



EBONYI STATE OF NIGERIA

LAW NO. 012 OF 2020

EBONYI STATE
DEBT MANAGEMENT OFFICE
LAW, 2020

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**EBONYI STATE OF NIGERIA
LAW NO. 012 OF 2020**

SECTION 1

A LAW TO REPEAL AND RE-ENACT A LAW TO PROVIDE FOR THE ESTABLISHMENT OF EBONYI STATE DEBT MANAGEMENT OFFICE AND OTHER MATTERS CONNECTED THERETO. *Long Title*

SECTION 2

BE IT ENACTED by the House of Assembly of Ebonyi State of Nigeria as follows: *Enactment*

SECTION 3

This Law may be cited as **Ebonyi State Debt Management Office Law, 2020.** *Short Title*

SECTION 4

This Law shall be deemed to have come into effect on **Thursday the 21st day of May, 2020.** *Commencement*

SECTION 5

In this Law:

Interpretation

“**Committee**” means the Supervisory Committee of the Office established under Section 6 of this Law;

“**Commissioner**” means the Commissioner for the time being charged with the responsibility for matters relating to Finance in Ebonyi State;

“**Director**” means the Director of the Committee, appointed pursuant to Section 10 of this Law;

“**Executive Council**” means the Executive Council of the Ebonyi State Government, comprising the Governor, the Deputy Governor, the Commissioners appointed by the Governor and such other officials as are invited into the Council by the Governor;

“**Government**” means the Government of Ebonyi State of Nigeria;

“**Governor**” means the Governor of Ebonyi State of Nigeria;

“**Loan**” Includes both internal and external borrowing of the Government;

“Public Bodies” include State Agencies and Parastatals;

“Register” means a register or such registers as shall be maintained by the Ebonyi State Debt Management Office in which details of any instruments including particulars of the holders thereof, transactions in any debt securities entered into by the Government and details of subsequent transactions in such instrument and securities shall be recorded;

“Registrar” means any person appointed by the Office for the purpose of maintaining any register; issuing and delivering certificate and other instruments of title to subscribers to any debt issuance programme of the State or instrument holders, verifying instruments of title, and recording in the register, details of any transaction in such instruments;

“Sinking Fund” means a fund or a sum set apart periodically from the income of Government and allowed to accumulate in order to pay off a debt when it falls due;

“State” means Ebonyi State of Nigeria.

SECTION 6

1. There is hereby established a body to be known as Ebonyi State Debt Management Office, in this Law referred to as (“the 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 of Ebonyi State Debt Management Office*

SECTION 7

1. There is established for the Office, a supervisory committee to be known as Ebonyi State Debt Management Committee (in the Law referred to as “the Committee”) which shall consist of:
 - a. The Commissioner for Finance who shall be the Chairman;
 - b. The Commissioner for Budget, Planning, Research, and Monitoring
- Establishment and Composition of Supervisory Committee*

- who shall be the Vice-Chairman;
- c. The Hon. Attorney-General and Commissioner for Justice;
 - d. The Secretary to the State Government;
 - e. The Permanent Secretary of Ministry of Finance;
 - f. The Accountant General of the State;
 - g. The Chief Economic Adviser to the Governor;
 - h. Representative of Banks as may be approved by the Governor;
 - i. The Director of the Office who shall be the Secretary of the Committee.
2. Members of the committee shall be paid such allowances as may be approved by the Governor.
 3. The supplementary provisions set out in the Schedule to this Law shall have effect with respect to the proceedings of the Committee and other matters therein.

SECTION 8

The Office shall:

*Functions of the
Office*

1. Maintain a reliable database of all instruments issued, loans taken or guaranteed by the Government or Local Government or any of their agencies.
2. Prepare and submit to the State Government, a forecast of loan service obligations for each financial year;
3. Prepare and implement a plan for the efficient management of the State's debt obligations at sustainable levels compatible with desired economic activities for growth and development; and participate in negotiations aimed at realizing those objectives;
4. Verify and service debts guaranteed or taken directly by the State Government;
5. Reconcile and where applicable service debts taken by Local Governments where such are authorized and guaranteed by the State Government;
6. Set guidelines for managing Government financial risk and financial exposure with respect to all loans and instruments;

7. Advise the Government on the refinancing of all debt obligations;
8. Advise the Government on the terms and conditions on which monies are to be borrowed;
9. Submit to the State Government, for consideration in the annual budget, a forecast of the State's borrowing capacity;
10. Prepare a schedule of any other Government obligation such as trade debts and other contingent liabilities and provide advice on policies and procedures for their management;
11. Establish and maintain relationships with international and local financial institutions, creditors and institutional investors in the Government debts;
12. Collect, collate and disseminate information, data and forecasts on debt management with the approval of the Committee;
13. Advise and propose funding mechanism for infrastructural projects that may be referred to it;
14. Perform such other functions which in the opinion of the Office are required for the effective implementation of its functions

under this Law, or which may be delegated to it by the Governor.

SECTION 9

The Office shall have power to:

Powers of the Office

1. Issue and manage the State Government loans upon terms and conditions as may be approved by the State Executive Council;
2. Issue from time to time, guidelines for the smooth operation of any debt, bond and/or debt conversion programme of the State Government;
3. Do such things which, in the opinion of the Committee, relates to the management of the debts of the State Government.

SECTION 10

The Committee shall:

Functions of the Committee

1. Approve policies, strategies and procedures to be adopted by the office for the achievement of its objectives;
2. Review from time to time, the economic and political impacts of domestic and external debt management strategies;

3. Appoint as and when necessary, technical committees comprising of persons with requisite technical competence from the private or public sector to advise the Office on such matters as may be determined from time to time;
4. Perform such other functions as may, from time to time, be necessary to achieve the objectives of the Office.

SECTION 11

1. There shall be for the Office, a Director *Appointment of Director* who shall be appointed by the Governor on the recommendation of the Committee.
2. The Director Shall:
 - a. if appointed from the Civil Service of the State, shall be not below the rank of a Director and shall have knowledge of financial, budgetary and/or planning matters;
 - b. hold office for a period of five years in the first instance and may be re-appointed for another term of five years and no more;
 - c. be responsible to the committee for policy direction and day to day

administration of the Office; and

- d. Hold office on terms and Conditions as may be contained in his letter of appointment.

SECTION 12

1. The Staff of the Committee may be drawn from the mainstream of the Civil Service of the State either on posting, transfer or on secondment. *Other Staff of the Office*
2. The terms and conditions of service (including remunerations, allowances, benefits and pensions) of the employees of the Office shall be as in force in the Civil Service of the State.

SECTION 13

1. There is established for the Office, a management team which shall comprise the Director and the Heads of Units of the Office. *Establishment of Management Team*
2. The management team shall, under the direction of the Director be responsible for the implementation of the day to day administration of the Office.

SECTION 14

1. The Office may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift; *Gifts to the Office*
2. The Office shall not accept any gift if the conditions attached by the person or organisation making the gift are such that would influence the decisions and/or functions of the Office.

SECTION 15

1. The Committee shall, not later than 30th September in each year, submit to the Commissioner an estimate of the expenditure and income of the Office during the next succeeding year. *Annual Estimates and Expenditures*
2. The Committee shall cause to be kept, proper accounts of the affairs of the Office in respect of each year and proper records in relation thereto and shall cause the account to be audited not later than six months after the end of each year by the auditors appointed from the list and in accordance with the guidelines supplied by the Auditor General of the State.

SECTION 16

The Committee shall prepare and submit to the Commissioner not later than 30th June in each year, a report in such form as the Commissioner may direct on the activities of the Office during the immediately preceding year and shall include in the report a copy of the audited accounts of the Office for that year and the auditor's reports thereon. Within fifteen (15) days of the receipt of such report, the Commissioner shall forward a copy to the Governor.

Annual Report

SECTION 17

The Office shall annually advise the State Government on the financing gap for the succeeding financial year and the amounts to be borrowed for bridging the gap both internally and externally.

Borrowing

SECTION 18

1. The Government may, subject to the provisions of this section, authorize and guarantee any loans to be taken by the Local Government or other Agency(ies) of

*Government
Guarantee*

the Government.

2. A guarantee agreement 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 borrowing or a guarantee under this section, that money shall be deemed to be a charge on the consolidated Revenue Fund of the State or the Local Government, as the case may be.

SECTION 19

1. The House of Assembly may, by a resolution approve from time to time, standard terms and conditions for the negotiation and acceptance of external Loans and issuance of guarantees.
2. Where the House of Assembly has approved the terms and conditions under Subsection (1) of this Section, any agreement entered into by the Government shall come into operation without further reference to the House of Assembly; where the terms and conditions are in conformity with the approval,

*Terms and Conditions
for Loans and
Guarantees*

3. Notwithstanding the provision of Subsection (2) of this Section, the House of Assembly may by a resolution request that a particular agreement shall be brought before it for further approval.
4. No agreement in respect of which the approval of the House of Assembly is required shall come into operation without such approval.
5. An approval shall be deemed granted if after 30 days the approval has not been formally communicated to the Commissioner.

SECTION 20

Subject to the provision of Section 10 of this Law, the Office shall: *Internal Borrowing*

1. Determine:
 - a. The amounts and timings for the issuance of Government short-term and medium-term securities in the Nigerian money market;
 - b. The payment of interest, maintenance of a register of holders and redemption of securities at maturity;

- c. creation and management of sinking funds to provide for the redemption of securities of debts.
2. Maintain the Register of holders of all Insurance and other debt securities issued by State and record the particulars of all holders and all transactions entered into with regard to such instruments and securities therein. For the purpose of carrying out the responsibility under this sub-section, the Office with the approval of the State Executive Council shall appoint a Registrar, registered with the securities and Exchange Commission subject to any terms and condition which it deems fit.
3. With the approval of the State Executive Council, determine any other form of securities that may be created, issued or floated to achieve the debt management objectives of the Government;
4. Maintain a record of all guarantees by the Government, of any authorized loans, taken by any Local Government or other agency of Government;
5. Review and advise on the maintenance of statutory limits for all categories of loans or debt instruments at levels, compatible with economic realities for sustainable growth

and development in collaboration with the Accountant-General of the State;

6. Liaise or co-operate with other State Governments or other relevant institutions within or outside Nigeria for the realization of the objectives of the Office.
7. Without prejudice to all instruments of Irrevocable Standing Payment Order (ISPO) that the State may have entered or shall enter and deductions at source by Central Bank of Nigeria (CBN) or and Federal Ministry of Finance, Budget and National Planning, the Governor shall each year set aside the sum of Three Hundred Million Naira (~~₦~~300,000,000.00) to be used in repaying domestic and foreign debts that shall have been verified and certified.

SECTION 21

1. Approval for grants or loans to other States or any of its agencies may be granted in accordance with the procedure specified in this section. *Approval for Grants or Loans to Local Government Areas in Ebonyi State*
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 terms and conditions as may be prescribed by the resolution of the House of Assembly.

3. An application specified in subsection (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 or loan;
 - c. Benefits which the State stands to derive from the grant or loan; and
 - d. State of the relationships existing between the other State and Ebonyi State at the time of request or proposal.

SECTION 22

An Agreement entered into for the purposes of section 20 of this Law shall be in writing and be executed for on behalf of the State by the Commissioner or by such other person as the Governor may, from time to time designate.

Execution of Loan Agreements

SECTION 23

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 officer or employee of the Office or the Office itself. *Limitation of Suit Against the Office etc.*
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 Committee, the Director 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 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 next after the act, neglect or default complained of; or
 - b. in the case of a continuation of damage or injury, within six months next after cessation thereof.
3. No suit shall be commenced against the Office, a member of the Committee, the Director, 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 plaintiff or his agent.

4. The notice referred to in Subsection (3) of this Section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

SECTION 24

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 Directorate the Principal Officer of the Office.

Service of Documents

SECTION 25

Any sum of money which may, by judgment of any Court, be awarded against the Office shall, subject to any direction given to the Court where notice of appeal of the said judgment has been given, be paid from Fund of the Office.

*Monetary Judgment
Against the Office to
be Paid from the
Fund of the Office*

SECTION 26

1. As from the commencement of this Law, *Transitional Provision Etc.* the powers of any Ministry or Extra-Ministerial Department over any debt involving the Government shall, by virtue of this Law and without further assurances, be vested in the Office established by this Law and in accordance with the provision of this Law.
2. Accordingly, any proceeding 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 any 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 proceeding or cause of action referred to in subsection (2), may be enforced by or against the Office to the same extent that the proceeding cause of

action or determination could have been continued, commenced or enforced by or against that Ministry or Extra-Ministerial Departments as if this Law had not been made.

SECTION 27

The Commissioner shall, subject to the approval of the Executive Council, make regulations for the operation of this Law including the issuance of: *Regulations*

- a. Guidelines for obtaining loans by the Government or any of its agencies.
- b. Guidelines in respect of lending to public bodies, and
- c. Guidelines of any other matter as the Committee may deem fit and proper in each circumstance.

SECTION 28

The Ebonyi State Debt Management Office Law No. 014 of 2019 is hereby repealed. *Repeal*

SECTION 29

The Purpose of this Law is to Repeal and Re-enact a Law to Provide for the Establishment of the Ebonyi State Debt Management Office and for other Matters Connected Thereto. *Object and Purpose*

**SCHEDULE
SECTION 7 (3)**

**SUPPLEMENTARY PROVISIONS
RELATING TO THE COMMITTEE
ETC.**

1. 1. Subject to this Law and the interpretation Law, the Committee may make Standing Orders regulating its proceedings or those of any of its sub-committees. *Quorum*
2. The quorum of the Committee shall be Chairman, the Vice-Chairman or the person presiding at the meeting and three (3) other members of the Committee, and the quorum of any Sub-Committee of the Committee shall be determined by the Committee.
2. 1. The Committee shall meet not less than four times in a year and subject thereto, the Committee shall meet whenever it is summoned by the Chairman and if it is Chairman is required to do so by the notice given to him by not less four (4) other members, he shall summon a meeting of the Committee to be held within twenty-eight (28) days from the date on which the notice is given. *Notice of Meeting*

2. At any meeting of the Committee, the Chairman shall preside, but if he is absent, the Vice-Chairman shall preside over the meeting. If the Vice-Chairman is absent, the members present at the meeting shall appoint one of them to preside at that meeting.
3. Where the Committee desires to obtain the advice of any person on a particular matter, it may co-opt such person to the Committee for such period as it deems fit; provided that a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Committee and shall not count towards a quorum.
3. 1. The Committee may appoint one or more sub-committees to carry out, on its behalf such functions as it may determine. *Appointment of Sub-Committee*
2. A Sub-Committee under this paragraph shall consist of such number of person(s) as may be determined by the Committee, and such person shall be a member of the sub-committee in accordance with the terms of his appointment.

3. A decision of a sub-committee shall be no effect until it is confirmed by the Committee.
4. 1. The fixing of the Seal of the Office shall be authenticated by the signatures of the Chairman or any person generally or specifically authorized by the Committee to act for that purpose, and that of the Director. *Fixing of the Seal of the Office*
2. Any contract or instrument which, if not 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 Office by the Director or any other person generally or specifically authorized by the Committee to act for the purpose.
3. Any document purporting to be a document duly executed under the Seal of the Office shall be received in evidence, and shall, unless and until the contrary is proved, be presumed to be so executed.
4. The validity of any proceeding of the Committee or the sub-committee shall not be adversely affected by;

- a. a vacancy in the membership of the Committee or Sub-Committee; or
- b. a defect in the appointment of a member of the Committee or sub-committee; or
- c. reason that a person not entitled to do so took part in the proceedings of the Committee or Sub-Committee.

APPENDIX

FORM A

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

ANASI PATRICIA O. (MRS)
CLERK OF THE HOUSE OF ASSEMBLY,
EBONYI STATE OF NIGERIA.

Dated this 22nd Day of May 2020.

Assented to by me this 22nd Day of May 2020.

CHIEF ENGR. DAVID NWEZE UMAHI
(FNSE, FNATE)
GOVERNOR,
EBONYI STATE OF NIGERIA

FORM C

I withhold my assent.

GOVERNOR
EBONYI STATE OF NIGERIA

Dated this day of2020

FORM D

This Bill to which the Governor has by Letter Reference No.

Dated thisday of..... 2020

Signified the withholding of his assent has again been passed by the House of Assembly of Ebonyi State of Nigeria by a two third majority this day of 2020.

CLERK OF THE EBONYI STATE HOUSE OF ASSEMBLY

Dated at Abakaliki this.....day of..... 2020

OR

Passed by the House of Assembly of Ebonyi State of Nigeria by a two third majority this..... day of 2020

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

CLERK OF THE EBONYI STATE HOUSE OF ASSEMBLY

Dated this.....,..... day of.....2020