# THE SENATE
# FEDERAL REPUBLIC OF NIGERIA

## COMMITTEE ON HOUSING, LANDS AND URBAN DEVELOPMENT

## REPORT ON

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 (SB.216)

FEBRUARY 2018

**REPORT OF THE SENATE COMMITTEE ON HOUSING, LANDS AND URBAN DEVELOPMENT ON 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.**

## 1.0 Preamble

The Real Estate (Regulation and Development) Bill, 2016(SB.216) was sponsored by ***Distinguished Senator Peter Nwaoboshi (Delta North Senatorial District).*** The Bill was read for the *First Time* on Thursday24$^{th}$ November, 2016.

The Senate at its Plenary Sitting of Thursday 8$^{th}$ December, 2016, deliberated on the general principles of the Bill. After extensive deliberations, the Bill was read for the *Second Time,* and referred to the Senate Committee on Housing, Lands and Urban Development, for further legislative action vide *(Senate Order of Referral dated 13$^{th}$December, 2016)* to report back its recommendations.

## 2.0 Objectives of the Bill

In the Committee's view, the objectives of the Bill, which highlighted its intendment and purport, are as follows: Firstly, it seeks to provide legal and institutional framework to regulate and promote the Real Estate sector in Nigeria by ensuring that sales, rent or lease of plot, apartment or building are carried out in a transparent manner in order to discourage fraudulent practices in the system. Secondly, it seeks to establish a database of all Real Estate Promoters, Agents, middlemen, real estate brokers and others who transact real estate businesses in Nigeria. Finally, it seeks to create additional means of generating revenue for the Government through real estate transactions in the country.

## 3.0 Legislative Actions Undertaken by the Committee

In furtherance of this referral, the Committee as part of its legislative actions in handling the referral, held several meetings to further deliberate and examine the provisions of the Bill in great details. In the course of its deliberations, the Committee took into cognizance the views expressed by Distinguished Senators during debates on the general principles of the Bill at its *Second Reading* stage and taking into consideration, the divergent views expressed on the Bill, the Committee resolved to conduct a Public Hearing in order to avail stakeholders and the general public the opportunity to make inputs that will further enrich the legislative process.

As a prelude to the Public Hearing, the Committee placed advertisements in the print and electronic media and invited memoranda from stakeholders and the general public on the proposed legislation. This legislative step was geared towards sensitising the general public on the provisions of the Bill, ahead of the Public Hearing.

The Committee received memoranda from the following organisations, namely:

1. The Federal Ministry of Housing
2. The Ministry of Federal Capital Territory

3. The Federal Government Staff Housing Loans Board (Office of the Head of Civil Service of the Federation)
4. The Federal Housing Authority
5. The Nigerian Stock Exchange
6. The National Institute for Legislative Studies
7. The Real Estate Development Association of Nigeria
8. The Estate Development Association of Nigeria
9. The Council of Registered Builders of Nigeria
10. The Nigerian Society of Engineers
11. The Nigerian Institute of Estate Surveyors and Valuers
12. The Estate Surveyors and Valuers Registration of Nigeria
13. The Quantity Surveyors Registration Board of Nigeria
14. The National Waste and Recycling Association
15. Happy Home, among others.

It should be stated here that apart from the memoranda that the Committee received, oral presentations were also made at the Public Hearing by some stakeholders, NGOs, Civil Society Organisations.

## 4.0 Public Hearing

Mr. President, Distinguished colleagues, I wish to state that in line with the legislative framework adopted by the Committee in handling this referral, the Committee conducted the Public Hearing on the Bill on Thursday 16th November, 2017.

## 4.1 Opening of the Public Hearing

The President of the Senate, ***Senator (Dr.) Abubakar BukolaSaraki, CON,*** who was represented by ***Senator Philip T. Aduda,*** declared the Public Hearing open. In his opening address, the President of the Senate welcomed the stakeholders and the general public to Public Hearing. He stated that the Real Estate Regulation and Development Bill, 2016, which is being considered at the Public Hearing, is a very important Bill that must be given the required attention it deserves. He stressed that the Bill seeks to provide a legislative framework to regulate and promote the real estate sector by ensuring that sales and lease of plots, apartments or buildings are carried out in the most transparent manner and as well, guarantee the protection of consumers in the sector.

He posited that over the years, huge sums of money have been appropriated by the Federal Government for the development of the sector because of its strategic importance to the socio-economic growth of the country. As a result, it is necessary that a great deal of professionalism and competence of practitioners in the system is required to pilot the affairs of this lucrative industry. To achieve this, he said, a legal framework should be put in place to regulate and coordinate its activities in order to boost the confidence of investors both within and outside Nigeria in the booming real estate industry in the country.

Furthermore, he stated that the introduction of the Bill is timely and its passage would go a long way in addressing the myriads of challenges facing the real estate sector. He maintained that in spite of the financial windfall that might accrue to the players in the system, there could also be an unending disputes emanating from fraudulent transactions, which of course, are some of the issues this Bill is set out to address.

Finally, he thanked the sponsor of the Bill and the Committee for organising the Public Hearing on this important piece of legislation. He appealed to the stakeholders and the invited guests to feel free to make their contributions, which he assured, will form part of the Committee's recommendations on the Bill to the Senate.

On that note, he formally declared the Public Hearing open.

## 4.2 Highlights of Presentations by stakeholders

Mr. President, Distinguished Colleagues, it is pertinent for me to state here that Stakeholders present at the Public Hearing made far-reaching and in-depth contributions on the provisions of the Bill. It should be emphasised that divergent views were expressed concerning the passage of the Bill. Whilst some stakeholders supported the passage of the Bill, others opposed its passage.

I wish to seize this opportunity to give highlights on some of the presentations made by stakeholders for and against the passage of the Bill:

The stakeholders that supported the passage of the Bill, submitted as follows:

Firstly, they stated that in the past few years, the real estate sector has grown significantly but the absence of professionalism in the system coupled with its activities not being properly regulated, as practiced in other climes, transactions in the sector have been inundated with fraudulent cases and infiltrated by fake and unregistered promoters/developers and agents. Therefore, the passage of this Bill will sanitise the system and engender an atmosphere of transparency that will guarantee the protection of consumers and developers as well.

Secondly, they canvassed that the passage of the Bill will bring about a robust and all-inclusive real estate road map that will create the enabling environment, which will reduce the current bureaucracy and unprofessional transactions in the sector. They stressed that for the real estate to thrive in this country, there must be a paradigm shift in the home ownership approach and the various transaction dynamics and management of the sector, through appropriate regulations, guaranteed by a well-structured legal and institutional framework that will bridge the gap in the system.

Thirdly, they posited that the passage of the proposed legislation, will allow the consumers of real estate business to benefit from standardisation as well as protection in accordance with the ethical practice of the sector as practiced in other jurisdictions, like the United Kingdom, the United States of America, India Jamaica South Africa, Etc., thus allowing unhindered growth in the sector.

Fourthly, they averred that countries with existing regulatory framework in the real estate sector have been able to attract investors as the regulation has paved way for more transparent and effective performance of the system. Therefore, the passage of this Bill will bring about socio-economic growth of the country.

Finally, they assured that the passage of the Bill will be of immense benefit to the real estate sector as integration of information through on-line medium and regulation as proposed in the Bill, will further develop the sector and related segments of the market, such as banks, insurance companies and law firms by building a seamless platform for the overall benefit of the sector, customers, agents, developers, investors, etc. On that note, they urged the National Assembly to speedily pass the Bill into law.

At this juncture, Mr. President, Distinguished colleague, it is imperative to reiterate that a segment of stakeholders that spoke during the Public Hearing, opposed the passage of the Bill. The reason for the antagonism is predicated on the following:

Firstly, they argued that there are existing agencies and professional bodies that are already handling what the Bill seeks to establish. They opined that rather than establishing a regulatory authority to regulate the real estate sector, which may be tantamount to duplication of functions and create unnecessary inter-agency's conflicts, the focus should be on how to strengthen the existing bodies in order to reposition them for effective and efficient performance.

Secondly, they contended that at a time that the country is trying to streamline its structure in order to reduce the cost of governance, it is not appropriate to set up a new agency to regulate the real estate sector but the existing legal framework can be improved upon to address the issues raised in the Bill.

Finally, they urged the National Assembly not to pass the Bill into law as its passage, they believe, will amount to unnecessary duplication of functions and will not serve the overall interest of stakeholders in the building industry and as such, will not augur well for the nation.

## 5.0 Highlights on some Clauses of the Bill

In this part, Mr. President, Distinguished colleagues, we shall highlight some of the amendments/further inputs made on the provisions of the Bill, which reflect some of the salient views/suggestions of stakeholders during the Public Hearing. We hereby recommend the proposed changes to this Distinguished Senate, for approval, as follows:

### Long Title

The Long Title of the Bill was slightly modified to reflect the import and the purport of the Bill by properly conveying its contemplation within the context of the legislative framework, the Bill seeks to establish.

### Clause 2

Clause 2 deals with the scope of the Bill. Sub-clause (3) of this clause was amended because of its ambiguity. In order to simply its intendment and for purpose of clarity and ease of reference, the sub-clause was broken down into two sub-clauses with the introduction of sub-clause (4).

**Clause 3**

Clause 3 deals with the establishment of real estate regulatory Authority. The Committee redrafted sub-clause (1) of this clause because it does not really reflect a provision setting up an agency or a statutory body. It was therefore, redrafted for the purpose of clarity and elegance.

**Clause 4**

Clause 4 deals with the composition of the Governing Council. The main purport of this Bill is to set up a Regulatory Authority to regulate the Real Estate Sector. Therefore, it is our concerted view that such a body should have a full fledge Governing Council. As a result, new clauses 4, 5, 6 and 8 were introduced by the Committee for the establishment of the Governing Council for effective performance.

**Clause 15**

Clause 15 deals with registration of real estate. The Committee has introduced new sub-clause (1) in order to have a provision, which provides for the registration contemplated in this clause, before prohibition can be placed on the activities of practitioners that fail to register their real estate projects. Sub-clause (1) of the draft Bill has been renumbered as sub-clause (2), accordingly.

**Clause 22**

Clause 22 deals with training/certification of promoters or developers and real estate agents. This is a new provision introduced by the

Committee to enhance professionalism in the system. It is also in tandem with international best practices.

**Clause 23**

Clause 23 deals with transitional provision. This is a new provision introduced by the Committee to provide for at least a window of 1 year period to be given to practitioners in the sector to undergo the necessary mandatory training programme.

**Clause 24**

Clause 24 deals with registration of real estate agents. The Committee swapped and renumbered subsection (2) of this clause as subsection (1), and subsection (1), as subsection (2). The rationale being that the provision for registration of a real estate agent must first be provided for, before failure for such registration can be prohibited.

**Clause 36**

Clause 36 deals with the power to call for information or conduct investigation. The Committee amended this clause because the Authority cannot be vested with powers to conduct investigation. Rather, it can carry out an inquest or inquiry in relation to any subject matter in the discharge of its functions in line with the provisions of the Bill.

**Clause 43**

Clause 43 deals with the short title of the Bill. The Committee amended this clause because the Bill contemplates the establishment of a regulatory Authority to regulate the real estate sector in the country. But the short title does not really reflect its intendment. Therefore, the clause was amended to reflect the whole essence of the Bill.

**Schedule to the Bill**

The Committee in the course of carrying out clause-by-clause analysis of the provisions of the Bill, observed that Schedule to the Bill was not provided for. Therefore, the Committee introduced the Schedule in order to regulate and guide the proceedings of the Governing Council.

## 6.0 Observations/Findings

From the preponderance of views canvassed by stakeholders and members of the public at the Public Hearing and our subsequent analysis of the presentations vis-à-vis the provisions of the Bill in the course of the Committee's meetings, we hereby make the following observations/findings:

1. That stakeholders were not unanimous in their support for the passage of the Bill. Whilst some strongly support and commend its passage by the National Assembly, others opposed its passage for reasons highlighted in the analysis of presentations above;

2. That the main import and purport of this Bill is to develop a comprehensive legal and institutional framework to adequately regulate, oversee and coordinate the real estate sector, which hitherto, is non-existent;

3. That the intent of this Bill is in tandem with international best practices on the subject matter. Countries like the U.K., the U.S.A, UAE, India, Jamaica, South Africa, etc., which have models similar to this proposed legislation, have recorded landmark achievements in the real estate sector because of the enabling laws that allow transparency and growth in the system;

4. That the Economic Recovery and Growth Plan of the Federal Government towards national development, can only be achieved through investment funds and entrepreneurial skills from the private sector, hence the need to regulate this sector, which is one of the most viable developmental drive of our economy; and

5. That the passage of this Bill will no doubt, curb the high level of corrupt practices, wide range of frauds and promote transparency, which will clear all the uncertainties associated with the sector.

## 7.0 Recommendation

The Senate Committee on Housing, Lands and Urban Development, to which this Bill was referred, having considered same, recommends as follows:

*"That the Senate do consider and pass the Real Estate Regulatory Authority (Establishment, Etc.) Bill, 2017, as amended".*

I SO MOVE.

## 8.0 Conclusion

I wish to use this opportunity to thank the President of the Senate and our Distinguished Colleagues for the opportunity to serve in this capacity and to humbly request the Senate to pass this Bill.

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**Senator Barnabas Gemade**

Chairman

## ENDORSEMENT PAGE

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|---|---|---|---|
| 1. | Senator Barnabas A. I. Gemade | - | Chairman............................... |
| 2. | Senator Francis Alimikhena | - | Vice Chairman............................ |
| 3. | Senator Bukar Abba Ibrahim | - | Member................................ |
| 4. | Senator Kashamu Buruji | - | Member................................ |
| 5. | Senator Matthew Urhoghide | - | Member................................ |
| 6. | Senator Benjamin Uwajumogu | - | Member................................ |
| | Mrs. Rosemary Igwe | - | Committee Clerk.......................... |