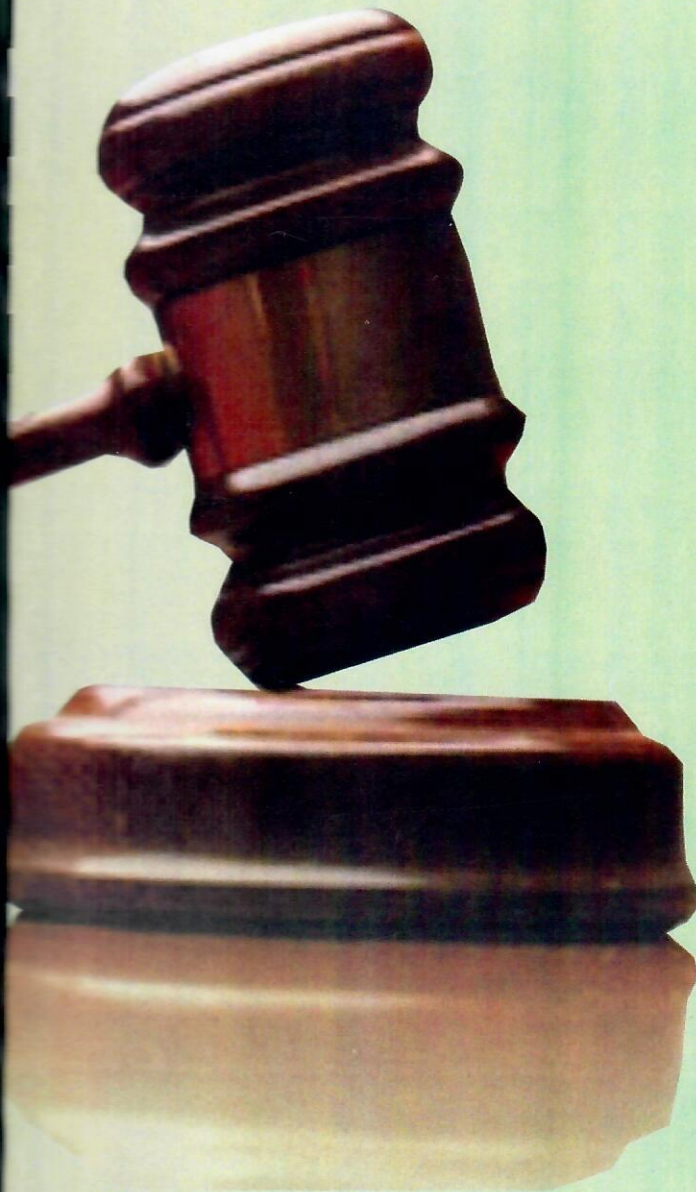


EKITI STATE AUDIT SERVICE COMMISSION LAW, 2021

NO. 3 OF 2021



EKITI STATE OF NIGERIA

**A LAW TO REPEAL THE EKITI STATE AUDIT LAW, 2014 AND TO RE-
ENACT A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE EKITI
STATE AUDIT SERVICE COMMISSION AND THE OFFICES OF THE
AUDITORS-GENERAL AND FOR OTHER MATTERS CONNECTED
THEREWITH.**

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4. Tenure of Office.
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LAW, 2014 AND RE-ENACT A LAW TO PROVIDE FOR THE
ESTBALISHMENT OF THE EKITI STATE AUDIT SERVICE COMMISSION
AND THE OFFICES OF THE AUDITORS-GENERAL AND FOR OTHER
RELATED MATTERS CONNECTED THEREWITH.**

EKITI STATE OF NIGERIA.

Commencement []

ENACTED BY THE HOUSE OF ASSEMBLY OF EKITI STATE AS FOLLOWS:

Establishment of Audit Service Commission.

1. (1) There is established a Commission to be known as the Ekiti State Audit Service Commission (referred to in this Law as “Commission).
- (2) The Commission shall be a body corporate with perpetual succession and shall have power to sue and be sued.

Composition of the Commission.

2. (1) The Commission shall comprise of a Chairman and four (4) other members.
- (2) The Chairman and at least two other members shall be qualified Accountants with cognate Audit experience.
- (3) The Chairman and other members shall be appointed by the Governor and their appointment shall be subject to confirmation by the House of Assembly.

Qualification for Membership.

3. No person shall be qualified for appointment as a member of the Commission if-
- (a) he is of questionable integrity;
 - (b) within the preceding ten (10) years he has been removed as a member of any of the bodies established by Section 197 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) or as the holder of any other office on the ground of misconduct;

- (c) he has been convicted of a criminal offence by a Court of competent jurisdiction or tribunal.

Tenure of Office.

4. A member of the Commission shall hold office for a term of four years and may be re-appointed for a further term of four years.

Cessation of Office.

5. (1) The Chairman and any of the members shall cease to hold office where-
- (a) he is removed by the Governor acting on an address supported by two-third majority of the House praying that he be so removed for inability to discharge the functions of his Office (whether arising from infirmity of mind or body) or for misconduct; or
 - (b) he resigns his membership of the Commission in writing by a letter addressed to the Governor; or
 - (c) he is permanently incapacitated or dies; or
 - (d) he is convicted of an offence which involves moral turpitude; or
 - (e) he becomes bankrupt or made a compromise with his clients.
- (2) Provided that before the Chairman or any member(s) of the Commission is removed by the Governor in accordance with the provision of Section 5(1)(a), he shall be given 21 days notice in writing of the allegation leveled against him and an opportunity to defend himself before a vote is taken on his case by the House.

Filling of Vacancy.

6. At the commencement of this Law, or upon the expiration of the tenure of members of the Commission, at any time or upon a vacancy occurring in the membership of the Commission, the Governor shall within thirty (30) days fill the vacancy upon confirmation by the House.

Remuneration and Allowances.

7. Members of the Commission shall be paid such remuneration and allowances as may be applicable to other Commissions.

Secretary to the Commission.

8. (1) The Governor shall appoint for the Commission, a Secretary who shall be an equivalent of a Permanent Secretary who shall be-
- (a) appointed among the Directors of Audit in the Office of the State or Local Government Auditors-General;
 - (b) the Accounting Officer of the Commission.
- (2) The Secretary shall hold Office on such terms and conditions as may be applicable in the State Civil Service.
- (3) Subject to the general direction of the Commission, the Secretary shall be responsible for the day to day administration of the Commission and for the keeping of books and proper records of proceedings of the Commission.
- (4) The Secretary shall perform all other duties affecting the Commission as may be assigned to him by the Chairman.

Powers and Functions of the Commission.

9. (1) The Commission shall appoint persons to hold or act in such other offices as may constitute the Directorates and Units of the Office.
- (2) The Commission shall have power to-
- (a) perform such other duties and functions as are necessary or expedient for the discharge of its functions under this Law;
 - (b) on the recommendation of the Auditor General, advise the State Government on policy issues relating to audit matters;
 - (c) on the recommendation of the Auditor General advise the Governor on the need to provide welfare for Office staff;
 - (d) confirm the recruitment/appointment of staff made by the Auditor-General;
 - (e) subject any erring staff of the Office of the Auditor-General to discipline processes and impose appropriate sanction based on the recommendation of the Auditor-General;
 - (f) promote staff of the Auditor-General on the recommendation of the Auditor-General;
 - (g) handle pension and retirement matters of the staff of the Auditor-General
- (3) Nothing in this Law shall preclude creation of more Departments/ Units holding by the Office as the need arises and the Commission in accordance with Section 9(1) make appointment into them.

- (4) If the Auditor-General thinks it expedient that any vacancy in the staff of the Office should be filled by a person holding office in any service of the State, it shall notify the Audit Service Commission to that effect and the Commission may, by arrangement with the Service Commission concerned, cause such vacancy to be filled by way of secondment or transfer.
- (5) Where any member of staff of any Service Commission is seconded under subsection (4) of this Section, he shall be notified of the terms and conditions of the secondment; and the secondment shall be without prejudice to any pension rights which, despite the secondment would still accrue to him.
- (6) A person seconded pursuant to subsection (4) of this Section may elect, subject to the approval of the Commission, to be transferred to the service of the Office in which case any previous service in the service concerned shall count as service for the purposes of pension subsequently payable by the Office.
- (7) Any member of staff of the Office may elect to transfer or be seconded to any other service of the State and such right of transfer or secondment shall not operate to the disadvantage of the Officer concerned.

Power to Co-opt.

10. The Commission may co-opt person(s) who are not members of the Commission for any meeting of the Commission or its Committee and such co-opted person(s) may take part in the deliberations of the Commission or any of its Committees but shall not be entitled to vote or be counted as part of the quorum of the meeting.

Meeting and Quorum.

11.
 - (1) The meetings of the Commission shall be convened by the Chairman or any one acting in that capacity.
 - (2) At any meeting of the Commission, the Chairman shall preside and in his absence, any member of the Commission as the other members may elect from among themselves shall preside.
 - (3) The quorum for any meeting of the Commission shall be three (3) members including the Chairman
 - (4) Any matter which comes before the Commission for decision shall be decided by the vote of a simple majority of the members present, and in the event of equality of votes, the Chairman shall have a casting vote.

- (5) The validity of any meeting shall not be affected by reason of the existence of any vacancy in the Commission or any defect in the appointment of any member.

Proceedings of the Commission.

12. The Commission shall have power to regulate its proceedings and may make standing orders for that purpose.

Privileges of the Commission.

13. (1) Subject to provisions of the Freedom of Information Act/Law, any report, statement, communication, record of any meeting or proceeding which the Commission may make in the due exercise of its functions or which any member of the Commission may make in the course of performing its official duties shall be privileged.
- (2) Subject to subsection (1) above, a report, statement, communication, record of any meeting or proceeding of the Commission may be released on the order of Court or by a Resolution of the House.

Staff of the Commission.

14. The Commission shall appoint such persons as may be necessary to enable it carry out its functions under the provisions of this Law.

Conditions of Service of Employees.

15. The terms and conditions of service (including remunerations, allowances, benefits and pensions) of the employees of the commission shall be as applicable in other Commissions.

Staff Regulations.

16. The Commission may make regulations relating to the conditions of service of its employees and without prejudice to the generality of the foregoing such regulations may provide for:
- (a) The appointment, promotion and disciplinary control (including dismissal) of its employees; and
 - (b) Appeals by such employee against dismissal or such other disciplinary measures and until such regulations are made, any instruments relating to the conditions of service of officers in the Civil Service of the State shall

be applicable, with such modifications as may be necessary to the employees.

Pensions.

17. (1) Notwithstanding the provisions of the Ekiti State Pension Law, 2017, service in the Commission shall be service in the Public Service for the purpose of this Law and accordingly, Officers of the Commission shall in respect of their services be entitled to such pensions, gratuities and other retirement benefits as are prescribed under the Ekiti State Pension Law.
- (2) The period of service of any person in the Commission; shall be joined to and deemed to be continuous with the period served by that person previously or subsequently in any other pensionable service.
- (3) For the purpose of the application of the provisions of the Ekiti State Pension Law, any power exercisable under the provisions of this Law by a Commissioner or other authority of the State (not being the power to make regulations) are vested in and shall be exercisable by the Commission and not by any other person or authority.
- (4) Nothing in the provisions of this Section shall prevent the appointment of a person to any office in the Commission on terms which preclude the grant of a pension or gratuity in respect of Service in the Office.

Fund of the Commission.

18. (1) There shall be established a fund for the Commission and provision for the fund shall be made in the annual budget of the State.
- (2) There shall be paid and credited to the fund established under subsection (1) of this Section:
- (a) any sum appropriated to the Commission by the House in each Financial year;
 - (b) all monies raised for the purposes of the Commission by way of gifts grants-in-aids'
 - (c) take off grant; and
 - (d) proceeds from all other assets that may from time to time accrue to the Commission.
- (3) The Commission shall defray all expenditures incurred by it from the fund referred to in subsection (1) of this Section and shall include:
- (a) the cost of administration;

- (b) the payment of salaries, fees or other remunerations or allowances payable to members and employees of the Commission; and
- (c) anything done in furtherance to any of its functions under this Law.

Establishment of Office of the State Auditor-General.

19. (1) There shall be established an office to be known as the Office of the State Auditor-General (referred to in this Law as the "Office")
- (2) The Office shall be headed by the Auditor-General for State Government (referred to in this Law as the "Auditor-General")
- (3) Out-station Departments shall comprise of:
 - (a) Schools;
 - (b) Outstation offices of Ministries and Extra-Ministerial Departments;
 - (c) Government Account, Corporation and Government Agencies;
- (4) Project Monitoring & Evaluation Department shall comprise of:
 - (a) Project Unit; and
 - (b) Specialized Skill Unit.
- (5) Nothing in Section 9 shall preclude the Auditor-General from re-arranging the Department as the need arises.

Establishment of Office of the Auditor-General for the Local Governments.

20. (1) There shall be established an office to be known as the Office of the Auditor-General for Local Governments (referred to in this Law as the "Office")
- (2) The Office shall be headed by the Auditor-General for Local Governments (referred to in this Law as the "Auditor-General")
- (3) Out-station Departments shall comprise of:
 - (a) Local Government Councils;
 - (b) Local Government Parastatals and Agencies;
 - (c) Local Government Education Authorities; and
 - (d) Traditional Councils.
- (4) Project Monitoring & Evaluation Department shall comprise of:
 - (a) Project Unit; and
 - (b) Specialized Skill Unit.
- (5) Nothing in Section 9 shall preclude the Auditor-General from re-arranging the Department as the need arises.

Appointment of Auditor-General.

21. (1) The Auditor-General for State Government shall be appointed by the Governor on the recommendation of the Civil Service Commission, subject to confirmation by the House of Assembly while the Auditor General for the Local Governments shall be appointed by the Governor on the recommendation of the Audit Service Commission, subject to confirmation by the House of Assembly.
- (2) A person to be appointed to the Office of the Auditor General shall be a professional Accountant with a minimum of fifteen (15) years cognate experience in accounting and/or Auditing fields, and have 10 years Public sector Auditing Experience.
- (3) A candidate for the position of Auditor General shall not be less than 52 years of age and not more than 56 years of age at the time of his appointment.

Appointment Procedure of Auditor-General.

22. (1) In recommending persons for appointment as Auditor-General for the State, the State Civil Service Commission shall advertise the vacancy on its website, in two national newspapers, the official gazette and the Procurement Journal for a minimum period of six weeks before the date set for interview.
- (2) The State Civil Service Commission shall interview the applicants and recommend the top three candidates to the Governor.
- (3) In recommending persons for appointment as Auditor-General for Local Governments, the Audit Service Commission shall advertise the vacancy on its website, in two national newspapers, the official gazette and the Procurement Journal for a minimum period of six weeks before the date set for interview; and
- (4) The Audit Service Commission shall interview the applicants and recommend the top three candidates to the Governor.

Remuneration and Allowances of the Auditor-General.

23. (1) The Auditor-General shall be paid such remuneration and salaries as may be prescribed by the House of Assembly, but not lower than or exceeding the amount as shall have been determined by the Revenue Mobilization Allocation and Fiscal Commission.

- (2) The remuneration and salaries of the Auditor-General shall be charged upon the Consolidated Revenue Fund of the State.
- (3) The remuneration and allowances payable to the Auditor-General and his conditions of service, shall not be altered to his disadvantage after his appointment.

Tenure of Office of the Auditor-General.

24. The Auditor-General shall remain in Office until he has attained the retirement age of sixty (60) years except where he is removed under the provisions of this Law.

Cessation of Office of the Auditor-General.

25. A person holding the Office of the Auditor-General shall cease to hold office where:
- (a) he is removed by the Governor acting on an address supported by two-third majority of the House praying that he be so removed for inability to discharge the functions of his Office (whether arising from infirmity of mind or body) or misconduct. Provided that the Auditor-General shall have been given at least twenty-one (21) days notice in writing to defend himself on the floor of the House;
 - (b) he resigns or retires;
 - (c) he is permanently incapacitated or dies.

Vacancy in the Office of Auditor-General.

26. (1) In the event of the absence or incapacitation of the Auditor-General or where the Office of the Auditor-General is vacant, the Governor may, on the recommendation of the State Civil Service Commission appoint a person to perform the duties of the Auditor-General in acting capacity.
- (2) A person appointed in line with subsection (1) above shall possess the qualifications spelt out in Section 21 of this Law.
- (3) No person shall be in acting capacity in the Office of the Auditor-General for a period exceeding six (6) months except by Resolution of the House.

Functions of the Auditor-General.

27. (1) The Auditor-General shall ensure that:
- (a) all reasonable precautions have been taken to safeguard the collection of public monies and that the laws, directions and instructions relating to it have been duly observed and obeyed;

- (2) The remuneration and salaries of the Auditor-General shall be charged upon the Consolidated Revenue Fund of the State.
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Functions of the Auditor-General.

27. (1) The Auditor-General shall ensure that:
 - (a) all reasonable precautions have been taken to safeguard the collection of public monies and that the laws, directions and instructions relating to it have been duly observed and obeyed;

- (b) all monies appropriated or otherwise disbursed have been expended on and applied for the purpose for which the grants made by the Executive Council of the State and the State House of Assembly were intended, and that the expenditure conforms to the authority which governs it;
 - (c) adequate audit regulations exist for Accounting and Financial operations in the State and the Local Governments and that they are duly observed;
 - (d) monies have been expended with economy, efficiency and effectiveness with due regard to the financial regulations/ financial memoranda while and also ensuring quality Financial Management and reporting.
 - (e) satisfactory procedures have been established to measure and report the effectiveness of programmes, where such procedures could appropriately and reasonably be implemented;
 - (f) the attentions of the appropriate authorities have been drawn to any irregularity observed during the examination of the account as soon as facts of such irregularities have been established and confirmed;
 - (g) as a result of the audit conducted by him, all queries and observations are addressed to the Accountant-General, the Accounting Officer or any other appropriate person and call for such accounts, vouchers, statements, documents and explanations as he deems fit; and
 - (h) where he deems it fit, surcharge and specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had surcharged and the reason for the surcharge and shall report the circumstances of the case to the Accounting Officer of the affected department or institutions.
- (2) The Auditor General shall audit:
- (a) the use of public monies, resources or assets by a recipient or beneficiary regardless of its legal nature.
 - (b) the quality of financial management and reporting.
 - (c) the implementation of policies of government and public entities.
- (3) The Auditor-General shall, in exercising his functions under the provisions of this Law, express his opinion as to whether the financial statement/ accounts represent the financial information in accordance with applicable statutory provisions, stated accounting policies of government, generally

accepted accounting principles and standards, and are essentially consistent with those of the preceding years.

- (4) The Auditor-General or any person authorized by him to conduct periodic checks on a statutory corporation shall, in addition to the audit report, draw attention to the following:
- (a) the profitability, liquidity, stability and solvency of a Parastatal, Corporation and Educational Institution and also the performance of the shares of the Corporation in the capital market, where applicable;
 - (b) any delay in the payment of the government's portion of any dividend into the Consolidated Revenue Fund;
 - (c) any fraud or loss and, if so, their underlying causes and person(s) responsible for such fraud or losses;
 - (d) any internal control weaknesses which were identified; the general corporate performance indicating achievement against set target and objectives; and
 - (e) whether the finances of the body have been conducted with due regard to economy, efficiency and effectiveness, having regard to the resources utilized.
- (5) The Auditor-General shall evaluate the adequacy of the State's/Local Governments' enterprises risk management strategies and policies and make recommendations for their improvement.
- (6) The Auditor-General in the exercise of his responsibility shall publish the Annual Statutory Reports of Accounts of the State/ Local Government electronically and manually.

Powers of the Auditor-General.

28. (1) The Auditor-General shall prepare an Audit Plan and Associated Budget for the approval of the House not later than three (3) months before the end of the budget year.
- (2) (a) The Auditor-General for the State shall audit all public accounts of the State.
- (b) The Auditor-General for Local Government shall audit all public Accounts of the Local Governments and their Agencies.
- (3) The Auditor-General shall, within ninety (90) days of the receipts of the Accountant-General's/Local Governments Directors of Finance's financial statement and annual accounts of the State/Local Governments, submit his report to the House.

- (4) The Auditor-General or any person authorized by him in that behalf shall have access to all the books, records, returns, and other documents relating to the accounts referred to in subsection (2) of this Section whether kept electronically or otherwise.
- (5) If at any time it appears to the Auditor-General that any irregularity has occurred in the receipt, custody or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any securities, stores or other Government property, or in the accounting of same, he shall immediately bring the matter to the notice of the Governor or the Accounting Officer of the affected Ministry or Agency and to any other Officer he may deem fit.
- (6) The Auditor-General may:
 - (a) seek the advice or opinion of the Attorney-General of the State in writing on any question or issue arising from the provisions of this Law in respect of all matters and issues, that may be necessary for the due performance and exercise of the duties and powers vested in him, and the Attorney-General shall give his opinion within fourteen (14) days upon receipt;
 - (b) deploy any Officer in his office to any government department, authority, commission, Local Government and agency to enable the Officer carry out his duties effectively for a given period; and
 - (c) such Government Agency/Local Government shall provide offices and other necessary facilities for the officer to perform his duties.
- (7) For the purpose of discharging the functions of the office, the Auditor-General subject to the provisions of this Law, may do anything necessary and enter into any transaction necessary to ensure the proper performance of his functions as follows:
 - (a) establishing and implementing a comprehensive human resource management system and policies for managing the staff development programmes;
 - (b) developing and maintaining such systems, whether by computer or other means, for the collection, storage, analysis and retrieval of relevant information and promulgating procedures for conducting audit work;
 - (c) engaging the services of professionals to serve on a contract basis for limited engagements, including those required as part of agreements

- with international organizations, provided that all audit opinions shall remain those of the Auditor-General; and
- (d) constituting or establishing any standing or ad-hoc Committee to facilitate the discharge of the functions of the Office.
- (8) Nothing in subsection (2) of this Section shall be construed as authorizing the Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by Law, however the Auditor-General shall:
- (a) provide such bodies with;
 - (i) a list of Auditors qualified to be appointed by them as external auditors and from which the bodies shall appoint their external auditors;
 - (ii) a guideline on the level of fees to be paid to external auditors; and
 - (b) comment on their annual accounts and auditor's report hereon.
- (9) The Auditor-General may:
- (a) require a public Officer to give explanation or information which the Auditor-General may require in order to enable him discharge his duties; and
 - (b) without the payment of fee, cause a search to be made and extracts to be taken or copies made from any book, document or record in any public office.
- (10) The Auditor-General in the performance of his functions under this Law or any other Law may disallow any item of expenditure which is contrary to Law, and surcharge:
- (a) the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;
 - (b) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; and
 - (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

Access to Information.

29. The Auditor-General and his staff shall have unrestricted access to such people, documents, computers and information system and assets as he considers

necessary for the proper performance of his functions and to do this the Auditor-General shall-

- (a) advise the person in writing of the nature of the information and why it is needed;
- (b) state that the information is required under this Law; and
- (c) reimburse the person for any reasonable costs associated with producing such information on condition that the person shall not use such information for any other purpose.

Power to Summon.

30. (1) The Auditor-General may, in the course of fulfilling his functions, duties or powers -
- (a) summon a person as witness to give evidence either oral or in writing;
 - (b) for the purpose of examining a person, the Auditor-General may administer an oath.
- (2) Any person who upon examination pursuant to subsection (1)(a) and (b), knowingly give a false answer to any question or makes any false statement on any matters shall be deemed to be guilty of perjury and shall be liable to prosecution and punishment.

Power to Surcharge.

31. (1) The Auditor-General in the performance of his functions under this Law or any other Law may disallow any item of expenditure which is contrary to Law, and surcharge fully or partially:
- (a) the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;
 - (b) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account;
 - (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct, the loss or deficiency has been incurred.
- (2) Where the Auditor-General makes a surcharge or disallows any expenditure he shall specify to the appropriate Head of Department or institution, the amount due from any person upon whom he has imposed a surcharge and

shall state the reason for imposing such surcharge and report the result of the examination of relevant accounts, operational processes and circumstances that caused the surcharge to be imposed to the Accounting Officer of the affected Department or institution.

- (3) Every sum so specified by the Auditor-General as a surcharge shall become due for payment by the person on whom such surcharge is imposed, within sixty (60) days after the date on which such surcharge was formally imposed.
- (4) Any such sum as may become payable under this Section and which remains outstanding beyond the prescribed period of sixty (60) days shall become recoverable by the relevant Accounting Officer who may, where necessary, initiate civil proceedings and where upon judgment is obtained in a court of competent jurisdiction shall consider any such sum recoverable as civil debt.
- (5) Where such sum owed as a civil debt is recoverable from a person in receipt of remuneration from the State Government or any Government institution, such remuneration shall be attached either in full or incrementally to the extent of the sum lawfully due.
- (6) Where an Accounting Officer is compelled in terms of this Section to initiate civil proceedings for the recovery of a surcharge raised by the Auditor-General, a certificate signed by the Auditor-General stipulating the amount payable and describing the circumstances that compelled the raising of such surcharge shall be considered prima facie evidence of the facts certified.
- (7) The Auditor-General, if satisfied by new evidence, may at any time, revoke any surcharge imposed in terms of this Section.
- (8) Any person aggrieved by a surcharge, the withholding of the emolument or allowance in terms of this Section may appeal to the Public Account Committee within sixty (60) days from the date of such directive being issued by the Auditors-General for redress and, thereafter, be afforded a further avenue of appeal to the High Court provided that such appeal is lodged to the High Court not later than (14) days after the decisions of the Public Account Committee before the directive of the Auditor-General is made public.

Access to Banking Information.

32. (1) For the purpose of performing his functions and duties or exercising his power under this Law, the Auditor-General:

- (a) shall examine or audit the account of any person held at any bank if the Auditor-General has reason to believe that the money held in such an account are public funds which had been fraudulently or wrongfully paid into such account.
 - (b) as a pre-requisite to exercising this authority, the Auditor-General may enter into a non-disclosure agreement with the holder of the account and afford such holder absolute assurance that any information disclosed purposes for examination or audit shall not be used for any other purpose other than as legally intended under this Law, and shall not proceed with any such examination or audit without first obtaining ex-parte warrant of the High Court authorizing such examination.
 - (c) upon being presented with such warrant as is described in this Section, the bank officer shall be required to produce all relevant records for the account in question, in any form (hard and/ or soft copy), that is in the bank's custody or control.
- (2) The Auditor-General shall have the right to make copies of any record, including electronic or digital records or the like, obtained in terms of this Section and shall have all such copies notarized by a court appointed notary or Commissioner for Oath, the cost of which shall be defrayed by the Office of the Auditor-General.
 - (3) The officer of the bank shall append a suitable endorsement electronically or in indelible ink that at a minimum shall identify the bank from which such records were obtained.
 - (4) The officer of the bank shall electronically initiate or under his own hand and in ink, initiate each page of any records so provided.

Power to conduct search.

33. The Auditor-General shall have the power under this Law to:

- (a) at any time access government facility, examine the recordings of any auditee and have extracts taken from any book(s) of account, accounting entries recorded electronically and any other form of accounts maintained that relate to money or stores and as such may have relevance to the subject of an audit without paying any fee;
- (b) at any time execute a search, without the need for a warrant of the court, on any State-owned property, person presented on such property or vehicle located on such property in order to locate and

- appropriate any such records, accounts or general information of relevance to the audit;
- (c) under the authority of the warrant of a court enter and conduct a search of any private property, premises, vehicle or person if there is reasonable suspicion that a document, account, written or electronic record, general information, or asset which the Auditor-General needs to inspect for reasons of relevance to the audit is hidden or kept on such property, premises, person or in a vehicle located on such property or premises;
 - (d) appropriate and retain any such document written or electronic record, general information, or asset for purpose of completing the audit;
 - (e) request the support of relevant law enforcement agencies in the execution of the warrant of the court where considered necessary;
 - (f) the person conducting the search shall identify themselves to the person in charge of the premises, property or vehicle and shall hand over a copy of the warrant of the court to the person in charge or affix a copy of the warrant to the premises, property, vehicle in a prominent place;
 - (g) any such entry and search of property shall be conducted with due regard for decency, order and constitutional rights of the affected person.

Follow up on Audit.

34. (1) There shall be an exit conference between the audit team and audited entity at the conclusion of audit exercise.
- (2) The purpose of the exit conference shall be:
- (a) to present audit observations to auditee entity management in conference before leaving;
 - (b) to allow management opportunity to provide clarification to audit observations in conference; and
 - (c) to isolate observations that will be reported on.
- (3) The Auditor-General shall schedule post audit meeting with an audited entity within 30 days of issuing the Audit report.
- (4) The post audit meetings shall hold at the office of the auditee entity to access the entity's compliance to audit observations and recommendations.
- (5) Any unresolved query or issue will be forwarded to the State House of Assembly for further action.

- (6) Comments on audit observations by the House of Assembly of the State shall be forwarded to responsible audited entities for compliance and to the Auditor-General.
- (7) A post audit meeting shall be convened by the Auditor-General to resolve such issues.
- (8) The Auditor-General shall forward reports of non-compliance to the directives of the State House of Assembly in respect of the queries of previous audits to the State House of Assembly.

Staff Matters.

35. (1) The responsibility of determining the calibre of staff required to ensure the efficient performance and functioning of the Office the Auditor-General shall reside with the incumbent Auditor-General who shall further be responsible for aligning cost associated with such recruitment of staff with the funds allocated for remuneration in terms of the vote.
- (2) The Auditor-General shall be responsible for ensuring that:
 - (a) all vacancies are widely advertised, that all applicants shortlisted are in possession of the required minimum qualifications,
 - (b) that such qualifications are duly verified with the relevant accreditation body, and
 - (c) that the required skills and competence levels are confirmed by means of any combination of the following:
 - (i) interviews,
 - (ii) examinations,
 - (iii) case study based simulations of the work environment and/or
 - (iv) other means of assessment

so as to ensure that persons recruited to positions required by the Auditor-General are consummately suitable for the appointment.
- (3) When a member of staff, as appointed by the Auditor-General, becomes eligible for promotion on the basis of time served and having met all additional qualification criteria, the Auditor-General shall recommend to the Audit Service Commission such member of staff for promotion.
- (4) It shall be the responsibility of the Audit Service Commission to ensure that, once a staff is recommended for promotion by the Auditor-General, such promotion is effected without undue delay.

- (5) The Auditor-General may request the commencement of staff disciplinary processes and to articulate the circumstances and nature of breaches in discipline that shall necessitate the commencement of the disciplinary process by the Audit Service Commission.

Establishment of the Position of Deputy Auditor-General.

36. (1) There shall be established two (2) each of the office of the State and Local Government Auditors-General to be known as Deputy Auditors-General for State and Local Government (referred to in this Law as "Office").
- (2) The Office shall be headed by the Deputy Auditors-General for State/ Local Government (referred to in this Law as the "Deputy Auditor-General").
- (3) The Deputy Auditors-General shall be of the same status as that of the Executive Secretary in the Service.

Appointment of the Deputy Auditor-General.

37. (1) The Deputy Auditor-General shall be appointed by the Governor on the recommendation of the Auditor-General.
- (2) The qualification for the appointment of Deputy Auditor-General shall apply as with Section 20(1) of this Law.

Functions/Roles of Deputy Auditor-General.

38. (1) The first Deputy Auditor-General shall be responsible for the administration, welfare, special units, human resources development and other assignment as may be prescribed by the Auditor-General.
- (2) The second Deputy Auditor-General shall be responsible for the coordination of the activities of Ministries, Agencies, Parastatals, Commission, Local Government Councils and their Agencies, Local Government Education Authorities, Traditional Councils and other duties that may be prescribed by the Auditor-General.

Limitations of the Deputy Auditor-General.

39. (1) The Deputy Auditor-General is wholly responsible to the Auditor-General in deed and act directly without infringement to any Section of this Law.
- (2) The Auditor-General reserves the right by this Law the prerogative to recommend to Audit Service Commission for the immediate removal of any Deputy Auditor-General for insubordination or any act inimical to the achievement of corporate goal of the establishment.

Immunity/Independence of Auditor-General.

40. (1) The Auditor-General and his Staffs/Delegates shall be immuned from legal prosecution in the discharge of his duties during and after he has left Office.
- (2) (a) For the effective and practical independence of the Office of the Auditor-General, approved budget for the Office shall be released on monthly basis.
- (b) The Auditor-General shall manage the Office's subvention in conformity with extant financial regulations.
- (c) Expenses to be paid from this subvention shall include, but not limited to:
- (i) costs of training and professional development activities;
 - (ii) the monies for travelling, transportation and subsistence needed by staff engaged in conducting duties of the Auditor-General;
 - (iii) the administrative expenses of the Office of the Auditor-General; and
 - (iv) any capital development project or special expenditure.
- (3) Subject to Section 125 (6) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Auditor-General, in performing the functions under this Law, shall not be under the control of any person or authority including but not limited to the following areas:
- (a) selection of audit issues;
 - (b) planning, programming, conduct, reporting and follow up of the audits or
 - (c) organization and management of Offices of the Auditors -General.
- (4) The Auditor-General shall have the full discretion in the discharge of his responsibilities, to cooperate with government or public entities that strive to improve the use and management of public funds.
- (5) The Auditor-General shall not be involved in any manner whatsoever in the management of any auditable entity.
- (6) The Auditor-general shall perform the functions under this Law impartially, without fear, favour or prejudice and shall exercise the powers independently.

Pension and other Allowances of the Auditor-General and his Staff.

41. (1) The Auditor-General shall be entitled to pension for life at a rate equivalent to the annual salary and allowances of the incumbent Auditor-General.

- (2) Any pension granted by virtue of (1) above shall be charged upon the Consolidated Revenue Fund of the State.
- (3) Apart from the normal allowances currently enjoyed in the service, there shall be paid additional allowances as follows:
 - (a) consolidated allowance to the Auditor-General and Officers in auditing cadre;
 - (b) hazard allowance to all staff;
 - (c) clothing allowance to all staff; and
 - (d) such other allowances as the Governor of the State may approve from time to time.
- (4) Staff of the Office of the Auditor-General other than the Auditor-General shall in addition to the provision of this Law enjoy rights and privileges as are contained in the public service of the State and shall retire upon attaining age of sixty (60) years or service period of thirty five (35) years or as the Constitutions of the Federal Republic of Nigeria and Pension Law may from time to time stipulate.

Audit Report.

42. All reports of the Auditor-General submitted to the House of Assembly shall be treated as House of Assembly reports and shall enjoy all privileges accorded to House of Assembly reports.

Audit Standards.

43. (1) The Auditor-General shall determine which auditing standards should be applied and may establish audit programmes and code of ethics specific to the audits performed by the Office of Auditor-General.
- (2) The Auditing Standards shall include:
 - (a) Public Sector Auditing Standards issued by the Conference of Federal and State Auditors-General;
 - (b) accounting Standards issued by the Financial Reporting Council (FRC);
 - (c) the Auditing Standards and Code of Ethics published by the International Organization of Supreme Audit Institutions (INTOSAI) and the International Auditing and Assurance Standards Board (IA & ASB);
 - (d) the Accounting Standards and Code of Ethics published by the International Federation of Accountants (IFAC);

- (e) International Public Sector Accounting Standards (IPSAS) issued or accepted as current best practices by funding or donor organizations;
- (f) other recognized or required Standards issued or accepted as current best practices by funding or donor organizations.

Annual Accounts.

44. (1) Within a period of three (3) months after the end of each fiscal year, the Accountant-General of the State shall present to the Auditor-General and also within three (3) months, the Accounting Officer of the Local Government Councils shall present to the Auditor-General for Local Governments, accounts showing the fiscal position of the State / Local Governments as at the last day of the preceding year.
- (2) Such accounts shall include:
- (a) Statement of financial position;
 - (b) Statement of financial performance (Statement of consolidated revenue fund);
 - (c) Statement of changes in net assets/equity;
 - (d) Cash flow statement;
 - (e) When the entity makes publicly available its approved budget, a comparison of budget and actual amounts either as a separate additional financial statement or as a budget column in the financial statements;
 - (f) Notes to the financial statements; and
 - (g) Other statements that may be required by Auditing Standards, Practices or Statutes.
- (3) (a) The Notes to the Financial Statements shall provide information about the basis of preparation of the financial statements and the specific accounting policies selected and applied for significant transactions and other events for the purpose of users' understanding and comparability.
- (b) The Notes shall include the following:
- (i) statement of compliance with approved accounting standards.
 - (ii) statement of accounting policies applied;
 - (iii) supporting information for items presented on the face of the financial statements; and
 - (iv) supporting statements
- (4) Within three (3) months after the close of each fiscal year –

- (a) the Accounting Officer shall prepare and submit appropriation account to the Accountant- General with a copy sent to the Auditor-General; and
- (b) the Accounting Officers of the Local Government Councils shall prepare and submit to the Auditor-General for Local Governments appropriation account of the monies expended under the votes for which they are responsible, showing the –
 - (i) services for which the monies were voted;
 - (ii) sums actually expended on each service during the period of the accounts; and
 - (iii) state of each vote compared with the appropriation.

Provided that each account shall contain such variation between the expenditure and the sums voted, such other required information and be in such form as the Auditor-General may direct; and the statement as well as the appropriated accounts shall be signed by the Accounting Officer.

- (5) Without prejudice to Section 42 (2) above, the accounts shall be presented in line with globally accepted accounting format and standards from time to time.

Refusal to Answer Audit Query.

- 45. Without prejudice to any other provision of this Law, every person who fails or refuses to reply to an audit query or observation within the period specified in the audit query or a reasonable time thereafter shall have his emoluments and allowances withheld for so long as the person fails to reply and/or shall be liable to disciplinary action under the State Public Services Rules/ Local Government Administrative law.

Annual Certificate and Reports of the Auditor-General.

- 46. (1) The Auditor-General shall within ninety (90) days of receipt of the State and Local Government Financial Statements, submit his report to the House and the House shall cause the report to be considered by the Public Accounts Committee (referred to in this Law as “the PAC”).
- (2) The Auditor-General’s Reports shall be published immediately after it is submitted to the House of Assembly.
- (3) The Reports shall be published in hard copy and be available to the public at the cost of printing.

- (4) The Report shall also be available in downloadable and printable versions (at no fee) on the website of the Auditor General and the State Government.

Review of the Auditor-General's Audit Report by the PAC.

47. (1) The PAC shall:
- (a) consider each report from the Auditor-General and the process may include questioning the Accounting Officer from the relevant public body, receipt of explanations from the Auditor-General and official responses from the Government;
 - (b) make recommendations on the basis of the consideration and monitor their implementations;
 - (c) have power to summon the accounting officers, public officials and any member of the public for questioning about the Auditor-General's findings;
 - (d) hold its hearing in public but may choose to hold all or part of its hearing in executive sessions;
 - (e) prepare a report to the House of Assembly, which may include comments and recommendations at the end of its review of each of the Auditor-General's reports;
 - (f) such reports shall be sent to the Auditor-General and all organizations reported on and shall be made available to the public on demand on payment of a minimal fee.
- (2) The action of the PAC shall be governed by the provision of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and the Standing Orders of the House of Assembly.

Delegated Authority.

48. The Auditor-General or any person acting in that behalf is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of the functions to the Office.

Establishment and Functions of Audit Committee.

49. (1) The Accounting Officers in any Ministry, Department and Agency of the State/Local Governments and Agencies shall establish an Audit Committee.
- (2) The Audit Committee shall:

- (a) implement all recommendations contained in the Auditor-General's report, House of Assembly report and any other resolution or directive of the House of Assembly; and
 - (b) prepare annual report showing the status of the implementation of the provisions of subsection 2(a) of this Section.
- (3) The report prepared pursuant to subsection 2 (a) & (b) of this Section shall contain a statement showing the remedial action taken or being taken to avoid or minimizing the occurrence of the undesirable features on the accounts and operations of Ministries, Department, Agencies, Local Government Councils, Local Government Agencies and the time frame within which the remedial action will be completed, if any.

Annual Estimates and Expenditures.

50. (1) Not later than 90 days before the end of the financial year, the Auditors-General shall prepare and submit the estimate of revenue and expenditures of their offices for the next following financial year directly to the House of Assembly for inclusion to the Appropriation Law.
- (2) The sum appropriated to the Office of the Auditor-General by the House of Assembly of the State in each financial year shall be charged on the Consolidated Revenue Fund of the State and be paid as the first line charge in twelve equal installments for each financial year.
- (3) The Auditor-General shall manage the budget of the Office and allocate it as is appropriate.
- (4) The Auditor-General shall discharge the fiduciary duty in terms of the funds appropriated to the Office by the House of Assembly in accordance with the requirements of relevant legislation and the prescripts of existent Financial Regulations, Expenses to be paid from this subvention shall include, but not limited to:
- (a) cost of training and professional development activities;
 - (b) monies for travelling, transportation and subsistence required by staff engaged in conducting the official business of the Auditor-General away from their home office;
 - (c) the administrative expenses of the Office of the Auditor-General;
 - (d) any capital development project or special expenditure.
- (5) The Auditor-General shall have recourse to the House of Assembly of the State for supplementary appropriation where the sum appropriated for the

year is not sufficient for identified audit issues required to be completed within the year.

- (6) It shall be the responsibility of the State House of Assembly to ensure that Auditors-General and the Office have proper resources to meet the obligation of the Office.

Annual Work Plan.

51. (1) The Auditor-General shall prepare and submit to the House of Assembly at least ninety (90) days before the beginning of each year -
 - (a) a draft annual plan that:
 - (i) describes the Auditor-General's proposed work programme for the year; and
 - (ii) includes interim report for that financial year.
 - (2) The Auditor-General, after considering any comments of the House of Assembly or the Public Account Committee that considered the draft plan, may amend the plan as necessary and submit back to the State House of Assembly.

Improper Retention of Public Funds.

52. (1) Where during the course of an audit, the Auditor-General becomes aware of an improper retention or misappropriation of public money or any other activity that may constitute an offence under the Criminal Law of Ekiti State or any existing law, the Auditor-General shall immediately report the improper retention or misappropriation of public money or other activity to the Accounting Officer or any other authority charged with that function by the State/Local Governments.
- (2) In addition to reporting under sub-section (1) of this Section, the Auditor-General shall attach to his annual report to the House, a list containing a general description of the incidents referred to in subsection (1) and the dates on which those incidents were reported.
- (3) The provisions of sub-section (1) of this Section shall apply to a staff of the Office or any Auditor appointed pursuant to the provisions of this Law.

Offences and Penalties.

53. (1) It is an offence for any person who without lawful justification or excuse to:

- (a) obstruct, intimidate, harass, hinder the Auditor-General or any person authorized by him in the exercise of his duties and powers under this Law;
 - (b) refuse or fail to comply with any lawful request of the Auditor-General or his representative;
 - (c) fail to produce for inspection to the Auditor-General or his representative or otherwise refuse the Auditor-General or his representative access to any book, record, returns, payment voucher, revenue receipt or other documents relating or relevant to any account to be audited by the Auditor-General or his representative when so requested;
 - (d) fail to keep proper books of account or proper records leading to any loss of public funds;
 - (e) make a statement or give information to the Auditor-General or his representative which is false or misleading; and
 - (f) suppress any information required by the Auditor-General in the performance of his functions under this Law or any other enactment.
- (2) Any person who commits an offence under the provisions of this Law shall on conviction be liable:
- (a) in the case of an individual, to a fine of not less than Two Hundred and Fifty Thousand Naira (₦250,000.00) or to a term of imprisonment not exceeding two (2) years or both; and
 - (b) in the case of body corporate or firm, to a fine of not less than Five Hundred Thousand Naira (₦ 500,000.00).
- (3) Where a body corporate or firm is convicted of an offence under this Section, every director of the company or firm shall be liable to a fine of not less than Two Hundred and Fifty Thousand Naira (₦ 250,000.00) or to a term of imprisonment not exceeding two (2) years or both unless he proves that the offences upon which the conviction was based was committed without his knowledge, consent or connivance.
- (4) Where an Accounting Officer fails to make necessary recovery and it is proved that he fails to make reasonable efforts to recover the said loss, he shall be guilty of an offence and shall be liable to a penalty of Five Hundred Thousand Naira (₦500,000.00) plus the amount of loss involved.

Sanctions on Staff of Auditor-General.

54. Any member of staff of the Office of the State/Local Governments Auditor-General who:
- (a) demands or takes any bribe, gratification, compensation or reward for the neglect or non-performance of his duty; or
 - (b) fails to report to the Auditor-General any abuse or irregularity coming to his notice in the course of his duties in relation to any account audited; or
 - (c) makes any report to the Auditor-General which he knows to be false or which he has no reason to believe to be true commits an offence under this Law and shall be liable to a fine of ₦ 100,000.00 or two (2) years imprisonment or both.

Registration of Audit Contracts.

55. (1) All private audit firms and consultant taking up consultancy jobs relating to audit work must be registered with the Office of the Auditor-General and their engagement letters shall be issued by the relevant Auditor-General.
- (2) Such contracts on audit work shall include:
- (a) revenue audit and consultancy work including tax audit;
 - (b) Government bank accounts audit;
 - (c) audit of Government offices including special investigation;
 - (d) staff audit including payment at sight;
 - (e) pension audit including verification;
 - (f) contracts in respect of estate / building valuation or valuation of some specified government assets; and
 - (g) assessment and evaluation of effective government information systems.
- (3) Copies of the report of such contracts shall be submitted to the organizations involved, the State Auditor-General and the Local Government Auditor-General.

Special Assignment.

56. Whenever the Governor or the House by Resolution so requires an inquiry into -
- (a) a matter relating to the financial affairs of the State/Local Governments or public property; or

- (b) a person or organization that has received financial aid from the State/Local Governments or in respect of which financial aid from the State/Local Governments is sought, the Auditor-General may where in his opinion such assignment does not interfere with his primary responsibilities report to the Governor or the House.

Confidentiality.

57. The Auditor-General and each person employed in the Office or appointed or engaged to assist the Auditor-General for a limited period of time or in respect of a particular matter shall keep confidential all matters that come to his knowledge in the course of his employment or duties under this Law and shall not communicate those matters to another person, except as may be required in connection with the discharge of his responsibilities.

Appointment of an Independent Auditor.

58. (1) The Office of the Auditor-General shall be audited by a firm of Chartered Accountant to be appointed by the Public Account Committee of the State House of Assembly.
- (2) The Auditor-General shall provide a list of qualified Auditors to the House, one of which must be chosen by the Public Account Committee of the House for the annual audit of the Office of the Auditor-General.
- (3) The Auditor so chosen shall have the same powers and perform the same duties of auditing the Office of the Auditor-General.
- (4) The Auditor shall submit copies of his report to the House.

Power to make Regulations.

59. The Auditor-General may subject to the Regulation Approval Law of Ekiti State make regulations for carrying into effect the purposes of this Law.

Transitional Provision.

60. Subject to the provisions of this Law, officers serving in Audit offices shall at the commencement of the Law be deemed to have been appointed in accordance with this Law.

Interpretation.

61. In this Law unless the context otherwise requires:
"Accountant-General" means the Accountant-General of Ekiti State.

“Accounting Officer” means any Permanent Secretary or the Head of an Extra Ministerial Departments or a Local Government Council/or its Agency.

“Attorney-General” means the Attorney-General and Commissioner for Justice, Ekiti State.

“Auditor-General” except otherwise stated means the Auditor-General for State and Auditor-General for Local Governments established by Section 125(1) and 316(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

“Commission” means the Ekiti State Audit Service Commission.

“Commissioner” means the Commissioner or any person for the time being charged with responsibility over establishment and training matters in Ekiti State.

“Executive Council” means the Ekiti State Executive Council.

“External Auditor” means Independent Auditors appointed to audit the accounts of the Offices of the Auditors-General.

“Financial Year” means the financial year of the State/Local Governments.

Governor” means the Governor of Ekiti State.

“House” means the Ekiti State House of Assembly.

“Office” means Offices of the State and Local Government Auditors-General.

“Officers” means the holder of an office in the Public Service of Ekiti State.

“PAC” means Public Accounts Committee of the Ekiti State House of Assembly.

“Public Money” means and includes the public revenue of the State/Local Governments and any other money held in trust for any period of time by any officer alone or jointly with other person.

“State Public Accounts” means accounts where all the public monies of the State are kept.

“Local Governments Public Accounts” means accounts where all the public monies of the Ekiti State Local Governments are kept.

“Revenue” means the State/ Local Governments share from the Federation Account, internally generated and any other grant and loans.

“Statutory body” means any authority established by Law.

“State” means Ekiti State Government.

“Local Governments” means Ekiti State Local Governments.

Repeal.

62. The Ekiti State Audit Law, No. 11 of 2014 is hereby repealed.

Citation.

63. This Law may be cited as the Ekiti State Audit Law, 2021.

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

Esan

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MR. TOLA ESAN

Clerk of the House of Assembly

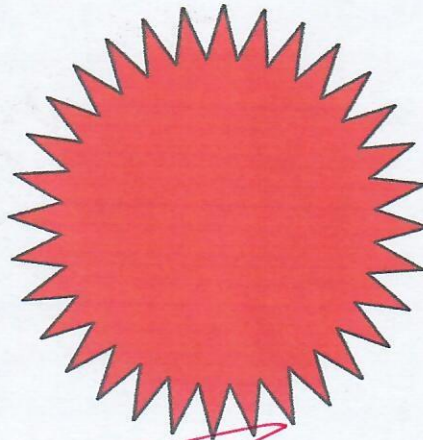
Funminiyi Afuye

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RT. HON. FUNMINIYI AFUYE

Speaker of the House

Governor's Assent

I hereby signify my assent to this Bill



Fayemi

DR. JOHN KAYODE FAYEMI

Executive Governor of Ekiti State

MADE AT ADO EKITI THIS *22TH* DAY OF *June* 2021.