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**An Bille um Chosc ar Dhíol gan Toiliú, 2019**  
**No Consent, No Sale Bill 2019**

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*Meabhrán Míitheach*  
*Explanatory Memorandum*

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**AN BILLE UM CHOSC AR DHÍOL GAN TOILIÚ, 2019**  
**NO CONSENT, NO SALE BILL 2019**

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**EXPLANATORY MEMORANDUM**

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The purpose of this Bill is to place onto lenders an obligation to seek and receive the explicit consent of borrowers whose loan they wish to sell to a third party.

The Central Bank's Code of Practice on the Transfer of Mortgages contains this obligation but has been described as "voluntary" by the Central Bank.

*Section 1* is the interpretations.

*Section 2* introduces into primary law an obligation on a lender to obtain the written permission of a borrower before a loan on a residential property can be transferred. It further outlines how this must be done.

*Section 3* legislates for cases where the original lender will service the mortgage as an agent of the transferee. The lender shall confirm that the transferee's policy on the handling of arrears and in the setting of mortgage interest rates will be the same as that of the original lender, and that the original lender will handle arrears as its agent.

*Section 4* sets down the conditions where the original lender is surrendering control over interest rates and arrears policy. This will require explicit consent of the borrower.

*Section 5* lists the information that must be provided to the borrower as part of a request for consent to transfer under Section 2.

*Section 6* sets out the rights of the borrower and the duties of the transferee in case of a transfer.

*Section 7* defines certain exemptions from this Act for extreme cases including for "serious business difficulties" defined as conditions where a bank is failing or likely to fail according to the Central Bank. This is the standard required to trigger the Bank Resolution process at EU level.

*Section 8* empowers the Central Bank to set out requirements and directions as necessary to enforce this Act.

*Section 9* confirms that the administrative sanctions regime as per Part IIIC of the Central Bank Act apply to this Act.

*Section 10* empowers the Central Bank to lay down regulations for the implementation of this Act.

*Section 11* is the Short Title and Citation.

*Deputy Pearse Doherty*

*Márta, 2019.*