

ASSENT THIS... ^{22nd} DAY OF ^{December}2021



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ENGR. PROF. BABAGANA UMARA ZULUM mni, FNSE
GOVERNOR
BORNO STATE OF NIGERIA

**ESTABLISHMENT OF BORNO STATE DEBT MANAGEMENT OFFICE
LAW, 2021**

**A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE BORNO STATE DEBT
MANAGEMENT OFFICE AND FOR OTHER MATTERS CONNECTED THEREWITH
LAW, 2021.**

ENACTED by the Borno State House of Assembly of Nigeria as follows:-

Citation and
Commencement

1. This Law may be cited as the Borno State Debt Management Office Law,
2021 and shall come into operation on the
..... ^{22nd} day of ^{December}2021

Interpretation

2. In this Law unless where the context otherwise requires:-

"Board" means the supervisory board for the office established under section 4 of this Law.

"Commissioner" means the commissioner for the time being charged with the responsibility for matters relating to finance in the State.

"Consolidated Debt Service Account" means a dedicated savings account from which public debt repayment obligations as may arise under the bonds, notes and other securities issued by the State under any enactment shall be fulfilled;

"Consolidated Revenue Funds of the State" means the total revenue and assets of the Government maintained in an account by that name including all statutory allocations from the Federation and all internally generated revenue.

"Director-General" means the Director- General of the Office, appointed pursuant to section 10 of this Law.

"Executive Council" means the Borno State Executive Council. comprising the Governor, the Deputy Governor, the Commissioners and Special Advisers appointed by the Governor and such other officials as may be invited into the council by the Governor;

"Government" means the Government of Borno State.

"Governor" means the Governor of Borno State.

"House of Assembly" means House of Assembly of Borno State.

"Instrument" means any registered bond, bearer bonds, promissory notes, syndicated notes, investment certificates or such other securities or debt instrument as may be issued by the Office on behalf of the State, pursuant to this Law.

"Investment Certificates" are certificates of equal value representing undivided shares, the ownership of tangible assets, usufructs and services or (in the ownership of) the assets of particular projects or special investment activity;

"Loans" includes both internal and external borrowings of the Government;

"Public Bodies" includes State agencies and parastatals;

"Register" means a register or such registers as shall be maintained by the Office in which details of any Instruments including particulars of the holders thereof, transactions in any debt securities issued by the Government and details of subsequent transactions in such Instruments and securities title of subscribers to any debt issuance programme of the State or instrument holders, verifying instruments of title, are recorded;

"Returns" means the yield payable to holders of investment certificates;

"Sinking Fund" means a specific fund established in accordance with existing law, as required from time to time, in connection with a particular issue of instruments, into which contributions shall be made from the Consolidated Debt Service Account or directly from the State's Statutory allocation pursuant to an irrevocable Standing Payment Order to the Accountant-General of the State or as may be otherwise permitted under this Law or any other law in accordance with the terms and conditions of issue of the particular instrument;

"State" means Borno State of Nigeria.

Establishment
Of the Borno State
Debt Management
Office.

3. There shall be established a body to be known as the Borno State Debt Management Office which:
- (a) Shall be a body corporate with perpetual succession and a common seal;
 - (b) May sue and be sued in its corporate name; and
 - (c) May acquire, hold and dispose of property, whether movable or immovable, for the purpose of exercising its functions under this Law.

Establishment
and Composition
of the Board.

4. (1) There shall be established for the office, a Board to be known as the Borno State Debt Management Board which shall consist of:
- (a) The Commissioner who shall be the chairman;
 - (b) The Permanent Secretary, Ministry of Finance; and
 - (c) The Accountant General of the State;
 - (d) The Director-General of the Office.
- (2) The Board shall have a Secretary appointed by the Governor, who shall be a university degree holder with at least ten (10) years experience in corporate and project financing.

Tenure/removal
of Board
Members.

5. (1) Notwithstanding the provisions of section 5(1) of this Law, a member of the board shall cease to hold office if he has:
- (a) Resigned his appointment as a member of the board by giving a notice under his hand, addressed to the Governor;
 - (b) By reason of mental or bodily infirmity that makes him Incapable of discharging his duties;
 - (c) Been convicted of an offence which involves moral turpitude;
 - (d) Been involved in any act that may be considered inimical to the interest of the office or the state; and
 - (e) Become bankrupt or made a compromise with his creditors.
- (2) The Governor may remove any member of the board if he is satisfied that it is in the public interest to do so.

Remuneration

6. Members of the board (other than the commissioner, Permanent Secretary, (Ministry of Finance)Accountant-General shall be paid such allowances as may be determined by the Governor subject to the approval of the House of Assembly.

Functions of
The office

7. The office shall:-
- (a) Issue, on behalf of the State, such instrument as the State may desire to issue, from time to time;
 - (b) Borrow, on behalf of the State, from any individual or institutional bodies;
 - (c) Maintain are liable data base of all instruments issued, loans taken or guaranteed by the State or any exigencies and all contingent liabilities related to it;
 - (d) prepare and submit to the Government, a forecast of loan service obligations for each financial year;
 - (e) prepare and implement plan for the efficient management of the state's debt obligations at sustainable levees compatible with desired economic activities for growth and development and participate in negotiations aimed at realizing those objectives;
 - (f) verify and service debts and other instruments guaranteed or taken directly by the Government;
 - (g) reconcile and where applicable service debts taken by Local Governments where such debts are authorized and guaranteed by the State.
 - (h) set guidelines for managing Government financial risks and financial expenditures with respect to loans and Instruments;
 - (i) advise the Government on the restructuring and refinancing of all debt obligations;
 - (j) advise the Government on terms and conditions on which monies are to be borrowed;
 - (k) submit to the Government, for consideration in the annual budget, a forecast of the State's borrowing capacity;

- (l) prepare a schedule of any other Government obligations such as trade debts and other contingent liabilities and provide advice on policies and procedures for their management;
- (m) establish and maintain relationships with international and local financial institutions, creditors and institutional investors on State debts;
- (n) collect and collate data on debt management and disseminate information on State debt with the approval of the Board;
- (o) advise and propose funding mechanisms for infrastructural projects that may be referred to it, and
- (p) carry out such other functions which are required for the effective implementation of its functions under this Bill or any other Law, or which may be lawfully delegated to it by the Commissioner.

Power of the office

8. The office shall have power to:

- (a) Issue and manage the State loans as prescribed under this Law or any law or upon such terms and conditions as may be approved by the Executive Council;
- (b) Issue, from time to time, guidelines for the smooth operation of any debt, bond investment certificate or securities issuance programme of the State;
- (c) Manage the consolidated debt service Account established by the State and Bonds, Notes and other securities issuance under any enactment.
- (d) Invest, with the approval of the House of Assembly, any sum in the consolidated debt service Account not immediately required for debt service;
- (e) Participate in loan negotiations (internal and external) and appropriately advise the Government on Sustainability of the State Government to access the loans; and
- (f) Do such other things which, in the opinion of the Board, relate to the management of the debts of the State.

Functions of the Board.

9. The board shall:

- (a) Approve policies, regulations and procedures to be adopted by the office for the achievement of its objectives;
- (b) Review, from time to time, the economic and political impact on the state of debt management strategies;
- (c) Appoint, as and when necessary, technical committees comprising of persons with requisite technical competence from the private or public sector with the responsibility to advise the office on such technical matters as may be determined from time to time;
- (d) Recommend, for the approval of the Governor, members of any debt issuance programme or restructuring committee;
- (e) Render quarterly report to the State House of Assembly; and
- (f) Perform such other functions as may, from time to time, be necessary to achieve the objectives of the office.

Appointment of
Director-General

- 10.(1) There shall be appointed for the office as its Chief Executive Officer, a Director-General who shall be appointed by the Governor subject to the confirmation by the House of Assembly.
- (2) The Director-General shall:
- (i)
 - (a) If appointed from the Civil Service of the State, not be below the rank of a Director and shall have knowledge of financial and budgetary planning matters;
 - (b) If appointed from outside the Civil Service of the State, be a banking professional with at least twenty (20) years post qualification experiences in corporate and project financing;
 - (c) Hold office for a period of four (4) years in the first instance and may be reappointed by the Governor for another term of four (4) years only;
 - (d) Be responsible to the board for policy directions and day to day administration of the office; and
 - (e) Hold office upon such terms and conditions as may be determined by the board or as may be contained in his letter of appointment.
 - (ii) A representative of the private sector appointed by the Governor who shall be a person competent in financial matters and shall be the Vice Chairman;

Appointment of
Other staff
Of the office

- 11.(1) The board shall appoint for the office; such other number of employees as may be expedient and necessary for the proper and efficient performance of the functions of the office.
- (2) The terms and conditions of Service (including remunerations, allowances, benefits and pensions) of the employees of the office shall be determined by the board after consultation with any committee, agency or other body responsible for determining salaries of Civil Servants in the State.
- (3) Notwithstanding the provisions of section 10 (2) (e) and 11 (2) of this Law, the Governor may, upon the recommendation of the board, approve such remuneration, allowances and benefits for the Director-General, subject to the approval of the State House of Assembly.
- (4) the board shall have the power to appoint either on transfer or on secondment from the public service of the State or from the private sector, such number of employees as may in the opinion of the board, be required to assist the office in the discharge of its functions under this Law or any other Law.

Staff regulations:

- 12.(1) The board may make staff regulations relating generally to the conditions of service of the employees of the office and without prejudice to the generality of the foregoing, such regulations may provide for;
- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the office; and
 - (b) appeals by such employees against dismissal or such other disciplinary measures and until such regulations are made any instrument relating to the conditions of service of officers in the Civil Service of the State shall be applicable with such modification as may be necessary, to the employees of the office.

- (2) Staff regulations made under subsection (1) of this section need not be published in a State Gazette but the Board shall cause them to be brought to the notice of affected persons in such manner as it may from time to time determine.

Service in the office To be pensionable

13. (1) Service in the office shall be pensionable in accordance to the pensions Law of the State.
- (2) The officers and other persons employed in the office shall be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons on equivalent grades in the civil service of the State.
- (3) Nothing in subsections (1) and (2) of this section shall prevent the appointment of any person to any office on the terms which preclude the grant of pension and gratuity irrespective of that office.

Establishment of management team

14. (1) There shall be established for the office, a management team which shall comprise of the Director-General and the Heads of Department of the office.
- (2) The management team shall, under the direction of the Director-General, be responsible for the implementation of the policies of the board and the day to day administration of the office.

Establishment Of a fund for The office

15. (1) There shall be established for the office, a fund from which expenses incurred by the office shall be defrayed.
- (2) There shall be paid to the fund:
- (a) any allocation to the office from the consolidated revenue fund of the State.
- (b) Such monies as may, from time to time, be granted or lent to the office by the Federal Government, State Government or a Local Government;
- (c) All monies raised for the purpose of the office by way of gifts, loans, grants in aid, testamentary disposition or otherwise; and
- (d) All monies and assets that may, from time to time, accrue to the office.
- (3) The Fund shall be managed in accordance with the rules made by the board and without prejudice to the generality of the power to make rules under this sub-section; the rules shall in particular contain provisions:
- (a) specifying the manner in which the assets or the Fund of the office are to be held, and regulating the making of payments into and out of the Fund; and
- (b) requiring the keeping of proper accounts and records for the purpose of the Fund in such form as may be specified in the rules.

Expenditure of the office.

16. (1) The office shall apply the proceeds of the Fund to:
- (a) The payment of salaries, fees, remuneration, allowances, pensions and gratuities payable to members of the board and the employees of the office;
- (b) The payment for all consultancies, legal fees, financial advisers, the effective running of the office and cost of contract administration.

- (c) The payment of all purchases;
- (d) Generally, the cost of administration of the Office; and
- (e) Undertaking such other activities as are connected with all or any of the functions of the Office under this Law or any other Law.

Gift to the office.

- 17.(1) The Office may accept gifts of land, money, or other property on such terms and condition as may be specified by the person or organization making the gift.
- (2) The Office shall not accept any gift if the conditions attached by the person or organization making the gift are inconsistent with the functions of the Office under this Law, and are such that would influence the decisions or functions of the Office.

Annual Audit Report

18. (1) The Board shall, not later than September in each year, submit to the commissioner, an estimate of the expenditure and income of the office during the next ensuing year.
- (2) The Board shall cause to be kept, proper accounts of the affairs of the office in respect of each year, and shall cause the accounts to be audited not later than six months after the end of each year by the auditors appointed from the list of accredited auditors approved by the Board and in accordance with the guidelines supplied by the Auditor-General of the State.
- (3) The Audited Accounts of the office shall be submitted to the House of Assembly by the Auditor-General.
- (4) The Board shall prepare and submit to the Commissioner not later than June 30th of each year, a report in such form as the Commissioner may on the activities of the office during the immediate preceding year, and shall include in the report a copy of the audited accounts of the office for that year. Within fifteen (15) days of the receipt of such report, the Commissioner shall forward a copy each to the Governor and the State House of Assembly.

direct

Borrowing

- 19.(1) The office shall advise the Government annually, on any shortfall in financing obligations of the State for the ensuing financial year and the amounts as shall be necessary for the Government to borrow for bringing such deficit either locally or abroad and either in naira or such other currencies as may be financially prudent for the State.
- (2) Any advice issued by the Office under subsection (1) of this section shall, among other things, form the basis of the State borrowing and debt issuance programme for the ensuing financial year.

Government Guarantee etc.

- 20.(1) The Government, shall subject to the provision of this section, authorize and guarantee any loans to be taken or instrument issued by Local Government or other Agency of Government.
- (2) Government Guarantees for external loans shall be executed, on behalf of the government, by the Commissioner or any other person designated by him in writing.
- (3) Where any money is due to be paid by the Government in satisfaction of any obligation arising from a borrowing or a guarantee under this section,

that money shall be deemed to be a charge on the consolidated revenue fund of the State.

Market
Borrowing

21. Subject to the provision of section 7 of this Law, the Office shall:
- (a) Determine
 - i. The amounts and time schedules for the issuance of Government short-term and medium-term securities in the Nigerian money market.
 - ii. the repayment or roll-over existing or maturing issues;
 - iii. the floatation of Government long-term securities and investment certificates to raise appropriate funds in the capital market;
 - iv. the payment of interest or returns to the holders of investment certificates and retention of securities at maturity from the sinking fund, or consolidated Debt Service Account or the Consolidated Revenue Fund of the State; and
 - v. the creation with the approval of the Executive Council of specific sinking funds to provide for the redemption of specific securities at maturity.
 - (b) Maintain the Register of holders of all instruments and other debt securities issued by the State and record the particulars of all holders and all transactions entered into with regard to such instrument and securities and for the purpose of carrying out the responsibility under this sub-section, the Office with the approval of the Executive Council, shall appoint a Registrar registered with the Securities and Exchange Commission Subject to any terms and conditions under this Law and any other Laws of the State;
 - (c) With the approval of the Executive Council, determine any other form of securities that may be created, issued or floated to achieve the debt management objectives of the Government;
 - (d) Maintain a record of all guarantees by the Government, of any authorized loans taken by any local government or other agency of Government;
 - (e) Review and advise on the maintenance of statutory limits for all categories of loans or debt instruments at level compatible with economic activities required for sustainable growth and development in collaboration with the Accountant-General of the State; and
 - (f) liaise or cooperate with other State Governments or other relevant institutions within or outside Nigeria for the realizations of the objectives of the office.

Approval of
Grants or
loans

22. (1) Approval for grants or loans to other states or any of their agencies may be granted in accordance with the procedure specified in this section.
- (2) Applications for grants or loans to other states shall be submitted by the Governor to the House of Assembly and may be approved subject to such and conditions as may be prescribed by a resolution of the House of Assembly.
- (3) An application specified in sub-section (2) of this section shall indicate the:

- (a) objectives, as the case may be underlying the request or proposal;
- (b) terms and conditions of the grant of loan;
- (c) benefits which the State stands to derive from the grant or loan; and
- (d) status of the relationship existing between the other state and the State at time of the request or proposal.

Execution of
Loans
agreement

23. Any agreement entered into for the purpose of borrowing by the State or in relation to any guarantee or debt management operation under this Law shall be in writing and be signed for and on behalf of the State by the Commissioner or by such other person as the Commissioner may, from time to time design, provided that such agreement is prepared or approved by the Attorney-General.

Limitation
of suits
Against the
office

- 24.(1) Subject to the provisions of this Law, the provisions of the Public Officers Protection Law or any other relevant or applicable law shall apply in relation to any suit instituted against any Office or any of its officers or employees.
- (2) Notwithstanding anything contained in any other law or enactment, no suit shall lie or be instituted in any court against any member of the board, the Director-General or any other officer or employee of the office for any act done in pursuance or execution of this Law or any other law or enactment, or of any public duty or authority in respect of any alleged neglect or default in the execution of this Law or such other law or enactment, duty or authority unless:
- (a) it is commenced within three months following the act, neglect or defect complained of;
 - (b) in the case of a continuation of damage or injury, within the three months immediately following the cessation thereof;
- (3) No suit shall be commenced against the office; a member of the board, the Director-General, officer or employee of the office before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the office by the intending claimant or his authorised agent.
- (4) The notice referred to in sub-section (3) of this section shall clearly and explicitly state the cause of action, particulars of the claim, venue and place of abode of the intending claimant and the relief he claims.

Service of
Documents

25. Any notice, summons or other documents required or authorized to be served upon the office under this Law or any other law or enactment may be served by delivering it to the Director-General or sending it by registered post and addressed to the Director-General as the principal officer of the office.
26. Any sum of money which may, by judgment of any court, awarded against the office shall, subject to any direction given by the court where no notice of appeal of the said judgment has been given, be paid from the fund of the office.

Transitional
Provisions

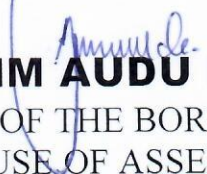
- 27.(1) As from the commencement of this Law, the powers of any Ministry or Extra-Ministerial Department over any debt involving the State shall, by virtue of this Law and without further assurance, be vested in the office established by this Law and in accordance with the provisions of this Law.
- (2) Accordingly, any proceedings or cause of action pending or existing immediately before the commencement of this Law by or against any such Ministry or Extra Ministerial Department over the management of a debt in respect of any right, interest, obligation or liability in relation to the management of a debt referred to in subsection (1) of this section, may be continued or commenced, as the case may be, by or against the office, as if the office had been a party thereto;
- (3) The determination of a court of law, tribunal or other authority or person made in any proceedings or cause of action referred to in subsection (2) may be enforced by or against the office to the same extent that the proceedings, cause of action or determination could have been continued, commenced or enforced by or against that Ministry or Extra-Ministerial Department, if this Law had not been made.

Regulations.

28. The office shall with the approval of the House of Assembly, make regulations for the operation of this Law including the issuance of:
- (a) guidelines for obtaining loans, issuing bonds and investment certificate, securities or debt instruments, derivative swaps or hedge instruments by the Government or any of its agencies;
- (b) guidelines in respect of lending to public bodies; and
- (c) guidelines on any other matters as the board may deem fit in each circumstance.

EXPLANATORY NOTE

This printed impression has been carefully compared by me with the Bill which has been passed by the Borno State House of Assembly and found by me to be a true and correctly printed copy of the Law.


IBRAHIM AUDU NGULDE
CLERK OF THE BORNO STATE
HOUSE OF ASSEMBLY