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LOCAL GOVERNMENT TENEMENT RATES LAW

A Law to provide for the rating of tenements in the State.

[KWS 15 of 1991, No. 4 of 2006.]

[Date of commencement: *1st January, 1991*]

PART I

Establishment of the Kwara State Rating Board

1. Citation

This Law may be cited as the Local Government Tenement Rates Law.

2. Interpretation

In this Law unless the context otherwise requires:

"Board" means the Kwara State Rating Board;

"current replacement cost" means the cost of replacing each individual item of the tenement at the date of valuation;

"depreciated replacement cost" shall be arrived at after necessary adjustments to the current replacement cost to arrive at the value of the item of the tenements to the tenant as it actually exists at the date of valuation; these adjustments will be principally concerned with age and obsolescence including planning and layout;

"gross value" means the rent at which the tenement might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenement rates and taxes and the landlord undertook to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the tenement in a state to command that rent;

"occupier" includes person(s) in actual possession of the whole or any part of such tenement or person(s) in beneficial occupation, pecuniary or otherwise, but does not include a lodger;

"owner" in relation to a tenement shall include the person for the time being receiving the rent of the tenement in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or would receive the sum if such tenement were let to a tenant, and the holder of the tenement direct from the State whether under lease, licence or otherwise;

"profits method" means the adjustment of the gross profit to the net profit and applying a figure to the net profit to arrive at the rent to be paid to the landlord;

"rateable value" means the value at which the tenement is assessed in accordance with this Law;

"State" means the Kwara State of Nigeria;

"tenement" means land with building or structure on it or therein like petrol station which is held or occupied as a distinct or separate holding or tenancy or any wharf or pier or warehouse or other occupied land such as quarry or mineral site, etc., being beneficially worked upon other than land occupied for agriculture.

3. Repeals

(1) Part XII of the Kwara State Local Government Law, No. 8 of 1976, the Kwara State Property Tax Law, No. 19 of 1984 and the Property Tax (Amendment) Law, No. 10 of 1986 and all other laws on tenement rates are hereby repealed.

(2) This Law revokes powers of any other person or body to levy tenement rate in Kwara State.

4. Establishment and appointment of members of the Rating Board

(1) There is hereby established for the State a body known as Kwara State Rating Board.

(2) The Board shall be constituted by the following persons:

- (a)* the Permanent Secretary, Ministry of local government or his representative as Chairman;
- (b)* all the treasurers of the existing local governments in the State as members;
- (c)* not more than 3 secretaries to local government on a rotational basis for a period not exceeding two years as members;
- (d)* any other person(s) that may be co-opted by the Chairman as the need arises.

[No. 4 of 2006.]

5. Secretariat

The Ministry of local government shall be responsible for providing secretariat services for the execution of the Board's functions as enumerated under section 7 below.

[No. 4 of 2006.]

6. Secretary

There shall be a Secretary to the Board who shall be a senior staff from the Local Government Inspectorate of the Ministry of Local Government and not below the salary grade level 10.

[No. 4 of 2006.]

7. Functions

The Board shall be responsible for—

- (a) all policy matters relating to administration of tenement rates in Kwara State;
- (b) the identification, survey and valuation of rateable properties in the State for the compilation of the valuation list;
- (c) appointment and monitoring of professional appraisers and rate collectors recommended to it by each Rating Authority in the State;
- (d) persons appointed under paragraph (c) above shall be qualified estate surveyors and valuers, registered by the Estate Surveyors and Valuers Registration Board of Nigeria, and shall be subject to and under the control and supervision of the Rating Authority.

8. (1) *Funding.*—

(a) The Board shall be funded by an agreed annual contribution from each of the constituting rating authorities;

[No. 4 of 2006.]

(b) the amount so contributed under paragraph (a) above shall be utilised for the

day to day running expenses of the Secretariat of the Board including all other incidental expenses having direct bearing to the functions of the Board under section 7 of this Law;

(c) notwithstanding the provisions of paragraph (a) subsection (1) of section 8, the Board shall have the power to review the amount of contribution or call for a further contribution, after the normal contribution must have been paid by the rating authorities as and when the need arises.

(2) The accounts of the Board shall be subject to annual audit as applicable to other parastatals in Kwara State.

9. Powers of the appraiser

An appraiser may—

- (a) require any person to give all such information orally or in writing as he may require which may affect the assessed value of a tenement so as to ascertain and assess the property;
- (b) call upon any person liable to pay rate upon a tenement to exhibit to him any accounts, receipts for rent, rent books, or other documents required in connection with valuation of a tenement;
- (c) on any day (except a non-working day) between the hours of eight o'clock in the morning and six o'clock in the afternoon, enter into or upon any tenement for the purpose of making a valuation thereof, and take such measurements and other particulars as he may deem necessary for the purpose;
- (d) call upon the occupier of any tenement for his name, and where the occupier is not the owner, the name and the address of the owner;
- (e) require the owner, occupier or agent of any tenement actually rented to make a declaration in writing as to the yearly rent paid or payable

for the same; and

- (f) require the owner, occupier or agent for any tenement to inform him as to the boundaries of the tenement.

10. (1) *Rating Authority*.—Each existing local government in Kwara State shall be a Rating Authority for its area for the purpose of this Law.

(2) *Powers of Rating Authority*.—The Rating Authority shall—

- (a) nominate suitable appraisers to the Board in line with paragraphs (c) and (d) of section 7 of this Law for appointment;
- (b) demand and collect tenement rates from owners, occupiers or agents of tenements and buildings after due notices of demand have been sent to them;
- (c) call upon any person liable to pay rate upon tenements, to exhibit to it any accounts, receipt for rents, rent books or other documents required in connection with the valuation of a tenement;
- (d) call on the occupier if he is not the owner, to furnish the name and address of the owner;
- (e) call upon the appraiser and/or the rate collector to exhibit to it any accounts, receipts for collection, tenement records or other documents required in connection with the valuation and/or collection of a tenement.

PART II

Assessment and Collection of Tenement

11. **Tenement Rating Authority**

As from the commencement of this Law, the Rating Authority shall be the only body in the State empowered to levy and collect tenement rates within its area.

12. First general assessment

(1) As soon as practicable after the constitution of the Board, the Board shall cause the value of every tenement subject to rate in the State to be ascertained and assessed by appraisers, and such assessment shall be known as the first general assessment.

(2) Not less than once in every five years after completion of a general assessment, the Board shall cause a new general assessment to be made in the manner provided under subsection (1) of this section, of every tenement subject to rate in the State.

13. Preparation of valuation list

As soon as a first general assessment or any subsequent general assessment shall have been completed, the appraiser shall make a list of the several tenements assessed and their respective valuations to be made and shall submit same to the Board through the Rating Authority for confirmation subject to any alteration which may be made on the order of the Assessment Appeal Tribunal or a Valuation Court.

14. (1) *Publication of valuation list and place for public inspection.*—The Rating Authority, after the preparation of the valuation list or an amendment to a valuation list, shall—

(a) give notice in the State Official Gazette or in any of the widely read daily newspapers circulating in the State of the fact that a valuation list has been prepared and as to the place at which it may be inspected; and shall make available the list for inspection at the place mentioned during ordinary office hours for twenty-one days from the date of the publication of such notice; and

(b) serve upon the owner/occupier of each tenement contained in the valuation list a notice showing the assessed value thereof.

(2) *Period during which valuation list is in force.*—Subject to any alteration

which may be made by order of the Assessment Appeal Tribunal or a Valuation Court—

- (a)* a valuation list prepared on a general assessment shall for the purpose of any rate to be levied in respect of the tenement assessed, be the valuation list for the year in which the same is published and for the next following year;
- (b)* in any other year the valuation list as amended and in force at the commencement of the year shall, for the purposes of any rate to be levied in respect of the tenement assessed, be the valuation list.

15. Annual assessment

(1) In every year in which there is no general assessment, the Board through the Rating Authority shall, in the month of January, or as soon as may be convenient thereafter, cause a copy of the existing valuation list to be prepared with such additions or alterations only as are necessary to give effect to any new assessment or re-assessment of tenements—

- (a)* which being rateable shall require assessment because, whether by building, destruction of building or other alteration in a structural condition, the assessed value has been increased or reduced; or
- (b)* which being rateable have not been assessed; or
- (c)* in respect of which any person claiming to be the owner/occupier thereof shall have delivered to the Rating Authority, a written request for re-assessment on or before the first day of the preceding January to be ascertained or assessed.
- (d)* Such valuation list when prepared shall be signed by the Chairman of the Board and subject to any alteration which may be made on the order of the Assessment Appeal Tribunal or a Valuation Court shall be the valuation list for the year for which the then existing list has been made.

16. Notice and exhibition of the valuation list

Notice of the preparation of the valuation list mentioned in section 14 of this Law and of the place at which the same may be inspected shall be given in the manner prescribed by section 13 and the said list shall be open for inspection for the same period as a list of the first or subsequent general assessment.

17. Exemptions

(1) The following tenements shall be exempted from assessment and rating subject to provisions of section 12—

- (a)* all land and buildings used exclusively for the purposes of public worship;
- (b)* cemeteries and burial grounds;
- (c)* recognised and registered charitable institutions or educational institutions certified by the Commissioner of Finance, or Commissioner for Sports and Youth Development or Commissioner for Social Development and Culture as the case may be, to be non-profit making, particularly academic buildings but does not include staff quarters, offices and students' hostels;

[No. 4 of 2006.]

- (d)* all palaces of emirs, obas and chiefs or village heads as may be determined by the Rating Authority;
- (e)* State Governor's official residence (Government house);
- (f)* all mud-wall residential tenements.

(2) The Governor may by notice published in the State Gazette grant partial relief to tenements in certain parts of the State.

- (a)* certified by the Board as being of very poor construction, very low or

of transient or temporary nature; or

- (b) belonging to recognised and registered charitable institution or educational institution certified by the Commissioner for Finance, or the Commissioner for Sports and Youth Development or the Commissioner for Social Development and Culture as non-profit making under paragraph (c) of section 17 (1) of this Law.

[No. 4 of 2006.]

18. Basis of valuation

(1) For the purposes of this Law all properties in the State shall be valued by reference to the gross value.

(2) The rateable value shall be arrived at by deducting an amount from the gross value, such an amount shall reflect the usual outgoings such as repairs, insurance and management that will be incurred to earn the gross value.

19. Assessment of tenement

(1) In assessing a tenement, an appraiser shall, in determining the gross value take cognisance of either the actual rent passing on the tenement or of rent of comparable tenements within the vicinity which have been properly analysed by him.

(2) Where it is apparent to an appraiser either that a tenement cannot be valued by reference to a direct rent by reason of the special nature of such property or due to the paucity of rental evidence for such tenement in the particular area, the appraiser may decide to use the "depreciated replacement cost" method or any other relevant method as appropriately described elsewhere in this Law.

(2) Notwithstanding the provisions in any other State legislation, appraisers shall take cognisance of either the open market rent or the actual rent passing in determining the gross value of residential properties.

20. Depreciated replacement cost

(1) Before arriving at the depreciated replacement cost of a tenement an appraiser shall:

- (a) determine the current replacement cost for the tenement including land value; and
- (b) deduct an amount from the current replacement cost, to allow for age and obsolescence.

(2) The appraiser shall rely on his experience and judgment in determining the amount to be deducted.

(3) To arrive at the gross value the resultant depreciated replacement cost shall be devalued. The figure arrived at shall be treated in the manner prescribed in subsection (2) of section 18, to arrive at the rateable value.

21. Contractor's method and profits method

(1) Properties which cannot be valued by comparative method because they are never let such as purpose-built industrial buildings, factories, workshops, wharf, pier, cinemas, town halls, club houses and similar buildings shall be valued by either the contractor's method embracing the current replacement cost or the profits method.

(2) The assessed value of petrol filling stations, storage tanks, petroleum oil and gas wells, flow stations and oil terminals, occupied quarries and mineral sites as well as hotels and guest houses shall be determined by profit method or depreciated replacement method.

(3) Residential tenements of a substantially higher standard than most other residential tenements in the locality which are valued by rent comparative method shall be valued by depreciated replacement cost method.

22. Uniformity of assessment

For the purpose of ensuring uniformity of assessment the appraiser shall, in determining the rateable value of a tenement, either by reference to annual rent or current replacement cost, have regard to the level of rent prevailing in the locality for the particular type of tenement or of the building/structure costs in the locality for that particular class of tenement or a fair charge for the particular type of occupied quarry/mineral sites reflecting comparative market value of such mineral.

23. Assessment of public utility corporation

Assessment in respect of tenement occupied by public utility corporation other than tenements used as dwelling houses, shall be by the depreciated capital value (hereinafter referred to as "depreciated replacement costs") of such tenement.

24. Uniformity of rate

(1) A rate upon tenement other than tenements referred to in section 23 to be assessed at their depreciated replacement cost shall be at a uniform rate per naira of the assessed value provided that such uniformity shall be restricted to the particular local government area in the State.

(2) A rate upon tenement required by section 23 to be assessed at their depreciated replacement cost shall be determined by first applying an amount represented by five percent of the depreciated replacement cost.

(3) The amount arrived at under this section shall represent the rateable value after deductions as determined in section 18 of this Law.

(5) The uniform rate per naira referred to in subsection (1) of this section shall be applied to the rateable value as determined.

PART III

Objections to Valuation List

25. Notice of objection

(1) Any owner or occupier of a tenement who may be dissatisfied with the valuation of such tenement as appearing in the valuation list may lodge with the Board or Rating Authority a notice of objection.

Provided that such notice shall be lodged within the period during which the valuation list is open for public inspection as provided in either section 14 or 15 of this Law.

(2) The notice of objection shall state fully the grounds on which the objection is made and the objector shall cause a copy thereof to be served on the relevant local government in whose area of jurisdiction the tenement is situated.

(3) The person lodging an objection shall deposit with the said local government a sum equal to 50% of the amount of rate due pending the determination of the objection, such deposit shall be credited to the ratepayer's account and shall be used to off-set part or the whole of the rate depending on the outcome of the objection.

26. Notice of hearing of objection

If a notice of objection with the prescribed sum is lodged within the prescribed period, the Assessment Appeal Tribunal shall give notice to the objector and to the Board of the date and place at which the objection will be heard.

PART IV

Appeals

27. Assessment of Appeal Tribunal

The Governor may constitute one or more Assessment Appeal Tribunals which shall have jurisdiction to hear and determine appeals in respect of objections to the valuation list in a local government area.

28. Composition of Tribunal

[No. 4 of 2006.]

(1) An Assessment Appeal Tribunal (hereinafter referred to as "the Tribunal") shall

consist of the following:

- (a) the Chairman;
- (b) a registered Estate Surveyor and Valuer; and
- (c) a legal practitioner,

who shall all be appointed by the Governor.

[No. 4 of 2006.]

(2)

[No. 4 of 2006.]

(3) Members of the Tribunal shall hold office for such period as may be prescribed by the Governor.

(4) Members of the Tribunal shall be paid such allowances as the Governor may from time to time determine.

29. Appeals

The owner/occupier of a tenement aggrieved by the valuation list may appeal against the valuation to the Tribunal.

30. Time of appeal

The time allowed for an appeal shall be thirty days after service of notice of assessment.

31. Onus of proof

The onus of proving that a valuation of a tenement is excessive shall lie on the owner/occupier so aggrieved by the valuation.

32. Decision of the Tribunal

The Tribunal may confirm, reduce, increase, alter or annul the valuation.

33. Power of the Tribunal

An assessment Appeal Tribunal may—

- (a)* by summons, require the attendance of any person and may question him for the purpose of an appeal before it and may require answers to any question which it may deem fit to put concerning the matter before it;
- (b)* require and enforce the production of all books, papers and documents which it may consider necessary;
- (c)* administer oaths and affirmations.

34. Representation of the Rating Board

The Board may, in the case of any appeal against a valuation of a tenement be represented by an appraiser or any other person appointed by it in writing or a legal practitioner.

35. Further appeals to Valuation Court

An appeal against the decision of the Tribunal shall lie to the Valuation Court—

- (a)* at the instance of an appellant other than the Board;
- (b)* at the instance of the Board where the decision of the Tribunal is in respect of a matter in which the Board claims that the correct valuation was in the sum of ₦600 or more;
- (c)* the cost of an appeal shall be at the discretion of the Valuation Court.

36. An appeal shall not lie unless—

- (a)* notice is given in the prescribed manner to the Board or to the person assessed;

- (b) fee prescribed is paid;
- (c) in the case of a person aggrieved with his tenement rating at least one-half of the assessed rate being disputed is deposited with the Rating Authority.

37. Establishment of Valuation Court

(1) The Governor may appoint a Magistrate as a Judge of the Valuation Court which shall have jurisdiction to hear and determine appeals and offences in respect of tenements referred to it from the Tribunal.

(2) Where a person fails to pay a rate for which he is liable by the date on which it is payable, the Rating Authority may—

- (a) exercise distress on the property by sealing or other appropriate distress;
- (b) take the rate defaulter to the Valuation Court which for the time being has been retained as a standing court for this purpose;
- (c) any judgment obtained may—
 - (i) order the ratepayer to pay the rate within 21 days from the date the judgment was given;
 - (ii) empower the relevant Rating Authority to distrain any property belonging to the ratepayer in satisfaction of the claims, if the ratepayer shall fail, refuse or neglect to comply with the judgment of the Court;
 - (iii) empower the relevant Rating Authority to recover the rate due and payable as a civil suit together with any surcharge due and costs.

(3) The Valuation Court shall have jurisdiction of a chief magistrate's court.

Provided that such jurisdiction shall not be limited on account only that the rate being claimed on the tenement is in excess of the court's jurisdiction.

PART V

Demand and Collection of Rates

38. Making and publication of rates

(1) A Rating Authority shall give notice of every rate demanded by it and of the day on which such rate shall become due and payable.

(2) A notice under subsection (1) of this section may be given by—

- (a) affixing a copy of the notice in a public or conspicuous place within the area of jurisdiction of the Rating Authority; or
- (b) publishing a copy of the notice in one or more daily newspapers circulating in the area of jurisdiction of the Rating Authority.

39.

(1) Where notice has been given of the demand of a rate that has been due under section 38 of this Law, a person liable to pay rate shall pay the amount of rate due to the Rating Authority or its agents authorised to collect the amount.

(2) Any person liable to pay rate shall pay the amount of rate due not later than the date specified in the notice.

(3) Where any rate remains unpaid by tenement owner/occupier for three months from the date it became due and payable, a surcharge calculated from the day following the expiration of such three months shall be charged and recovered by the Rating Authority at the rate of ten percent per annum for each month for which the rate remains unpaid.

40. Liability for rates on tenements

(1) Occupiers or subsequent purchasers of tenement shall be primarily liable while owners of such tenement or agents shall be secondarily liable for the payment of rate except in cases where the owner also resides in the premises and in such cases the owner becomes primarily liable.

(2) Notwithstanding the provision in subsection (1) of this section, if the Rating Authority believes that the collection of rates from occupiers of a property in multi-occupation will present problems or that it is uneconomical to bill individual tenants, the Rating Authority may make the owner primarily liable.

(3) Every rate demanded and levied upon a tenement shall except in the case of tenement exempted be a charge against the tenement so rated.

41. Rate collectors

(1) The Rating Authority shall appoint rate collectors.

(2) A person shall not be appointed a rate collector without his consent except he is an employee of the Rating Authority.

42. Duties of a rate collector

A rate collector shall—

- (a) collect and receive rates, including surcharges, from a person liable for the payment of rates in the area in which the rate collector has been posted and issue the Authority's official receipts for the amount collected;
- (b) make returns and furnish information on the rates including surcharge, which he is required to collect;
- (c) pay all the amount of rates including surcharges collected to the rating authority;
- (d) comply with the directions of a Rating Authority in the performance of his duties under this Law.

43. Claim for amount of rate by Rating Authority

A claim for the amount of rate payable under the provisions of this Law shall be prior to all other claims against the person liable to pay the rate, except claims by the State or Federal Government.

PART VI

Offences relating to Rates

44. Offences in relation to rates

Any person who—

- (a) fails to comply with the provisions of this Law; or
- (b) without reasonable excuse makes an incorrect return by omitting or understating an income of which he is required to make under the Law; or
- (c) refuses or neglects to comply with any of the provisions of this Law when required to do so by a Rating Authority or an appraiser; or
- (d) prevents, hinders or obstructs any employee or agent of a Rating Authority or of the Board in the course of his lawful duty from entering, inspecting or measuring the tenement,

shall be guilty of an offence and shall be liable on conviction to a fine of two thousand naira or to imprisonment for a period of one month.

[No. 4 of 2006.]

45.

(1) Any person who having been served with summons by an Assessment Appeal Tribunal under the provisions of section 33 of this Law—

- (a) refuses or omits without sufficient cause to attend at the time and place mentioned in the summons; or

- (b) refuses to take oath or affirmation;
- (c) refuses without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by the Assessment Appeal Tribunal; or
- (d) refuses or omits, without sufficient cause to produce any documents in his possession or under his control which are mentioned in the summons,

shall be guilty of an offence and shall be liable on conviction to a fine of two thousand naira.

[No. 4 of 2006.]

(2) A person giving evidence before a Valuation Court shall, in respect of any evidence given by him or any document he is required to produce, be entitled to all the privileges to which a witness in a trial before a magistrate's court is entitled in respect of any evidence given by him or a document he is required to produce before any magistrate's court.

46. Penalty for inciting a person to refuse to pay rate

Any person who without lawful authority or excuse—

- (a) incites any person to refuse to pay any rate by him under this Law on or before the day on which it is payable;
- (b) incites or assists any person to misrepresent in any way his rateable capacity,

shall be guilty of an offence and shall be liable on conviction to a fine of two thousand naira or imprisonment for a period of one month.

[No. 4 of 2006.]

47. Penalty in respect of illegal rate collecting

Any person who—

- (a) not being authorised under this Law by the Board or by the Rating Authority or not being a rate collector, collects or attempts to collect any rate imposed under this Law; or
- (b) collects or attempts to collect any rate other than the rates which may be imposed under this Law,

shall be guilty of an offence and shall be liable on summary conviction to a term of one year imprisonment.

48. Penalty in respect of offences by rate collectors

Any rate collector who—

- (a) fails to deposit with the Rating Authority any sum of money collected by him as rates as and when required; or
- (b) demands from any person an amount in excess of the duly assessed rates; or
- (c) falsifies receipts or prints illegal receipts with intention to cheat the Rating Authority,

shall be guilty of an offence and liable on conviction to imprisonment for a period of three years without option of a fine.

49. Penalty for refusing to pay rates

Any person who without lawful authority or excuse refuses to pay rate payable by him on tenement under this Law on or before the date on which it is payable shall be liable to a fine not exceeding two thousand naira or a term of imprisonment not exceeding three months in default of the payment of the fine.

[No. 4 of 2006.]

CHAPTER LIO

LOCAL GOVERNMENT TENEMENT RATES LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation