress mechanism against acts of omission and commission of competent authorities and their officials;
 - (d) measures to encourage investment in the business of real estate development including measures to increase financial assistance for suitable housing programmes;
 - (e) measures to encourage construction of environmentally sustainable and suitable housing, promoting standardization and use of appropriate construction materials, fixtures, fittings and construction techniques;
 - (f) procedures that set standards for use of appropriate construction materials, fixtures, fittings and construction techniques;
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- (g) measures to facilitate amicable conciliation of disputes between developers and the allottees through dispute settlement forums set up by the developer or allottee associations;
 - (h) measures to facilitate digitization of land records and system towards conclusive property titles with title guarantee;
 - (i) to render advice to the appropriate Government in matters relating to the development of the real estate sector;
 - (j) measures to assist government institutions charged with the responsibility for preventing fraud, financial crimes and money laundry or terrorism financing involving a registered and licensed real estate developer or real estate development project; and
 - (k) any other issue that the Council may deem necessary for the promotion of the business of real estate development in Nigeria.

PART II – FINANCIAL PROVISIONS

11. (1) There is established a fund for the Council (in this Bill referred to as “the Fund”).
- (2) The Council shall maintain, manage and control the Fund into which shall be paid:
- (a) licensing fees;
 - (b) revenue accruing to the Council from its investments, activities and services;
 - (c) grants, endowments agencies, organizations, benefactors and other donors;
 - (d) 10 % of annual revenue of REDAN and
 - (e) such money as the Minister may, out of the money provided by the Federal Government, allocate to the Council by way of subvention, loan grant or otherwise.

Fund of the Council.

(3) There shall be paid out of the Fund:

(a) expenditure incurred by the Council in the performance of its functions under this Bill;

(b) re-imbusement for members of the Council or any Committee set up by the Council for expenses that may be authorized by the Council in accordance with the rate approved by the Council including reasonable travelling and subsistence allowances in respect of times spent by members of the Council on duties of the Council as the Council may determine;

(c) salaries fees, remuneration, allowances, pension, gratuities and other money to which the Executive Secretary and other staff of the Council are entitled; and

(d) costs for the maintenance of property acquired by or vested in the Council.

(4) Subject to guidelines issued by the Council, the Council may invest its funds and assets in any bond, bill or security issued or guaranteed by the Federal Government or the Central Bank of Nigeria.

12. (1) The Council shall pay its funds into an account in a reputable bank(s) approved by the Council. Bank account.
- (2) An instrument for withdrawal of money from the account under sub clause (1) shall not be valid unless it is authenticated by the signatures of the Chairman and the Executive Secretary or signatures of the other member of staff of the Council as may be approved by the Council.
13. The Council may, subject to the terms and conditions as the Council may approve, borrow money for the purposes of the Council. Power to borrow.
14. The Council may, subject to the terms and conditions as the Council may approve, invest any part of its funds in a security and may, at any time, dispose of such security. Power to invest.
15. (1) The Council shall prepare and inform the Minister not later than 31 October of the year in which this Bill comes into effect, extend the period and in each subsequent year, an estimate of its expenditure and income during the next succeeding financial year. Estimate, report, account and audit.
- (2) The Council shall keep proper accounts in respect of each financial year and proper records in relation to those accounts, and shall cause the accounts to be audited after the end of each financial year to which the accounts relate, by a firm of auditors appointed for that year from the list, and in accordance with guidelines, supplied by the Auditor-General for the Federation.
- (3) The Council shall prepare and inform the Minister in charge of Housing at the national Council of Lands, Housing and Urban Development not later than 12 months after its establishment and once in each year thereafter, a report on the activities of the Council during the last preceding financial year and shall include in the report, a copy of the audited accounts of the Council for that year and of the auditor's report on the accounts.

**PART III - EXECUTIVE SECRETARY AND
OTHER STAFF OF THE COUNCIL**

16. (1) The Council shall appoint an Executive Secretary who: Appointment of

- (a) has qualifications in the relevant field in the business of real estate development;
- (b) has acquired the requisite body of knowledge in the built industry and has been so qualified for at least 15 years of personal experience in the business of real estate development.

(2) The Executive Secretary shall:

- (a) be charged with the daily administration of the Council;
- (b) be subject to the directives of the Council;
- (c) perform such functions as may be prescribed by the Council; and
- (d) hold office on such terms and conditions as may be specified in his letter of appointment and on such other terms and conditions as may be determined.

(3) The Executive Secretary shall be the Administrative Officer of the Council responsible for all staff oversight functions, except the Chairman.

- 17. The Council may, subject to approval of the Council and on the recommendation of the Executive Secretary, appoint such other staff as it may deem necessary for the efficient performance of its functions under this Bill. Appointment of Staff.
- 18. Service in the Council shall be approved service for the purpose of the Pensions Act and accordingly, persons employed in the Council shall, in respect of their service in the Council, be entitled to pensions, gratuities and other retirement benefits enjoyed by persons holding equivalent grades in the public service of the Federation, so however that nothing in this Bill shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office. Pension provisions.

PART IV – LICENSING OF DEVELOPERS AND REGISTRATION OF REAL ESTATE PROJECTS

- 19. (1) The Council shall license developers engaged in the business of real estate development in Nigeria from the commencement of this Bill upon satisfaction that the developer: Licensing of developers.
 - (a) is a corporate body that is duly registered by the Corporate Affairs Commission;
 - (b) shows evidence that at least one of its directors is a Nigerian citizen;
 - (c) has registered with and paid all applicable membership dues to REDAN
 - (d) has an ascertainable office or business premises conforming to Money Laundering Act (MLA)/Counter Terrorism Financing (CTF) guidelines of REDAN as prescribed by NFIU Act, 2018 and Money Laundering Act (MLA), 2011 (as amended);
 - (e) has paid the prescribed licensing fees; and

(f) has fulfilled other conditions as may be prescribed by the Council for that purpose.

20. (1) A developer applying for license under this Bill shall provide the Council with the following documents:

Documentation for licensing of developers.

(a) a brief detail of the company including the name, registered address and type of business;

(b) a brief detail of real estate projects executed by the developer in the past three (3) years including current status of the projects;

(c) a certified true copy of the approvals from the competent authority obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, a certified copy of the approvals from the competent authority for each of such phases;

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

(e) the location details of the project with clear demarcation of land dedicated for the project along-with its boundaries including the latitude and longitude of the end points of the project;

(f) a declaration, supported by an affidavit, which shall be signed by the developer or any person authorized by the developer, stating:

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

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

21. (1) The developer shall:

Duties of the developer.

(a) register each project with the Council;

(b) be responsible for projects registered pursuant to this Bill, provided that the responsibility of the developer, with respect to the structural defect or any other defect for such period is as specified in the agreement between the parties;

(c) transfer legal title to all allottees according to the terms of contract; and

(d) pay all outgoings until he transfers possession of the real estate project to the allottee which he has collected from the allottees for the payment of outgoing (including land cost, ground rent or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project).

(2) The developer shall, upon licensing by the Council as prescribed under this Bill, create his web page on the website of the Council and enter all details of the project as provided under in all the fields as

provided, including:

- (a) details of the registration granted by the Council;
- (b) quarterly up -to- date list of number and types of apartments or plots, as the case may be, booked;
- (c) up -to-date status of the project, at least twice a year; and
- (d) such other information and documents as may be specified by the regulations made by the Council.

(3) The developer, upon entering into an agreement of sale with an allottee shall:

(a) make available to the allottee, information, regarding the site and layout plans along with specifications, approved by the competent authority, by display at the site or such other places as may be specified by the regulations made by the Council;

(b) obtain a certificate of occupancy or title to land from the relevant competent authority in compliance with existing laws regulating land transactions where the site is situate and make it available to the allottees individually or, in the prescribed form; and

(c) provide and maintain essential services, as may be specified in the service level agreements, on reasonable charges.

(4) The developer shall prepare and maintain all such other details as may be specified, by regulations made by the Council.

(5) From the commencement of this Bill, a developer shall not book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, in any real estate project, or part of it, in any planning area, unless the developer has registered the real estate project with the Council:

Provided however that such registration shall not be required:

(a) where the developer has received all requisite approvals and the commencement certificate for the development of the real estate project before the commencement of this Bill; and

(b) all existing developers before the commencement of this Bill shall register their project within six months from the commencement of this Bill, for the purpose of renovation or repair or re-development which does not involve re-allotment and marketing of the real estate project.

22. The Council may extend the period for registration of real estate project or licensing for a developer under this Bill, on an application made by the developer, under such conditions as may be prescribed and, in such form, and on payment of fees as may be specified by the regulations made by the Council:

Extension of
Registration/Lice
nsing.

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

23. (1) The Council may, on receipt of a complaint in its behalf or on the recommendation of the competent authority, revoke the license issued to a registered developer, if it is satisfied that the developer:

Revocation of
License.

(a) made wilful default in doing anything required of him under this Bill or the rules or the regulations made hereunder;

(b) violated any of the terms or conditions of the approval given by the competent authority; or

(c) is involved in any kind of unfair practice or irregularities.

(2) For purposes of this clause, the term "unfair practice" means a practice which, for the purpose of promoting the sale or development of any real estate project adopts any unfair method or unfair or deceptive practice including the practice of making any statement, whether orally or written or by visible representation which:

(a) falsely represents that the services are of a particular standard or grade,

(b) represents that the developer has approval or affiliation which the developer does not have,

(c) makes a false or misleading representation concerning the services, or

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

(3) The license issued to the developer under this Bill shall not be revoked unless the Council has given to the developer at least 30 days' notice, in writing, stating the grounds on which it is proposed to revoke the license, and has considered any cause shown by the developer within the period of that notice against the proposed revocation.

(4) The Council may, instead of revoking the license under sub clause (1), permit it to remain valid subject to further terms and conditions as it deems fit to impose in the interest of the allottees, and the terms and conditions so imposed shall be binding upon the developer.

(5) Upon the revocation of the license, the Council:

(a) shall debar the developer from accessing its website in relation to that project and specify his name in the list of defaulters on its website and also inform the State Offices including the FCT about the revocation;

(b) may recommend to the competent authority to facilitate the balance of the development works to be carried out in accordance with the provisions of clause 10 of this Bill; or

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

24. (1) On receipt of the application for registration, the Council shall within 30 days:

(a) issue a license subject to the provisions of this Bill and the rules and regulations made under this Bill;

(b) provide a registration number and log-in password to the applicant for:

(i) accessing the website of the Council.

Provision of
Registration
Number and
Log-In Identity.

(ii) creating his web page, and

(iii) filling the details of the proposed project on the webpage of the Council; or

(c) reject the application based on reasons recorded in writing, if the application does not meet the requirement under this Bill or the rules or regulations made under this Bill:

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

(2) If the Council fails to register an applicant and issue a license or rejects an application, as provided under subclause (1), the project shall be deemed to have been registered, and the Council shall within 35 days of the expiry of the said 30 days, provide a registration number and a Log-in Identity and password to the developer for accessing the website of the Council and to:

(a) create his web page, and

(b) fill the details of the proposed project.

(3) The registration granted under this clause shall be valid for a period declared by the Council.

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

Developer to compensate consumers for false statement.

26. (1) Where the developer fails to complete or is unable to give possession of an apartment, plot or building:

Refund of amount and compensation.

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

(b) due to discontinuance of his business as a developer on account of suspension or revocation of his registration under this Bill or for any other reason, he shall be liable on demand to the allottees, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed on this behalf including compensation in the manner as provided under this Bill.

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

27. (1) The proposed project shall be developed and completed by a developer in accordance with the architectural, engineering and services designs and specifications as approved by the competent authorities.

Project to comply with plans and structural design.

(2) Where any major structural defect in the project is brought to the notice of a developer within one year, including the rainy season, by the allottee from the date of handing over possession, the developer shall rectify the defects without further charge, within reasonable time.

(3) Where the developer fails to rectify the defects within 60-days, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Bill.

28. (1) Upon lapse of the registration and or license or on revocation of the registration/license under this Bill, the Council may consult the appropriate government authority to take such necessary action as it may deem fit.

Consultation with appropriate government authority.

(2) Necessary action under sub clause (1) includes completing the remaining development works by competent authority or by the association of allottees or in any other manner, as may be determined by the Council:

Provided that no direction, decision or order of the Council under this Bill shall take effect until the expiry of the period for fair hearing as provided under this Bill.

PART V – DISCIPLINE FOR VIOLATIONS BY DEVELOPERS

29. (1) There is established for the Council an investigating panel (in this Bill referred to as “the Investigating Panel”) which shall:

Establishment of Investigating Panel and Disciplinary Committee.

(a) conduct preliminary investigation into complaints and petitions filed against a developer pursuant to this Bill;

(b) conduct preliminary investigation into actions of licensed and unlicensed developers on allegations of violation of this Bill;

(c) conduct preliminary investigation into any matter referred to it by the Council; and

(d) decide whether the case should be referred to the Disciplinary Committee or not.

(2) The Investigating Panel shall be appointed by the Council and shall consist of five members:

(a) two members of the Council, one of whom shall be the chairman of the Investigating Panel; and

(b) Three members of the public who are not members of the Council and are not members of REDAN and who do not belong to any political party and does not hold a public office.

(c) three members of REDAN who are not on the Council.

(3) The tenure of any member of the Investigating Panel shall be two years and may be renewable for a further term of two years.

(4) The Investigating Panel shall act independently in performing its functions under sub clause (1) and shall have power to receive complaints directly from any individual or organization.

(5) There is established a disciplinary committee (in this Bill referred to as ‘the Disciplinary Committee’) charged with the duty of considering and determining any case referred to it by the Investigating Panel established under this clause.

(6) The Disciplinary Committee may recommend:

(a) suspension; or

(b) revocation;

of the license of a developer that is found guilty of violating the provisions of this Bill or any rule or regulation made under this Bill.

(7) If the Disciplinary Committee finds that the developer has no case to answer, it may recommend warning or acquittal.

(8) The recommendation of the Disciplinary Committee shall be confirmed by the Council and the decision of the Council is final.

(9) The Council shall operate a-90-day ADR Mechanism at the expense of the disputing parties.

(10) A developer that is not satisfied with the decision of the Council may appeal against the decision in the High Court.

(11) The Committee shall be appointed by the Council and shall consist of:

(b) two members of the Council, one of whom shall be the chairman of the Disciplinary Committee; and

(c) Three members of REDAN who are not on the Council and who are not members of the Investigating Panel.

(d) Three members of the public who are not members of the Council and are not members of REDAN and who do not belong to any political party and does not hold a public office.

(e) The tenure of any member of the Disciplinary Committee shall be two years and may be renewable for a further term of two years.

(12) The Council may make rules, not inconsistent with this Bill, regarding acts which constitute violations by developers under this Bill and appropriate penalties.

PART VI – MISCELLANEOUS

30. (1) A developer shall not accept a sum more than 5% of the cost of the apartment, plot, or building, as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale/lease with the person.

Prior written agreement required before collecting deposit.

(2) The agreement under sub clause (1) shall:

(a) be in such form as may be prescribed;

(b) specify the particulars of development of the project including the construction of building and apartments, along with specifications and external development works;

(c) specify the dates and the manner by which payments towards the cost of the apartment, plot, or building, as the case may be, are to be made by the allottees;

(d) specify and the likely date on which the possession of the apartment, plot, or building is to be handed over; and

(e) specify such other particulars, as may be prescribed.

31. (1) A prospective investor in the business of real estate development in Nigeria shall notify the Council in writing of the intention to invest in a specific real estate project.

Duty of Investor.

(2) The notice shall contain:

(a) the name of the investor and in the case of a company, the name of the company;

(b) the name and location of the real estate project;

(c) the cost of the real estate project;

(d) the nature or form of prospective investment; and

any other information which the Council may require the prospective investor to supply.

32. (1) The Council shall collaborate with REDAN and relevant professionals in the Built Industry and other related professionals to conduct continuous capacity development training programmes for developers in Nigeria.

Capacity development.

(2) The continuous capacity development training programmes shall include training on:

(a) project finance,

(b) project management,

(c) land acquisition,

(d) pre-construction, construction and post-construction dynamics in construction,

(e) loan packaging,

(f) off-taker profiling,

(g) understanding of loan cycle, bank loan matrix,

(h) building design, and

(i) Anti-money laundering and counter-terrorism financing (AML/CFT) Compliance and disciplines that are consistent with requisite knowledge for acceptable standard practice in the Built Industry.

(3) The Council shall issue the necessary certifications in respect of the capacity development programmes.

33. (1) Notwithstanding the provisions of clause 30 of this Bill, where the Council considers it expedient to do so, on a complaint relating to the Bill or the rules or regulations made hereunder, the Council may direct the Investigating Panel to call upon any developer or allottee, by order in writing, to furnish in writing such information or explanation relating to its affairs as the Council may require.

Power to call for information or conduct investigations.

(2) The Council may, for the purpose of discharging its functions under the provisions of this Bill or the rules or the regulations made hereunder, issue such directions to the developer and allottees as it may consider necessary and such directions shall be binding on all concerned.

34. (1) The Council shall have powers to impose fines or interest, in regard to any contravention of obligations cast upon a developer and allottees, under this Bill or the rules and the regulations made hereunder.

Power to impose fines.

(2) The Council shall be guided by the principles of natural justice and the jurisdiction of the court.

(3) If a developer or an allottee, as the case may be, fails to pay any interest, fine or compensation imposed on him under this Bill, it shall be recoverable from such developer or allottee, in such manner as may be prescribed by the Council.

35. (1) A suit shall not commence against the Council before the expiration of a period of one month, after written notice of intention to commence the suit has been served on the Council by the intended plaintiff or his agent.

Legal proceedings and service of documents.

(2) A written notice of intention to commence the suit shall be served on the Council by the intending Plaintiff or his agent and the notice shall explicitly state the:

(a) cause of action;

(b) particulars of the claim;

(c) name and place of abode of the intending plaintiff; and

(d) relief which it claims.

(3) Service on the Council of the notice under this clause, summons or other documents required or authorized to be served on the Council under the provisions of this Bill, may, except where there is express provisions to the contrary be served by:

(a) delivering the same to the Chairman, Executive Secretary or any other Senior Officer of the Council;

or

(b) sending it by registered post addressed to the Executive Secretary of the Council at the headquarters of the Council, provided that the Court may with regard to any particular suit or document, order service to be effected in accordance with the terms of such Order.

(4) For the purpose of this clause, "suit" means a civil proceeding commenced by writ of summons or an action in the manner as may be prescribed by rules or court.

36. (1) Without prejudice to the provisions of this Bill, the Council shall make rules for carrying out the provisions of this Bill.

Power of the
Council to make
rules.

(2) The Council shall make rules in particular to provide for:

(a) information and documents for application to Council for registration;

(b) conditions under which registration of a developer may be renewed;

(c) the form and manner of making an application and fee and documents to be accompanied with such application;

(d) the period, manner and conditions under which the registration is to be granted;

(e) the validity of the period of registration and the manner for renewal of fees;

(f) maintenance and preservation of books of account, records and documents;

(g) the rate of interest payable;

(h) the form and particulars of agreement to be made by a developer

(i) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairman and other members of the Council;

(j) the administrative powers of the Chairman;

(k) salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Council;

(l) details to be published and maintained on the website;

(m) additional functions which may be performed by the Council;

(n) the manner of recovery of interest, penalty and compensation; and

(o) such other decisions as may be deemed appropriate to make under this Bill.

(3) The Council may collaborate with the relevant government authority in the exercise of its powers

under this clause.

37. The Council shall regulate its proceedings regarding meetings and the performance of its functions by regulations made under this Bill. Power to regulate its proceedings.
38. (1) If a developer commits a financial crime in relation to the Council under this Bill, the developer shall be liable on conviction to the penalties prescribed under the Act of the National Assembly or law regulating financial crimes in Nigeria. Offences and penalties.
- (2) If an investor commits a financial crime in relation to the duties of an investor under this Bill, the investor shall be liable to the penalties prescribed under the Act of the National Assembly or law regulating financial crimes in Nigeria.
- (3) A developer who knowingly gives false information to the Council commits an offence and is liable on conviction to a fine of Fifty Million Naira (N50,000,000) and shall be heard in a Fast-Track Court
- (4) A developer who wilfully fails to comply with any order or direction of the Council under this Bill may have his license revoked temporarily or permanently as the Council determines.
- (5) An allottee that wilfully fails to comply with any order, decision, or direction of the Council shall be liable to a fine as may be determined by the Council.
- (6) A developer who deals in the business of real estate development in Nigeria that:
- (a) fails to register and be licensed in accordance with the provisions of this Bill commits an offence and is liable on conviction to a fine of not less than Twenty Million Naira (N20,000,000:00) to be garnisheed from the Developer's Bank Account(s) by application to the High Court
- (b) contravenes or fails to comply with any other provision of this Bill commits an offence and shall be liable on conviction to:
- (i) the revocation of its license or a fine of not less than One Million Naira (N1,000,000) and a fine of not less than One Hundred Thousand Naira (N100,000) for each day of non-compliance in the case of a registered corporate body; and
- (ii) a fine of not less than One Million Naira (N1,000,000) and a fine of not less than One Hundred Thousand Naira (N100,000) for each day of non-compliance in the case of an unregistered corporate body.
39. (1) The High Court of a State and High Court of FCT shall have jurisdiction to try the offences under this Bill. Jurisdiction.
- (2) Where any of the provisions of this Bill or its application to any person or circumstance is held invalid in any court having jurisdiction, the invalidity will not affect other provisions or applications of this Bill that can be given effect without the invalid provision or application.
40. (1) From the commencement of this Bill, a developer shall have 180 days to register with the Council in compliance with the provisions of this Bill. Transitional provisions.

(2) The provisions of the Second Schedule to this Bill shall apply with respect to staff of REDAN.

41. (1) In this Bill:

Interpretation.

A developer includes:

(a) a corporate body or person that constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling and or leasing all or some of the apartments to other persons and includes his assignees and also includes a buyer or lease who purchases or leases in bulk for resale/re-lease; or

(b) a corporate body or person that develops a real estate for the purpose of selling and or leasing to other persons all or some of the plots, whether with or without structures thereon; or

(c) any development authority or any other public body in respect of allottees of:

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

(ii) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling and or leasing all or some of the apartments or plots;

(iii) any co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its members or in respect of the allottees of such apartments or buildings;

(iv) any other person who acts himself as a builder, real estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or estate is developed for sale/lease; or

(v) such other person who constructs any building or apartment for sale/lease to the general public.

(2) For the purposes of this clause:

(a) if a corporate body the person constructs or converts a building into apartments or develops a real estate for sale is different from the corporate body that sells/leases apartments or plots, both shall be deemed to be the developer;

(b) a person who engages in the business of real estate development in Nigeria shall be construed as a developer;

“advertisement” means any document described or issued as advertisement through any form of media and includes any notice, circular or other documents offering for sale/lease or rent of a plot, building or apartment or inviting persons to purchase/lease in any manner such plot, building or apartment or to make advances or deposits for such purposes;

“allottee” in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold or otherwise transferred by the developer, and includes the

person who subsequently acquires the said allotment through sale, transfer or otherwise, but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

“appropriate government authority” means the relevant government agency charged with the responsibility for matters relating to land under the control of the:

- (a) Federal Government;
- (b) State Government;
- (c) Minister of the Federal Capital Territory; or
- (d) Local Government;

“building” includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial, industrial, agriculture or other related purposes;

“business of real estate development in Nigeria” includes all activities in the real estate sector contemplated within objective of this Bill;

“carpet area” means the net usable floor area of an apartment, excluding the area covered by the walls;

“company” means a company incorporated and registered under the Companies and Allied Matters Act now in force, and includes:

- (a) a corporation established by an Act of the National Assembly;
- (b) a development authority or any public authority established by the Government in this behalf under any law for the time being in force;

“competent authority” means any authority created under any law made by the appropriate Government authority which has jurisdiction over land in a given location and has powers to give permission for development of such immovable property;

“Council” means the Real Estate Regulatory Council established under this Bill;

“common areas” mean:

- (a) the part of the site or plot not occupied by buildings;
- (b) the stair cases, lifts, staircase and lift lobbies, fire escapes and common entrances and exits of buildings;
- (c) the common basements, parks, play areas, parking areas and common storage spaces;
- (d) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staff;

(e) installations of central services such as electricity, gas, water and sanitation, air-conditioning, etc.;

(f) the water tanks, pumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;

(g) community and commercial facilities as may be provided;

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

“development” means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re-development;

“development works” means the external development works and internal development works on immovable property;

“estimated cost of real estate project” means the total cost involved in developing the real estate project and includes the land cost;

“external development works” includes roads and road systems, landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station of any other work which may have to be executed in the periphery of, or outside, an estate/development for its benefit, as may be specified under the rules or bye-laws of the competent authority;

“High Court” means High Court of a State or Federal Capital Territory;

“immovable property” includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber or trees, standing crops or grass;

“interest” means the rates of interest payable by the developer or the allottee, as the case may be;

“internal development works” means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and silage water, social infrastructure such as educational, health and other public amenities or any other work in an estate necessary for its proper development;

“local council authority” means any local government council body of the Federal Capital Territory or Local Government of any State or any other Local Body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;

“Member” means the member of the Governing Council established under this Bill and includes a director;

“Minister” means the Minister charged with the responsibility for Housing;

“State Commissioner” means the Commissioner of any of the 36 States of Nigeria charged with the responsibility for Lands and or Housing or both as the case may be.

“notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

“person” includes:

(a) an individual;

(b) a Nigerian family;

(c) a company;

(d) a firm;

(e) a competent authority;

(f) an association of persons or a body of individuals whether incorporated or not;

(g) a co-operative society registered under any law relating to co-operative societies;

(h) any such other entity as the appropriate Government authority may, by notification specify in this behalf;

“planning area” means a planning area, a development area, a local planning area, or a regional development plan area, by whatever name called, or any other area specified as such by the appropriate Government authority or any competent authority and includes any area designated by the appropriate Government authority or the competent authority to be a planning area for future planned development, under the law relating to Town Planning for the time being in force;

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

“prescribed” means prescribed by rules and regulations made under this Bill;

“Professional in the Built Industry” are persons who are qualified and licensed and are involved in the design, construction and other aspects of housing and real estate construction, and has registered with their professional and regulatory bodies under the law establishing them and includes architect, land surveyor, engineers, estate surveyor and valuer, town Planner, builder and quantity surveyor;

“project” means the real estate project under this Bill;

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

Real Estate Developers Association of Nigeria (REDAN)” is the registered Association of Real Estate Developers under Companies and Allied Matters Act (CAMA) as Incorporated Trustees in 2002, and approved by the Federal Executive Council in the National Housing Policy (2012);

“real estate project” means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of an estate into plots or apartments, as the case may be, for the purpose of selling/leasing all or some of the said apartments or plots or buildings and includes the development works thereof;

“regulations” means the regulations made by the Council under this Bill.

“AML/CFT” means Anti-money laundering and counter-terrorism financing.

42. This Bill may be cited as the Real Estate (Regulation and Development) Bill, 2021.

Citation.

SCHEDULES
FIRST SCHEDULE
SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

Appointment of members of the Council

1. Subject to the provisions of the Bill, at the expiration of the tenure of the first Chairman of the Council, Minister shall appoint the subsequent Chairman on the recommendation of the REDAN.
2. Subject to the provisions of this Bill, at the expiration of the tenure of the persons nominated under clause 5 (vi), the Council may nominate 2 persons from each geopolitical zone from former members of REDAN.

Proceedings of the Council

3. Subject to the provisions of the Bill, the Council may, make rules to regulate its proceedings or the proceedings of its Committees.

Committees

4. (1) The Council may set up one or more committees on ad-hoc or permanent basis as are necessary for the performance of the functions under this Bill.
- (2) A committee set up under this paragraph shall consist of the number of persons determined by the Council and not more than one-third may be persons who are not members of the Council and a person other than a member shall be in the committee in accordance with the terms of his letter of appointment.
- (3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Department

5. The Council may set up such departments as are necessary for the smooth administration of the Council subject to the approval of the Council.

Miscellaneous

6. (1) The affixing of the seal of the Council shall be authenticated by the signature of the Chairman or another member of the Council authorized generally or specifically by the Council to act for that purpose.
- (2) A contract or instrument, which if made or executed by a person not being a body corporate would not be required to be

made under seal, may be made or executed on behalf of the Council, as the case may be, by any person generally or specifically authorized to act for the purpose of the Council.

Proceedings

7. The validity of any proceeding of the Council or committee shall not be affected by:

- (a) any vacancy in the membership of the Council or committee;
- (b) any defect in the appointment of a member of the Council or committee; or
- (c) reason that a person not entitled to do so took part in the proceedings.

Disclosure of interest

8. A member of the Council and any person holding office on a committee of the Council who has a personal interest in any contract or arrangement entered into or on behalf of the Council or committee shall disclose his interest to the Chairman of the Council and shall not vote on any question relating to that contract or arrangement in which he/she has an interest.

SECOND SCHEDULE

TRANSITIONAL PROVISIONS

1. Notwithstanding this Bill establishing the Council, REDAN as an independent association shall continue to exist and do all things and carry out all functions in its charter, without bias or prejudice to the Council:
2. All Executive Committee Members of REDAN shall be eligible to hold office on the Council as either Chairman, Executive Secretary or member/Director of the Council so duly appointed.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Real Estate Regulatory Council of Nigeria to provide efficient, effective and transparent administration of the business of real estate development, and prescribe minimum standards for the conduct of the business of real estate development in Nigeria.

THIS BILL WAS PASSED BY THE SENATE ON WEDNESDAY, 17TH NOVEMBER, 2021

.....
President,
Senate of the Federal Republic of Nigeria

.....
Clerk,
Senate of the Federal Republic of Nigeria