

FEDERAL MORTGAGE BANK OF NIGERIA ACT

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FEDERAL MORTGAGE BANK OF NIGERIA ACT

An Act to establish the Federal Mortgage Bank of Nigeria to provide long-term credit facilities to mortgage institutions in Nigeria and encourage and promote the development of mortgage institutions at the rural, local, State and Federal levels.

[1993 No . 82.]

[25th August, 1993]

[Commencement.]

PART I

Establishment of the Federal Mortgage Bank of Nigeria and its Board of Directors

1. Establishment of the Federal Mortgage Bank of Nigeria

(1) There is hereby established a mortgage bank to be known as the Federal Mortgage Bank of Nigeria (in this Act referred to as "the Mortgage Bank").

(2) The Mortgage Bank-

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

(b) may sue and be sued in its corporate name; and

(c) may for the purpose of its functions and subject to the Land Use Act, acquire, hold or dispose of property, whether movable or immovable.

[Cap. L5.]

2. Establishment of the Board of Directors

(1) There is hereby established for the Mortgage Bank a board of directors (in this Act referred to as "the Board") which shall comprise-

- (a) a Chairman who shall be appointed by the President;
- (b) one person to represent the Federal Ministry of Works and Housing;
- (c) two persons to represent the Central Bank of Nigeria;
- (d) one person to represent the general interest;
- (e) the Managing Director of the Mortgage Bank; and
- (f) the three Executive Directors of the Mortgage Bank.

(2) The members of the Board, other than the Chairman and ex-officio members, shall be appointed by the President on the recommendation of the body they represent.

(3) The members of the Board shall be paid such allowances as the Mortgage Bank in a general meeting may, from time to time, approve.

(4) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters mentioned therein. [Schedule.]

3. Tenure of Office

(1) A member of the Board appointed, otherwise than by office, shall hold office for a term of four years, and subject to the provisions of subsection (2) of this section, shall be eligible for reappointment for only one further term of four years.

(2) The office of a member of the Board shall become vacant if-

- (a) he resigns as a member by notice in writing under his hand addressed to the Minister; or
- (b) he becomes bankrupt, suspends payment of his debts or compounds with his creditors; or
- (c) he is convicted of an offence involving dishonesty or fraud; or
- (d) he becomes of unsound mind; or
- (e) he becomes a director or an officer of a mortgage institution; or

(f) the Minister is satisfied that it is not in the interest of the Mortgage Bank for the member to continue in office and notifies the member in writing to that effect.

4. Removal from office of members of the Board

(1) If it appears to the Board that a member of the Board, other than an ex-officio member, should be removed from office on the grounds of misconduct or inability to perform the functions of his office, the Board shall make a recommendation through the Minister to the President.

(2) If the President, after making such inquiries as he considers necessary, approves the recommendation, the Minister shall, in writing, declare the office of the member vacant.

(3) Notwithstanding the provisions of subsection (1) of this section, the President may remove a member of the Board from office if he is satisfied that it is in the public interest so to do.

PART II

Functions and Powers

5. Functions of the Mortgage Bank

The functions of the Mortgage Bank shall be to -

(a) provide long-term credit facilities to mortgage institutions in Nigeria at such rates and such terms as may be determined by the Board in accordance with the policy directed by the Federal Government, being rates and terms designed to enable the mortgage institutions to grant comparable facilities to Nigerian individuals desiring to acquire houses of their own;

(b) license and encourage the emergence and growth of the required number of viable secondary mortgage institutions to service the need of housing delivery in all parts of Nigeria;

(c) encourage and promote the development of mortgage institutions at rural, local, State and Federal levels;

(d) supervise and control the activities of mortgage institutions in Nigeria;

(e) collect, manage and administer the National Housing Fund in accordance with the provisions of the National Housing Fund Act;

[Cap. N45.]

(f) do anything and enter into any transaction which in the opinion of the Board is necessary to ensure the proper performance of its functions under this Act.

6. Powers of the Mortgage Bank

(1) Without prejudice to the generality of section 5 of this Act, the Mortgage Bank shall have power to -

(a) accept deposits and savings from mortgage institutions and other institutional depositors;

(b) issue its own securities, including debentures and bonds under Federal Government guarantees and issue promissory notes and other bills of exchange for the purpose of raising funds from financial institutions;

(c) establish a sinking fund for the redemption of securities by the Mortgage Bank and provide for contributions by it to the sinking fund;

(d) carry out research aimed at improving housing patterns and standards in both urban and rural areas of Nigeria;

(e) carry out research on mortgage finance activities and the building construction industry in Nigeria;

(f) organise and operate, in collaboration with reputable insurance companies, a mortgage protection system designed to guarantee liquidity to mortgage institutions as well as afford them the opportunity of having liberal premium terms; and

(g) do anything and enter into any transaction which in its opinion is necessary to ensure the proper performance of its functions under this Act.

(2) The liability of the Mortgage Bank, which may be incurred in connection with the exercise of the Mortgage Bank's powers under subsection (1) of this section, shall be re-discountable with the Central Bank of Nigeria.

7. Functions of the Board

The Board shall, subject to the general direction of the Minister, be responsible for -

(a) managing and superintending the affairs of the Mortgage Bank;

(b) the overall policy and general management of the Mortgage Bank;

- (c) formulating policies and guidelines for operating the loans from the Mortgage Bank and ensuring their implementation;
- (d) working closely with the management of the Mortgage Bank to ensure smooth operation of the affairs of the Mortgage Bank;
- (e) deciding on and approving the borrowing power and credit limits of the Mortgage Bank;
- (f) approving annual reports and statement of accounts of the Mortgage Bank;
- (g) appointing and approving fees for external auditors; and
- (h) carrying out such other activities connected with or incidental to the other functions of the Board.

8. Powers of the Board

The Board shall have power-

- (a) to acquire offices and other premises for the use of the Mortgage Bank;
- (b) to fix terms and conditions of service including remuneration of the employees of the Mortgage Bank;
- (c) establish such zonal and other branches of the Mortgage Bank as it may deem necessary for the proper performance of its functions; and
- (d) to do such other things as are necessary for the successful performance of its functions under this Act.

PART III

Staff of the Mortgage Bank

9. Managing Director and Executive Directors of the Mortgage Bank

- (1) There shall be appointed for the Mortgage Bank, by the President, the following officers, that is-
 - (a) a Managing Director, who shall be the Chief Executive of the Mortgage Bank and be responsible for the day-to-day management of the affairs of the Mortgage Bank; and
 - (b) such number of Executive Directors, not exceeding two, as he may determine who shall perform such duties as may be assigned to them, from time to time, by the Board or the Managing Director.
- (2) A person appointed as the Managing Director or an Executive Director shall not, while holding that office, qualify to hold any office as a Director in any other bank, corporation, company or any other establishment without the approval of the Board.
- (3) The Managing Director and Executive Directors appointed pursuant to the provisions of subsection (1) of this section shall hold office for a period of five years and may be re-appointed for a further period of five years.
- (4) Subject to subsection (3) of this section, the Managing Director and Executive Directors shall each hold office on such terms and conditions as may be specified in their letters of appointment.

10. Secretary and other staff of the Mortgage Bank

- (1) The Board shall appoint a Secretary to the Mortgage Bank who shall-
 - (a) be responsible to the Managing Director;

(b) keep the records and conduct the correspondence of the Board; and

(c) perform such other duties as the Board or the Managing Director may, from time to time, determine.

(2) The Board shall appoint such number of officers and other persons as employees of the Mortgage Bank as may appear expedient and necessary to the Board for the proper and efficient conduct of the business and functions of the Mortgage Bank.

(3) The terms and conditions of service (including remuneration, allowances and pension benefits) of the secretary to the Mortgage Bank and other employees of the Mortgage Bank shall be as may be determined by the Board.

PART IV

Capital of the Mortgage Bank, etc.

11. Capital

(1) The capital of the Mortgage Bank shall consist of equity and loan capital.

(2) The authorised capital of the Mortgage Bank shall be one hundred million naira which shall be divided into 1,000,000 shares of N100 each and be subscribed and paid up at par by the Federal Government.

(3) The loan capital of the Mortgage Bank shall be provided by the Federal Government in such amount and on such terms as may be determined by the Minister.

12. General reserve fund

(1) The Mortgage Bank shall establish a general reserve fund to which shall be allocated from the net profits of the Mortgage Bank at the end of each financial year of the Mortgage Bank -

(a) 50% of the net profits of the Mortgage Bank for the year, when at the end of the year the fund is less than the authorised capital of the Mortgage Bank;

(b) 25% of the profits of the Mortgage Bank for the year, when the fund is equal to or exceeds the authorised capital of the Mortgage Bank.

(2) After any allocation has been made in terms of subsection (1) of this section, the balance of the net profits shall be applied to the retirement of any loan granted to the Mortgage Bank by the Federal Government or any other body.

(3) The remainder of the net profits, if any, shall be paid to the shareholders.

PART V

Financial Provisions

13. Borrowing powers

(1) Without prejudice to section 6 of this Act, the Mortgage Bank shall not, except with the approval of the Minister, borrow from any source any money exceeding its share capital.

(2) The Mortgage Bank shall have power to secure the repayment of any money borrowed by the Mortgage Bank in such manner as the Mortgage Bank may think fit and, in particular, by the issue of debentures charged on all or any of the Mortgage Bank's properties, and shall also have power to purchase, redeem and pay up any of those securities.

(3) The Mortgage Bank shall have power to receive grants, loans and advances and other moneys on deposit from the Federal Government, the Central Bank of Nigeria and any licensed bank and also the public in general under such conditions as may be approved by the Minister.

(4) The Federal Government may guarantee foreign loans in such manner and on such terms as it may deem fit and ensure the redemption and the repayment by the Mortgage Bank.

14. Funds of the Mortgage Bank

(1) Without prejudice to section 13 of this Act, the Mortgage Bank shall maintain a fund which shall consist of-

(a) such sums as may, from time to time, be provided by the Federal Government for the purpose of this section by way of grant or loan or otherwise;

(b) such sums as may be paid to the Mortgage Bank in the course of its operations;

(c) all interests received in respect of moneys invested by the Mortgage Bank;

(d) all moneys raised for the purposes of the Mortgage Bank by way of gifts, loans, grants - in-aid, testamentary dispositions or otherwise;

(e) moneys borrowed from any source approved by the Board; and

(f) such other moneys as may, from time to time, accrue to the Mortgage Bank.

15. Expenditure of the Mortgage Bank

The Mortgage Bank may, from time to time, apply the proceeds of the fund established in pursuance of section 14 (1) of this Act-

(a) to the cost of administration of the Mortgage Bank;

(b) to paying or reimbursing members of the Board or of any committee set up by the Board for expenses as may be expressly authorised by the Board;

(c) to the payment of the salaries, fees or other remuneration, allowances, pensions and gratuities payable to the officers and other employees of the Mortgage Bank;

(d) for the maintenance of any property vested in the Mortgage Bank;

(e) to the payment of all expenses incurred on behalf of the Mortgage Bank; and

(f) to and in connection with performing all or any of the functions of the Mortgage Bank and the Board.

16. Annual accounts of the Mortgage Bank

(1) The Board shall, in respect of each year, keep proper accounts of the revenue and expenditure of the Mortgage Bank and of all deposits received and repaid and interests credited to depositors during the year, from 1 January to the 31 December of the same year, together with a statement of the assets and liabilities of the Mortgage Bank.

(2) The accounts of the Mortgage Bank kept under subsection (1) of this section shall, after being audited and certified by an auditor appointed from the list and in accordance with guidelines supplied by the Auditor-General for the Federation, be submitted to the Minister and shall thereafter be published by the Mortgage Bank in selected national newspapers for general information.

17. Annual report

The Mortgage Bank shall prepare and submit to the President through the Minister, in such form as the Minister may direct and not later than 30 June in each year, a report on the activities of the Mortgage Bank during the immediately preceding year and shall include in the report a copy of the audited accounts of the Mortgage Bank for that year and the Auditor-General's report thereon.

PART VI

Miscellaneous

18. Offices and branches

The Bank may, subject to the approval of the Board, open offices and branches in such parts of Nigeria as the Board may decide and appoint agents and correspondents in accordance with the decision of the Board.

19. Exemptions

(1) The Mortgage Bank shall be exempt from the payment of income tax, and the provisions of any enactment relating to taxation of companies shall not apply to the Mortgage Bank.

(2) The provisions of the Banks and Other Financial Institutions Act shall not apply to the Bank.

[Cap. B3.]

20. Service of documents

A summons, notice or other document required or authorised to be served on the Mortgage Bank under the provisions of this Act or any other enactment or law may be served by -

(a) delivering it to the Chairman or the Managing Director of the Mortgage Bank; or

(b) by sending it by registered post addressed to the Managing Director at the principal office of the Mortgage Bank.

21. Repeal, Savings, etc.

(1) The Federal Mortgage Bank Act (in this section referred to as "the repealed enactment") is hereby repealed and the Board established thereunder is hereby dissolved.

[Cap. 138. L.F.N. 1990.]

(2) All assets, funds, resources and other movable or immovable properties, other than those specified in subsection (3) of this section, which immediately before the commencement of this Act were vested in the mortgage bank established under the repealed enactment shall by virtue of this Act and without any further assurance, be vested in the Mortgage Bank established under this Act.

(3) All the mortgage business hitherto carried on by the mortgage bank established under the repealed enactment and all the assets, funds, resources and other movable or immovable properties related thereto shall, by virtue of this Act and without further assurance, be vested in the Federal Mortgage Finance Limited (in this Act referred to as "the Company").

(4) As from the commencement of this Act-

(a) the rights, interests, obligations and liabilities of the mortgage bank established under the repealed enactment, under any contract or instrument or at law or in equity are hereby assigned to and vested in the Mortgage Bank established under this Act or in the Company, as the case may be, without any further assurance; and

(b) a contract or instrument as is mentioned in paragraph (a) of this subsection shall be of the same force and effect against or in favour of the Mortgage Bank established under this Act or the Company,

as the case may be, and shall be enforceable as fully and effectively as if instead of the Mortgage Bank established under the repealed establishment, the Mortgage Bank established under this Act or the Company, as the case may be, has been named therein or had been a party thereto.

(5) A proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the mortgage bank established under the repealed enactment in respect of any right, interest, obligation or liability of that mortgage bank may be continued or commenced, as the case may be, by or against the Mortgage Bank under this Act or the Company, as the case may be.

(6) A determination of a court of law, tribunal or other authority or person made in a proceeding or cause of action referred to in subsection (5) of this section may be enforced by or against the Mortgage Bank established under this Act or the Company, as the case may be, to the same extent that the proceeding, cause of action or determination could have been continued, commenced or enforced by or against the mortgage bank established under the repealed enactment aforesaid if this Act had not been made.

(7) Notwithstanding the repeal of the enactment referred to in this section, if the Board thinks it expedient that any vacancy in the Mortgage Bank or Company should be filled by a person holding office at the commencement of this Act in the Mortgage Bank, it may employ that person by way of transfer to the Bank and the previous service in the Mortgage Bank by the person shall count as service for the purposes of any pension subsequently payable by the Bank.

22. Regulations

The Board may make regulations with respect to any of the following matters, that is -

- (a) the granting of loans, advances and the making of deposits;
 - (b) with approval of the Minister and subject to the Mortgage Institutions Act, the relationship between the Bank and the mortgage institutions;
- [Cap. M19.]
- (c) the terms, conditions, rates of interest, fees or administrative charges in respect of advances, credits, guarantees and any other transaction which the Bank may undertake from time to time;
 - (d) the form of application, agreements and other materials necessary for the control of the grant of advances, credits, guarantees and other transactions which the Bank may undertake from time to time;
 - (e) the securities that may be required for loans to be granted by the Bank; and
 - (f) any other matter that may be incidental or supplemental to the functions of the Mortgage Bank under this Act.

23. Interpretation

In this Act, unless the context otherwise requires -

"Board" means the Board of Directors of the Mortgage Bank constituted under section 2 of this Act;

"Central Bank" means the Central Bank of Nigeria established under the Central Bank of Nigeria Act;

[Cap. C4.]

"Chairman" means the Chairman of the Board;

"Company" means the Federal Mortgage Finance Limited registered under the Companies and Allied Matters Act;

[Cap. C20.]

"financial institutions" and **"licensed bank"** have the meaning assigned to them under the Banks and Other Financial Institutions Act;

[Cap. B3]

"Managing Director" means the employee of the Bank appointed as such under section 9 of this Act;

"Minister" means the Minister charged with responsibility for matters relating to housing;

"Mortgage Bank" means the Federal Mortgage Bank of Nigeria established under section 1 of this Act;

"mortgage business" means the mobilisation of savings and the granting of loans for the purpose of developing houses; and

"mortgage institution" means any person whose principal business is the advancing of money on the security of a mortgage.

24. Short title

This Act may be cited as the Federal Mortgage Bank of Nigeria Act.

SCHEDULE

[Section 2 (4).]

Proceedings of the Board

1. Subject to this Act and section 27 of the Interpretation Act the Board may make standing orders regulating the proceedings of the Board and of any committee of the Board, and in particular, as respects-

[Cap. 123.]

(a) the holding of meetings;

(b) notices to be given of those meetings and the proceedings thereat;

(c) the keeping of minutes, and the custody, production and inspection of those minutes; and

(d) the opening, keeping, closing and auditing of accounts.

2. A meeting of the Board shall be presided over by the chairman or, if the chairman is unable to attend any particular meeting, by another member appointed by the members present at the meeting to act as chairman for that particular meeting.

3. The quorum at a meeting of the Board shall be the chairman (or, in an appropriate case, the person appointed to act as chairman under paragraph 2 of this Schedule) and three members.

4. Where standing orders made under paragraph 1 of this Schedule provide for the Board, to co-opt persons who are not members of the Board, those persons may advise the Board on any matter referred to them by the Board, but shall not be entitled to vote at a meeting of the Board or count towards a quorum.

Committees

5. (1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board, and not more than one third of those persons may be persons who are not members of the Board; and a person other than a member of the Board shall hold office on the committee in accordance with the terms of the letter by which he is appointed.

(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

6. The Board shall provide for the safe custody of the seal of the Mortgage Bank which shall only be used by the authority of the Board or of a committee of the Board authorised by the Board in that behalf, and every instrument to which the seal is affixed shall be signed by a member of the Board and counter-signed by the secretary to the Board or by another member or some other person appointed by the Board for that purpose.

7. A document purporting to be an instrument issued by the Mortgage Bank and to be sealed with the seal of the Mortgage Bank authenticated in the manner provided by this paragraph, or to be signed by the managing director, shall be received in evidence and be deemed to be the instrument without further proof, unless the contrary is shown.

8. A contract or an instrument which, if made or executed by a person not being a body corporate would not be required to be under seal, may be made or executed on behalf of the Mortgage Bank by a person authorised either generally or especially by the Mortgage Bank to act for that purpose.

9. The validity of a proceeding of the Board shall not be affected-

(a) by a vacancy in the membership of the Board; or

(b) by a defect in the appointment of a member of the Board; or

(c) by reason that a person not entitled to do so took part in the proceedings.

10. A member of the Board, and a person holding office on a committee of the Board, who has a personal interest in a contract or an arrangement entered into or proposed to be considered by the Board or the committee shall forthwith disclose his interest to the Board or committee and shall not vote on any question relating to that contract or arrangement.

FEDERAL MORTGAGE BANK OF NIGERIA ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation