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**Legislative Decree No. (41) of 2022 amending Some Provisions of the Real Estate Sector Regulation Law promulgated by Law No. (27) of 2017**

We Hamad bin Isa Al Khalifa King of the Kingdom of Bahrain.

Having reviewed the Constitution, in particular, Article (38) thereof;

Real Estate Sector Regulation Law promulgated by Law No. (27) of 2017;

And Electronic Communications and Transactions Law promulgated by Law No.(54) of 2018, as amended by Law No. (29) of 2021;

Upon the submission of the Prime Minister;

And after the approval of the Council of Ministers,

Hereby Decree the following Law:

**Article One**

Texts of Articles (3), (11) paragraph (a) clauses (2) and (3), (55), (62) paragraphs (d) and (e), (67) paragraph (a), (68) paragraph (b) of the Real Estate Sector Regulation Law promulgated by Law No. (27) of 2017 shall be replaced with the following texts:

**Article (3): Establishment of the Authority**

An authority called the (Real Estate Regulatory Authority) shall be established, shall have the legal personality and be attached to the Agency. A Decree shall be issued to regulate the Authority, form its Board of Directors, define its competencies, establish the appointment mechanism for the Chief Executive Officer and define his competencies and address all matters related to the Authority.

The composition of the Board of Directors shall include representatives from the real estate sector who are licensed according to the law and the minister may not be part of the formation of the Board.

**Article (11) Paragraph (a) Clause (2) and (3):**

2- Impose a warning fine calculated on a daily basis, to compel the violator to cease the violation and eliminate its causes or effects, not exceeding one thousand Bahraini dinars per day where the violation is being committed for the first time and two thousand Bahraini dinars per day if he commits any other violation within three years following the date on which a decision in respect of the previous violation against him had been issued. In all cases, the sum of the warning fine shall not exceed fifty thousand Bahraini Dinars.

3- Impose a total fine not exceeding two hundred thousand Bahraini dinars, and in the event that the violation relates to a real estate development project, the fine may be at a rate not exceeding (2%) of the estimated value of the project.

**Article (55): Division and Disposal of Common Parts**

Under no circumstances is the division of common parts allowed, nor their disposal in whole or in part, or altering their nature.

The Authority may establish systems that ensure the continuous operation of the infrastructure services and facilities services in the common parts in the best manner, including obligating the developer to establish a company to own the infrastructure services and facilities services owned by them.

**Article (62) paragraphs (d) and (e):**

d- The General Assembly of the Owners Union is allowed to appoint a union manager or to entrust a licensee with managing the common parts, in accordance with the provisions of paragraph (d) of Article (70 bis 1) of this Law, to manage, operate, maintain and repair the common parts instead of the union. The General Assembly's decision shall specify the tasks and competencies of the manager or the licensee, as well as the duration of their management of the common parts.

The Board of Directors may issue a decision specifying the real estate projects in which the appointment of a manager to manage the Owners Union or the entrustment of a licensee to manage the common parts is required. The decision shall regulate the rules and conditions to be considered in the Union manager or the licensee to manage the common parts, including cases where the appointment of a part-time manager is permissible and the required conditions for their eligibility.

e- Taking into account the provisions stipulated in this Chapter, the Board of Directors shall issue a decision regulating all the provisions related to the Owners Union, taking into account the nature of the common real estate properties, and ensuring the protection of the minority of property owners from the control of an owner or developer who holds a significant percentage of the common real estate units over the decisions of the General Assembly. The Board of Directors shall determine the rules for determining the influential percentage based on the types and nature of the common real estate properties and whether the common parts are central, primary or subsidiary.

**Article (67), Paragraph (a):**

a- Each unit owner of the common real estate properties, and the main or subsidiary developer for the unsold real estate units, shall pay their share of the annual subscriptions to cover the expenses of managing, operating, maintaining and repairing of the common parts as well as the insurance expenses for them. This share shall be determined based on the proportion of the unit's area to the total area of the common real estate property and the nature of the unit's use, along with any other criteria specified in the Owners Union statute or the Common Parts Management Regulation.

**Article (68) Paragraph (b):**

b- If the unit owner refuses to pay their share of the annual subscriptions or any other financial commitments imposed on him according to the provisions of this Law, the Owners Union statute, or the Common Parts Management Regulation, as the case may be, the individual responsible for managing the common real estate property or the common parts shall issue a Decision obligating him to make the payment within sixty days from the date of being notified of the Decision through the methods of notification specified by a Decision issued by the Board of Directors, including the notification by electronic means. The unit owner shall have the right to appeal the Decision within the mentioned period before the competent court. Once the Decision becomes final and unappealable, it gains the status of a writ of execution, and the individual responsible for managing the common real estate property or common parts is authorized to execute it before the judge of the Execution Court.

**Article Two**

Two new articles numbered (67 bis) and (67 bis 1) shall be added to the Real Estate Sector Regulation Law promulgated by Law No. (27) of 2017, with the following text:

**Article (67 bis): Electronic Payment System for the**

**Annual Subscriptions**

The Authority, in coordination with the relevant authorities, may establish an electronic system for paying the annual subscriptions and notify the properties owners in case of delays in payment within the specified deadlines. The individual responsible for managing the common real estate property or common parts may participate in this system after paying the fee determined by a Decision from the Board of Directors.

In the event that a unit owner refuses to pay his share of the annual subscription, the individual responsible for managing the common real estate property or common parts may extract the relevant information from the system which shall serve as a writ of execution after being stamped by the Authority.

**Article (67 bis 1): Temporary Appointment of**

**Common Parts Manager**

The Authority may, through a reasoned decision, appoint a Board of Directors for the Owners Union or a licensee to manage the common parts or a union manager to temporarily manage the common parts in any of the following cases:

1- Committing serious violations of the law by the individual responsible for managing the common parts.

2- Facing poor financial and administrative situations in the management of the common parts.

3- Failing to fulfil duties related to managing, operating, maintaining, and repairing the common parts by the individual responsible for their management.

4- If the President and members of the Board of Directors of the Union present their resignation or the Board of Directors of the union loses its legal quorum.

5- Failing to convene the General Assembly of the union to elect its Board of Directors within the period specified by the Authority.

6- Lack of a manager for the common parts.

**Article Three**

A new Chapter shall be added to Part Three of the Real Estate Sector Regulation Law promulgated by Law No. (27) of 2017, which is Chapter Three bis entitled (Management of Common Parts Other than through the Owners Union), which shall include the following articles:

**Article (70 bis): Licensing the Developer to**

**Manage the Common Parts**

a- The developer may undertake the management, operation, maintenance and repair of the common parts without involving the Owners Union, based on a license granted according to the rules and procedures specified by a decision from the Board of Directors.

b- The developer shall submit an application to obtain a license for managing the common parts before marketing or selling any real estate unit within a common real estate property. The application shall include a site plan, the statute, the Common Parts Management Regulation and any other documents, information or data specified by a decision from the Board of Directors.

**Article (70 bis 1): Developer's Management of Common Parts**

a- The developer may personally engage in the management, operation, maintenance and repair of the common parts or appoint a licensee to manage the common parts on their behalf.

b- The Authority may require the developer, in the case of personally managing the common parts in main or central real estate development projects, to establish a company to manage the common parts.

c- The developer shall be liable with the licensee assigned to manage the common parts on his behalf or the company he established for the purpose of managing the common parts for all his commitments relating to the management, operation, maintenance and repair of the common parts.

d- Taking into account the provisions of Article (46) of this Law, the Board of Directors shall issue a decision to regulate all matters related to licensing the practise of the activity of common parts management through a licensee, including the regulation of licenses categories based on the types and nature of the common properties, whether they are central, main, or subsidiary.

**Article (70 bis 2): Common Parts Management Regulation**

a- The developer shall establish the Common Parts Management Regulation, encompassing all rules and provisions related to the management of the common parts. This shall include matters concerning safety and security measures, exploitation of the common parts, principles for estimating the annual subscriptions and their increases, and other provisions that ensure the proper exploitation of the common parts.

b- The Board of Directors shall formulate one or more models for the Common Parts Management Regulation, based on the types and nature of the common real estate properties and whether the common parts are central, main or subsidiary. It may also issue a decision to specify the provisions and commitments that shall be included in the regulation, or the provisions that the developer is not allowed to include in the regulation.

**Article (70 bis 3): Establishment and Competencies of the**

**Owners Committee**

a- An Owners Committee shall be established instead of the Union of Owners if the developer assumes the management of the common parts in accordance with the provisions of this Chapter. Its members shall be selected from the owners of the common real estate units, including the buyer in the lease ending with ownership. A Decision by the Board of Directors shall be issued to regulate the procedures, rules, and provisions related to the formation of the Owners Committee, its competencies, membership requirements, duration, number of members, its working procedures, meetings and any other matters.

b- The Owners Committee shall exert reasonable efforts, as circumstances require, to safeguard the interests of the owners, ensure proper exploitation of the common parts, supervise the developer's management, maintenance, operation and repair thereof. The committee may undertake the following:

1. Provide advice and assistance to the developer in performing his tasks and responsibilities in managing the common parts.
2. Monitor the developer's performance in managing the common parts and hold meetings with him to assess his progress.
3. Review the budgets, contracts, and conventions entered into by the developer with third parties for the management of the common parts.
4. Submit any requests or objections to the developer regarding his management of the common parts, estimation of the annual subscriptions, or any other financial commitments.
5. Receive complaints and suggestions submitted by owners and occupants of the real estate property units concerning the management of the common parts or matters falling within the committee's competencies and work towards finding the suitable solutions.
6. Communicate with the Authority on all matters falling under the committee's competencies to achieve its objectives and enhance the relationship between the Owners Committee and the developer.
7. Any competencies specified by a decision issued by the Board of Directors.

c- The Authority shall appoint members of the Owners Committee when it is not possible to select them from the owners for any reason. It also shall appoint them upon the request of the units owners who collectively own no less than (25%) of the common real estate property units.

**Article (70 bis 4): Payment of Annual Subscriptions**

a- The developer shall include in the Regulation of Management of the Common Parts the principles for estimating the annual subscriptions or their increases, ensuring that such estimation or increases is fair, reasonable and do not exceed the actual costs. Additionally, a percentage determined by a decision of the Board of Directors shall be added as profits and administrative expenses. It shall be considered in the estimation that they are suitable for the value of the annual or periodic costs of managing the common parts, their quality and sustainability of use. The Board of Directors may specify the considerations to be taken into account when estimating the subscriptions or their increases or determining a subscription to cover unexpected expenses due to emergency reasons, to ensure a balance between the interests of real estate properties owners and the developer. This shall limit unjustified increases in the annual subscriptions and consider inflation that has affected the cost of managing or repairing the common parts.

b- The payment of subscriptions by real estate properties owners shall be in proportion to the area represented by their units out of the total area of the common parts and the nature of their use, or any other criteria specified in the Common Parts Management Regulation. The main or subsidiary developer shall also be liable for the unsold real estate units to pay their share of the annual subscriptions.

c- The developer may establish a specific system to ensure members' compliance with their commitments to pay subscriptions and fulfil their other commitments including offering discounts to owners who pay their subscriptions on time or imposing administrative and financial penalties on owners who are late in paying their subscriptions or other financial commitments for a period of three months from the due date, at a rate not exceeding (10%) annually of these subscriptions or financial commitments, provided the owner is notified of the commitment to pay those outstanding subscriptions or financial commitments.

d- If the owner of a unit refuses to pay his share of annual subscriptions or any other financial commitments imposed on him according to the provisions of this Chapter or the Common Parts Management Regulation, he may be compelled to pay in accordance with the provisions of paragraph (b) of Article (68) of this Law.

**Article (70 bis 5): Request to Reconsider the**

**Estimation of the Contributions**

a- The Owners Committee may request the developer to reconsider the estimation of the subscriptions if it becomes evident that the developer has not fulfilled their commitments in managing, operating, maintaining or repairing the common parts, or if there is a discrepancy between the developer's commitments and the subscriptions paid. The developer shall make a decision regarding the request to reconsider the estimation of subscriptions and the decision of rejection shall be in writing and provide sufficient justification, accompanied by all the details, data and facts that led to the refusal.

b- The Authority may, based on the request of the Owners Committee, appoint an independent entity at the expense of the developer to review the estimation of the subscriptions if compelling reasons warrant such a review.

**Article (70 bis 6): Establishment of an Account for**

**Depositing the Subscriptions**

a- The developer shall establish one or more accounts for depositing the subscriptions and the returns resulting from benefiting of the common parts or any financial resources specified in the Common Parts Management Regulation. This is to ensure the proper and continuous management, operation and maintenance of the common parts in accordance with the rules and provisions specified by a decision of the Board of Directors.

b- Disbursements from the subscription deposit account are only allowed for the management of the common parts. It is not permissible to seize the deposited amounts for the benefit of the developer's creditors. The account is not included in the general guarantee for creditors in the event of a declaration of the developer's bankruptcy, except to fulfil the commitments related to the common parts.

c- The developer is required to annually appoint an auditor to review their management of the common parts.

**Article (70 bis 7): Records of the Developer Relevant to the Management of the Common Parts**

The developer shall maintain the records related to their activities in managing the common parts in a manner that ensures the financial matters of the management are clearly presented. This includes their rights, obligations, especially the correspondences with the Owners Committee, the owners, insurance policies and contracts entered into for the management of the common parts.

**Article (70 bis 8): Exemption of the Developer from the**

**Management of Common Parts**

a- The competent court, based on a request submitted by the Owners Committee or the owners of units who collectively own a percentage of the common real estate units as specified by a decision from the Authority, may exempt the developer from managing the common parts under the following circumstances:

1- If the developer lacks the necessary competence, is unable to perform his tasks and duties or fails to exercise the required care.

2- If the developer engages in actions or behaviours that violate the law or the Common Parts Management Regulation.

3- In cases of severe negligence.

b- The court may also exempt the developer from managing the common parts in situations not covered by paragraph (a) of this Article, based on a request submitted by the units owners collectively owning no less than (75%) of the common real estate units.

**Article (70 bis 9): Relinquishment of the Developer from the Management of the Common Parts**

The developer may relinquish the management of the common parts, provided that he obtains the approval of the Owners Committee one year before the relinquishment, unless the Owners Committee agrees to a shorter period. During that period, the developer shall take all the necessary measures to appoint a licensee approved by the institution and the Owners Committee to manage the common parts or to establish a union of owners in accordance with the provisions of this Law.

Upon the request of the Owners Committee, the Authority may appoint an independent entity, at the expense of the developer, to prepare a report on all the circumstances affecting the management of the common parts, the obligations that the developer shall fulfil before the relinquishment, the rights and dues that shall be collected and any other matters as determined by the Authority.

**Article (70 bis 10): Transfer of Trust**

The developer shall, upon his dismissal or relinquishment from managing the common parts, or temporarily appointing another manager in accordance with the provisions of Article (67 bis 1) of this Law, transfer to the individual assuming the management all necessary documents, records, contracts and accounts related to the management, operation, maintenance, repair, financial matters and other relevant affairs of the common parts.

**Article (70 bis 11): Issuance of the Implementing Decisions**

The Board of Directors shall issue the necessary decisions to implement the provisions of this Chapter.

**Article Four**

The Prime Minister and the ministers - each within his jurisdiction - shall implement the provisions of this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

**Prime Minister**

**Salman bin Hamad Al Khalifa**

Issued at Riffa Palace:

On: 8 Rabi' Al-Akhir 1444 A.H.

Corresponding to: 2 November 2022