



**IMO STATE OF NIGERIA
2016, LAW NO. 3**

A Law to provide for prudent management of the State's resources, ensure long-term macro-economic stability of the state's economy, secure greater accountability and transparency in fiscal operations within a Medium Term Fiscal Policy Frame Work and for the establishment of a Fiscal Responsibility Commission to ensure the promotion and enforcement of the State's economic objectives; and other Related Matters.

Long Title

BE IT ENACTED by the House of Assembly of Imo State as follows -

Enactment

**PART I
PRELIMINARY**

1. This Law may be cited as the Imo State Fiscal Responsibility Law, No.3 of 2016.

Short Title

2. -In this Law, unless the context requires -

Interpretation

"Appropriation Law" means a Law passed by the Imo State House of Assembly authorizing spending from the Consolidated Revenue Fund and includes a Supplementary Appropriation Law;

"Appropriation Bill" means the Bill referred to in section 121(2) of the Constitution of the Federal Republic of Nigeria;

"Arms of Government" mean the Executive, Legislature and Judiciary;

"Borrowing" means any financial obligation arising from:-

- (i) any loan including principal, interest, fees of such loan;
- (ii) the deferred payment for property, goods or services;
- (iii) bonds, debentures, notes or similar instruments;
- (iv) letters of credit and reimbursement obligations in respect thereto;
- (v) trade or bankers' acceptance;

- (vi) capitalized amount of obligations under leases entered into primarily as a method of raising finances or of financing the acquisition of the asset leased;
- (vii) agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency; and
- (viii) conditional sale agreement, capital lease or other title retention agreement.

"Capital Expenditure" means spending on an asset that lasts for more than one financial year and expenses associated with the acquisition of such assets;

"Call Circular" means a circular;-

- (i) requesting the submissions in a prescribed form, of the revenue and expenditure estimates of ministries, extra-ministerial departments, and other executing agencies of Government for the next financial year; and
- (ii) giving detailed guidelines and instructions on the preparation of the estimates and expenditure in a manner consistent with the medium-term developmental priorities set out in the Medium-Term Expenditure Framework (MTEF);

"Commission" means the Fiscal Responsibility Commission established under Section 47(1) of this Law;

"Commissioner" means the Commissioner charged with the responsibility for finance in Imo State;

"Concessional terms" mean the terms of the loan must be at an interest rate not exceeding 3 percent;

"Consolidated debt" means the aggregate of the outstanding financial obligations of government including those of its Parastatals and Agencies at any point in time arising from:-

- (i) borrowing money including principal, interest, fees of such borrowed money;
- (ii) the deferred payment for property, goods or services;
- (iii) bonds, debentures, notes or similar instruments;

- (iv) letters of credit and reimbursement obligations with respect thereto;
- (v) guarantees;
- (vi) trade or bankers' acceptance;
- (vii) capitalized amounts of obligations under leases entered into primarily as a method of raising finances or of financing the acquisition of the asset leased;
- (viii) agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency, and
- (ix) a conditional sale agreement, capital lease or other title retention agreement;

"Cost-benefit Analysis" means an analysis that compares the cost of undertaking a service, project or programme with the benefits that citizens are likely to derive from it;

"Financial Year" has the meaning ascribed to it by the Constitution;

"Fiscal Risk Appendix" means an explanatory attachment that provides a set of indicators that can be used to measure local fiscal risks;

"Fiscal Policy Target" means numerical target for each risk indicator with which a fiscal entity will be considered fiscally healthy;

"Fiscal Policy Objectives" mean the goals set by Government for attainment of set targets for a given period;

"Government Owned Company" means a statutory corporation, Government agency and a company in which Government has controlling interest;

"Governor" means the Governor of Imo State of Nigeria;

"House of Assembly" means Imo State House of Assembly;

"Medium-Term Expenditure Framework" means the document referred to and the content of which is prescribed in section 3 of this Law;

"Net debt" means the Consolidated Debt less what is owed to Government, its Parastatals and Agencies at any point in time;

"Public Debt Securities" mean public debt represented by securities issued by the Government (including those of the Central Bank of Nigeria), the State and Local Governments;

"Public Expenditure" means outlays other than those resulting into debt reduction;

"Public revenue" means all monies received by the State Government and Local Governments;

"Quarter" means one quarter of a financial year and quarterly shall be construed accordingly;

"Recurrent Expenditure" means normal overhead and administrative expenses and personnel cost including salaries, emoluments and other benefits of employees;

"Reference Revenue" means such revenue as may be determined by the Governor as accruable to the State from the Federation Account subject to approval of the House of Assembly;

"Financing of debt securities" means issuance of securities to repay the existing debts;

"State financial institution" means any financial institution in which the state government has controlling shares;

"State" means Imo State of Nigeria and shall be construed to include all the Local Government Areas of Imo State;

"Tax expenditure projections" mean the projected amount expected to be utilized in the granting tax relief or tax holiday;

"Tax revenue projections" mean the projected collectible tax or revenue within a particular planning period; and

"Tiers of Government" mean the State and Local Governments.

PART II

THE MEDIUM TERM EXPENDITURE FRAMEWORK (MTEF)

- 3.(1) The State Government shall after consultation with the Local Governments –
- (a) not later than six months from the commencement of this law, cause to be prepared and laid before the House of Assembly, for their consideration a Medium – Term Expenditure Framework for the next three financial years; and
 - (b) thereafter, not later than four months before the commencement of the next financial year, cause to be prepared a Medium-Term Expenditure Framework for the next three financial years.
- (2) The framework so prepared, shall be submitted to the State Executive Council for consideration and State Executive Council shall thereafter, through the Ministry of Finance, submit the framework to the House of Assembly for consideration and approval.
- (3) The frame-work so laid shall be considered for approval with such modifications if any, as the House of Assembly finds appropriate by a resolution of the House of Assembly.
- (4) The Ministry of Finance shall submit a copy of the framework approved by the State Executive Council to the Commission not later than 3 working days from the date of its submission to the House of Assembly.
- (5) The Medium-Term Expenditure Framework shall contain:-
- (a) a Macro-economic Framework setting out the macro-economic projections, for the next three financial years, the underlying assumptions for those projections and an

*Medium Term
Expenditure*

evaluation and analysis of the macroeconomic projections for the preceding three financial years;

- (b) a Fiscal Strategy Paper setting out:-
- (i) the State Government's medium-term financial objectives;
 - (ii) the policies of the State Government for the medium-term relating to taxation, recurrent (non-debt) debt expenditure, capital expenditure, borrowings and other liabilities, lending and investment;
 - (iii) the strategic, economic, social and developmental priorities of the State Government for the next three financial years; and
 - (iv) an explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to subparagraphs (i), (ii) and (iii) of this paragraph relate and comply, with the economic objectives set out in section 16 of the Nigerian Constitution;
- (c) an expenditure and revenue framework setting out:-
- (i) estimates of aggregate revenues for the State for each financial year in the next three financial years, based on the predetermined Projected Revenue Reference adopted and tax revenue projections;
 - (ii) aggregate expenditure projection for the State for each financial year in the next three financial years;
 - (iii) aggregate tax expenditure projection for the State for each financial year in the next three financial years;

Provided that, the estimates and expenditures provided under paragraph (c) of this subsection shall be:-

- (i) based on reliable and consistent data;

- (ii) targeted at achieving the macro-economic projection set out in subsection (5) (a) of this section;
 - (iii) consistent with and derive from the underlying assumptions contained in the National Macro-economic framework, the objectives, policies, strategic priorities and explanations as contained in the Fiscal Strategy paper;
 - (d) a Consolidated Debt Statement setting out and describing the fiscal significance of the debt liability of the State Government and measures to reduce any such liability;
 - (e) a statement describing the nature and fiscal significance of contingent liabilities and quasi-fiscal activities and measures to offset the crystallization of such liabilities; and
 - (f) Consolidated debt profile and limit for the State and Local Governments of Imo State.
- 4.(1) The aggregate expenditure and the aggregate amount appropriated by the House of Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit, not exceeding three per cent of the Estimated Gross Domestic Product or any sustainable percentage as may be determined by the House of Assembly for each financial year.
- (2) The aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) of this section, if in the opinion of the Governor there is a clear and present threat to the security of Imo State.
- 5.(1) The Commissioner for Finance shall be responsible for the preparation of the Medium-Term Expenditure Framework (MTEF).

*Aggregate
Expenditure
Ceiling*

*Preparation of
the Medium-
Term
Expenditure
Framework*

- (2) In preparing the draft Medium-Term Expenditure Framework, the Commissioner shall -
- (a) hold public consultations on the Macro-economic Framework, the Fiscal Strategy paper, the Revenue and Expenditure Framework, the strategic, economic, social and developmental priorities of government, and such other matters as the Commissioner deems necessary;
Provided that, such consultations shall be open to the public, the press and any citizen or authorized representatives of any organization, group of citizens, who may attend and be heard on any subject matter properly in view;
- (b) Seek inputs from the -
- (i) State Planning Commission;
 - (ii) State/National Commission on Development Planning;
 - (iii) Imo State House of Assembly;
 - (iv) Central Bank of Nigeria;
 - (v) State/National Bureau of Statistics;
 - (vi) Revenue Mobilization Allocation and Fiscal Commission;
 - (vii) Accountant-General;
 - (viii) Auditor General for State;
 - (ix) Auditor General for Local Governments;
 - (x) Fiscal Responsibility Commission; and
 - (xi) any other relevant statutory body as the Commissioner may determine.
- (c) Consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in paragraphs (a) and (b) of Sub- Section (2) of this Section.
- 6.(1) The Commissioner shall before the end of the second quarter of each financial year, present the Medium-Term Expenditure Framework to the State Executive Council for consideration and approval.

*Time Limit for
presentation of
Medium Term
Expenditure
Framework to
State
Executive
Council*

- (2) The State Executive Council shall, not later than the end of July each financial year consider and approve the Medium-Term Expenditure Framework for the next three years.
 - (3) The Medium-Term Expenditure Framework as approved by the State Executive Council shall, not later than mid August each financial year, be presented by the Commissioner for Finance to the House of Assembly for consideration and approval.
 - (4) The House of Assembly shall, before the last day of September each financial year, consider and approve the Medium-Term Expenditure Framework.
 - (5) The Commissioner shall within the time set by the rules submit a copy of the Medium-Term Expenditure Framework approved by the State Executive Council to the Commission.
7. Not later than 30 days of its approval by the State House of Assembly, the Medium-Term Expenditure Framework as approved by the House of Assembly shall be published in the State Gazette, Ministry of Finance website and in the media by the Commissioner.
- Publication of Medium Term Expenditure Framework in the Gazette*
- 8.(1) Subject to subsection (2) of this section, the Governor may cause adjustments to be made to a Medium-Term Expenditure Framework, subject to the approval of the House of Assembly.
- Adjustments to the Medium-Term Expenditure Framework*
- (2) Any adjustment to the approved Medium-Term Expenditure Framework shall be limited to:-
(a) the correction of manifest error; and
(b) changes in the fiscal indicators, which in the opinion of the Governor are significant.
9. Local Governments which so desire shall be assisted by the State Government to manage their fiscal affairs within the medium-term framework.
- Assistance to Local Governments*

PART III ANNUAL BUDGET

- 10.(1) Notwithstanding anything to the contrary contained in this Law and in any other written law, the Medium-Term Expenditure Framework shall be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the House of Assembly under section 121 (1) of the Constitution.
- Annual Budget to be derived from Medium Term Expenditure Framework*
- (2) The sectoral and compositional distribution of the estimates of expenditure referred to in subsection (1) of this section shall be consistent with the medium term developmental priorities set out in the Medium Term expenditure Framework.
- 11.(1) The Ministry of Finance shall, not later than the 31st of August each year, present the budget for the next financial year for the consideration and approval of the State Executive Council.
- Time Limit for Budget Preparation*
- (2) The State executive Council shall, not later than the last day of October of each financial year, approve the budget presented to it under subsection (1) of this section.
- (3) The Governor shall, in turn, present the draft annual budget to the House of Assembly not later than the last day of November of each financial year.
- (4) The State House of Assembly shall give priority attention to the consideration of the budget upon presentation of same to it by the Governor, provided that the budget (Appropriation) shall be passed within three (3) months.
12. The estimates of revenue and expenditure (in this Law referred to as the "Annual Budget") shall be accompanied by:-
- Annual Budget to be accompanied by certain documents*
- (a) a copy of the underlying revenue and expenditure profile for the next two years;

- (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the 18 months up to June of the preceding financial year;
 - (c) a revenue framework broken down into monthly collection targets prepared on the basis of the predetermined Federal Allocation as contained in Medium-Term Expenditure Framework; and other revenue sources including the net current revenue and the respective memorandum items;
 - (d) measures on cost, cost control and evaluation of results of programmes financed with previous budgetary resources;
 - (e) a Fiscal Target Appendix derived from the underlying Medium-Term Expenditure Framework setting out the following targets for that financial year-
 - (i) target inflation rate;
 - (ii) target fiscal account balances; and
 - (iii) any other development target deemed appropriate
 - (f) a Fiscal Risk Appendix evaluating the fiscal and other related risks to the annual budget and specifying measures to be taken to offset the occurrence of such risks.
13. In preparing their annual budget, Local Governments shall adopt the provisions of this Part with such modification as may be appropriate and necessary.

*Application of
Part III to
Local
Governments*

- (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the 18 months up to June of the preceding financial year;
 - (c) a revenue framework broken down into monthly collection targets prepared on the basis of the predetermined Federal Allocation as contained in Medium-Term Expenditure Framework; and other revenue sources including the net current revenue and the respective memorandum items;
 - (d) measures on cost, cost control and evaluation of results of programmes financed with previous budgetary resources;
 - (e) a Fiscal Target Appendix derived from the underlying Medium-Term Expenditure Framework setting out the following targets for that financial year-
 - (i) target inflation rate;
 - (ii) target fiscal account balances; and
 - (iii) any other development target deemed appropriate
 - (f) a Fiscal Risk Appendix evaluating the fiscal and other related risks to the annual budget and specifying measures to be taken to offset the occurrence of such risks.
13. In preparing their annual budget, Local Governments shall adopt the provisions of this Part with such modification as may be appropriate and necessary.

*Application of
Part III to
Local
Governments*

- (2) Where a Corporation's result is in deficit, the deficit shall be classified as the Corporation's loss for the fiscal year.
 - (3) Each Parastatal or Corporation shall, not later than three months after the end of its financial year, cause to be prepared and published its audited financial reports in accordance with such rules as may be prescribed from time to time.
16. The provisions of sections 13, 14 and 15 shall cease to apply to any of the Corporations from the date of its privatization. *Cessation of Application*

PART V
BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

- 17.(1) The State Government through the office of the Accountant General shall cause to be drawn up, an Annual Cash Plan for each financial year. *Annual Cash Plan*
 - (2) The Annual Cash Plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised quarterly to reflect actual cash flows.
 - (3) A copy of the Annual Cash Plan shall be submitted to the Commission by the Office of the Accountant General within one week of its preparation or amendment.
- 18.(1) The Commissioner, shall within 30 days of the enactment of the Appropriation Law, prepare and publish a disbursement Schedule derived from the Annual Cash Plan for the purposes of implementing the Appropriation Law. *Disbursement Schedule*

- (2) The Commissioner shall cause the disbursement schedule prepared pursuant to subsection (1) of this section to be published in the state's official gazette, the Ministry's website and mass media.
- (3) The Commissioner shall cause a copy of the disbursement schedule to be submitted to the Commission in accordance with the rules.
- 19.(1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Law. *Power of Commissioner to approve Virement*
- (2) Without prejudice to subsection (1) of this section, the Commissioner may in exceptional circumstances and in the overall public interest, recommend for the approval of the House of Assembly, virements from sub-heads under heads of account, without exceeding the amount appropriated to such head of account.
- 20.(1) Where, by the end of three months, after the enactment of the Appropriation Law, the Commissioner determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Law, the Commissioner shall, within the next 30 days of such determination, take appropriate measures to restrict further commitments and financial operations according to the criteria set-in the Fiscal Risk Appendix. *Power to restrict further Commitments*
- (2) Where the targeted revenues are re-established, either in part or in full, the appropriations for which further commitments were restricted shall be restored proportionately.
- (3) The provisions of subsections (1) and (2) of this section shall not apply to statutory or constitutional expenditure.

- 21.(1) Any proposed tax relief shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and in the three subsequent years, and shall only be approved by the Commissioner, if it does not adversely impair the revenue estimates in the annual budget or if it is accompanied by countervailing measures during the period mentioned in this subsection through revenue increasing measures such as tax rate raises and expansion of the tax base.
- Restriction on the grant of tax relief*
- (2) The provisions of this section shall not apply to -
- (a) changes in the rates of the taxes mentioned in section 163 of the Constitution; and
 - (b) debt cancellation in an amount lower than the cost of collection.
22. (1) The Commissioner of Finance, through the State Budget Office, shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal targets and report thereon on a quarterly basis to the Fiscal Responsibility Commission and the Finance and Budget Committee of the House of Assembly.
- Responsibility of the budget office to monitor and report on implementation*
- (2) The Commissioner of Finance shall, cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media and on Ministry of Finance website, not later than 30 days after the end of each quarter.
23. In implementing their annual budgets, the Local Governments may adopt the provisions of this Part with such modifications as may be appropriate and necessary.
- Application of Part 5 to Local Governments*

PART VI PUBLIC REVENUES

24. Any fund due to the State from any local government may be set off by the State in or towards payment or remittance of any sum due to the local government from the State. *Forecast and Collection of Public Revenue*
- 25.(1) The Executive Arm of the State Government shall, at least 30 days before the deadline for the submission of its budget proposals, place, at the disposal of the House of Assembly, the revenue estimates for the following year, including the net current revenue and the respective memorandum items. *Revenue Forecast*
- (2)The Commissioner shall cause the documents mentioned in subsection one of this section to be submitted to the Commission within seven days of its submission to the House of Assembly.
26. Estimated revenue shall be broken down by the Commissioner into monthly collection targets, including, where applicable, a separate description of measures to combat tax fraud and evasion. *Executive to Breakdown Estimated Revenue*

PART VII SAVINGS AND ASSET MANAGEMENT Allocation On Revenue

- 27.(1) Where the reference Revenue Expectation to the State rises above the predetermined level, the resulting excess proceeds shall be saved in accordance with the provisions of subsection (2) of this section. *Excess Proceeds to be saved*
- (2) The savings of the State Government in pursuance to subsection (1) of this section shall be deposited in a

separate account which shall form part of the state Governments Consolidated Revenue Fund to be maintained at the Central Bank of Nigeria by Imo State Government, and shall not be utilized without the approval of the House of Assembly.

- (3) Subject to approval by the House of Assembly, a proportion of the savings may be appropriated in the following year for the capital projects and programmes.

PART VIII PUBLIC EXPENDITURE

- 28.(1) A proposal to create, expand or improve government action which will result in an expenditure increase shall be accompanied by –

*Conditions for
Increasing
Government
Expenditure*

- (a) an estimate of the budgetary or financial impact in the year it becomes effective and in the two subsequent years; and
- (b) a statement by the person requesting for the expenditure, stating how the increase or action is covered or relevant to the Appropriation Law and the Medium-Term Expenditure Framework.

- (2)The provisions of this section shall not apply to expenditures deemed inconsequential.

29. The granting of any advantage or increase of remuneration, the creation of posts or alteration of career structures and employment of new personnel on any account by bodies and entities including foundations established and maintained by the State Government shall only be effected if, there is a prior budgetary allocation sufficient to cover the estimated expenditure, otherwise such shall be considered in the supplementary budget.

*Conditions for
increasing
personnel
expenditure*

- | | |
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| 30. All Contracts with regards to the execution of annual budget are to comply with the rules and guidelines on -
(a) procurement and award of contracts; and
(b) due process and certification of contract. | <i>Contracts
To comply
with due
process rules</i> |
| 31. Any violation of the requirements in sections 28,29 and 30 shall render the process invalid. | <i>Effect of
Violation
of Public
expenditure
rules</i> |
| 32. In incurring public expenditures, Local Governments may adopt the provisions of this Part with such modifications as may be appropriate and necessary. | <i>Application of
Part VIII to
Local
Governments</i> |

**PART IX
DEBT AND INDEBTEDNESS**

- | | |
|---|--|
| 33.(1) The framework for debt management during the financial year shall be based on the following rules: -
(a) the State Government shall only borrow for capital expenditure and human capital development, provided that, such borrowing shall be on concessional terms with low interest rate and with a reasonably long amortization period subject to the approval of the House of Assembly; and

(b) the State Government shall ensure that the level of public debt as a proportion of State income is held at a sustainable level as prescribed by the House of Assembly from time to time on the advice of the Commissioner. | <i>Framework for
debt
management</i> |
| (2) Notwithstanding the provisions of subsection 1 (a) of this section and subject to the approval of the House of Assembly, the State Government may borrow from the capital market, in accordance with the Debt Management Law. | |

- 34.(1) The Governor shall, within 90 days from the commencement of this Law and with advice from Commissioner of Finance subject to approval of House of Assembly, set overall limits for the amounts of consolidated debt of the State and Local Governments and the limits and conditions approved by the Imo State House of Assembly, shall be consistent with the rules set in the Debt Management Law and the fiscal policy objectives in the Medium Term-Fiscal Framework (MTFF) and in this Law.
- (2) Outstanding judgment debts not paid shall be considered part of the consolidated debts for the purpose of application of the respective limits set in pursuance of this section.
- (3) For the purpose of verifying compliance with the limits specified pursuant to this section, the Commission shall, at the end of each quarter, determine the amount of the consolidated debt of each tier of government in Imo State.
- (4) The Commission shall publish, on a quarterly basis, a list of the Institutions in Imo State that have exceeded the limits of consolidated debt, indicating the amount by which the limit was exceeded.
- (5) Where at the end of any quarter, the consolidated debt of Imo State and or the Local Governments in Imo State exceed the respective limits, it shall be brought within the limit not later than the end of the three subsequent quarters with a minimum of 25 per cent reduction in the first quarter.
- (6) Violators of the limits specified pursuant to this section shall:-

Limits on
Consolidated
Debt of State
and Local
Government

- (a) be prohibited from further borrowing, except for the refinancing of existing debts; and
- (b) bring the debt within the established limit by restricting funding commitments accordingly.
- (7) Where non-compliance with the limit specified pursuant to this section persists after the time limited by subsection (5) of this section, the affected tier of Government shall also be prohibited from receiving grants from any other source including, but not limited to the Federation Account.
- (8) Whenever the fundamentals of the proposals referred to in this section are changed due to economic instability or change in monetary or exchange policies, the Governor shall submit to the House of Assembly a request for a review of the current limits.
- 35.(1) Servicing of external debts shall be the direct responsibility of the State and Local Government that incurred the debt.
- (2) The cost of servicing State Government guaranteed loans shall be deducted at source from the share of the debtor Local Government from the Federation Account.

*Servicing of
External Debt*

PART X BORROWING

- 36.(1) Imo State Government or any of its Local Governments or its Agencies and Corporations desirous of borrowing shall, specify the purpose for which the borrowing is intended and present a cost-benefit analysis, detailing the economic and social benefits of the purpose to which the intended borrowing is to be applied.

*Conditions of
Borrowing and
Verification of
compliance
limits*

- (2) Without prejudice to subsection (1) of this section, each borrowing shall comply with the following conditions-
 - (a) the existence of prior authorization in the Appropriation or other Law for the purpose for which the borrowing is to be utilized; and
 - (b) the proceeds of such borrowing shall solely be applied towards long-term capital expenditures.
 - (3) Without prejudice to the specific responsibilities of the House of Assembly and Central Bank of Nigeria, the State Debt Management Office shall maintain comprehensive, reliable and current electronic database of internal and external public debts.
 - (4) The Commission shall verify on a quarterly basis, compliance with limits and conditions for borrowing by all tiers of Government in the state.
 - (5) The State and Local Governments shall through the Accountant General and the Treasurer respectively obtain a proof of compliance from the Commission before borrowing.
- 37.(1) Subject to the provisions of this Part, the Commissioner of Finance may with the approval of the State Executive Council, grant guarantees on behalf of Imo State Government.
- (2) Any guarantee granted by the Commissioner shall be conditional upon the provision of a counter-guarantee in an amount equal to or higher than the guarantee obligation, provided that, there are no overdue obligations from the State Government or requesting Local Government to the guarantor and its controlled corporations and such guarantee shall also comply with the following conditions -
 - (a) that the counter-guarantee shall only be accepted from Local Governments; and

*Power of the
Commissioner
to grant
guarantees*

- (b) that the counter-guarantee required by the State Government from Local Governments shall consist of the appropriation of tax revenue directly collected and resulting from statutory transfers and the guarantor shall be authorised to retain such revenue and use the respective amount to repay overdue debts.
- ✓ (3) In the case of foreign currency borrowing, Federal Government guarantee shall be a requirement and no State, Local Government or State Agency shall, on its own borrow externally.
- (4) It shall be an offence to provide any guarantee in excess of the debts limits set pursuant to section 34(1) of this Law.

PART XI TRANSPARENCY AND ACCOUNTABILITY

- 38.(1) The State Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances.
- (2) The House of Assembly shall ensure transparency during the preparation and discussion of the Medium-Term Expenditure Framework, Annual Budget and the Appropriation Bill.
- 39.(1) The State Government shall publish its audited accounts not later than six months following the end of the preceding a financial year.
- (2) The State Government shall, not later than two years following the commencement of this Law and thereafter,

*Fiscal
Transparency*

*Publication of
Audited
Accounts*

not later than 7 months following the end of each financial year, consolidate and publish in the mass media, and the Ministry of Finance website its audited accounts for the previous year.

- (3) The publication of general standards for the consolidation of public accounts shall be the responsibility of the office of the Accountant-General of the State.

40. The State Government through its budget office shall within 30 days after the end of each quarter, publish a summarized report on budget execution in such form as may be prescribed by the State Fiscal Responsibility Commission and not later than 6 months after the end of the financial year, a consolidated budget execution report showing implementation against physical and financial performance targets shall be published by the Commissioner of Finance for submission to the House of Assembly and dissemination to the public.

*Publication of
a Summarized
Report on
Budget
Execution*

PART XII OFFENCES AND PENALTIES

- 41.(1) Any person who willfully, whether directly or indirectly, hinders or obstructs the Commission or its agent from performing the functions or duties imposed by this Law commits an offence and shall upon conviction be liable to a term of imprisonment of not less than three (3) months or a fine not less than N500,000.00 (Five Hundred Thousand Naira) or to both fine and imprisonment.

*Offences and
Penalties*

- (2) Any person who gives false information to another person, authority or the Commission, in response to a request or in the performance of a function imposed by this Law or falsifies any document commits an offence

and shall upon conviction be liable to a term of imprisonment of not less than Six (6) months or fine not less than N1,000,000.00 (One Million Naira) or to both fine and imprisonment.

- (3) Any person who, with intent to deceive or mislead, makes a partial (instead of full) disclosure of information to the Commission or its agent, Ministry of Finance or Debt Management Office in response to a request made in the performance of a function imposed by this Law commits an offence and shall upon conviction be liable to a term of imprisonment of not less than three (3) months or fine not less than N500,000.00 (Five Hundred Thousand Naira) or to both fine and imprisonment.
- (4) Any person who refuses or fails, without lawful excuse, to give information to the Commission or Ministry of Finance or the Debt Management Office of Imo State upon a request made in the performance of a function imposed by this Law commits an offence and shall upon conviction be liable to a term of imprisonment of not less than One year or a fine of not less than N1,000,000.00 (One Million Naira) or to both fine and imprisonment.
- (5) Any person who, without lawful excuse, fails to perform a duty imposed upon or assigned to him or the office which he occupies by this Law commits an offence and shall upon conviction be liable to a term of imprisonment of not less than three (3) months or a fine of not less than N500,000.00 (Five Hundred Thousand Naira) or to both fine and imprisonment.
- (6) Any person(s) who borrows or lends or is responsible for borrowing or lending in contravention of the provisions of Part (X) of this Law commits an offence and shall upon conviction, be liable to a term of

imprisonment not less than six (6) months or to a fine not less than ₦1,000,000.00 (One Million Naira) or to both fine and imprisonment.

- (7) Any person who under-declares public revenue generated or collected by any Government Institution, Corporation, Agency, or Government owned Company commits an offence and shall upon conviction be liable to refund the total amount under-declared or to a term of imprisonment of not less than three years or to a fine not less than 10% of the total amount under-declared, or to both such fine and imprisonment.
- (8) Any person who duplicates a project or item in the budget, or accepts and expends a grant regarding an item for which monies are appropriated, released and spent from the budget, commits an offence and shall upon conviction be liable to a term of imprisonment of not less than one year or to a fine of not less than ₦1,000,000.00 or to both such imprisonment fine.
- (9) Subject, only, to the provisions of the Constitution, any person who spends or authorises the spending of any money collected or generated without appropriation by the House of Assembly, commits an offence and shall upon conviction be liable to a term of imprisonment of not less than three years or to a fine not less than 10% of the total amount spent or to both such fine and imprisonment.
- (10) Any person who transfers or spends any sum allocated for a particular project, or service in an Appropriation Law, on another project or service without approval of the House of Assembly, commits an offence and shall upon conviction be liable to a term of imprisonment of not less than three (3) months or a fine of not less than ₦500,000.00 or to both such imprisonment and fine.

- (11) Any person who assaults an officer, staff or agent of the Commission while performing a function under this Law commits an offence and shall upon conviction be liable to a term of imprisonment of two years without an option of fine.

Provided that, in addition to the punishment provided herein, the court shall have the power to award appropriate compensation to the staff or officer so assaulted.

- (12) Any person who aids or abets the commission of an offence under this Law commits an offence and shall upon conviction be liable to the same sanction as the principal offender.
- (13) Any person who contravenes any provision of this Law commits an offence and shall where no other punishment has been provided be liable to a term of imprisonment of not less than three (3) months or a fine of not less than N500,000.00 (Five Hundred Thousand Naira).

42.(1) A person shall have legal capacity to enforce the provisions of this Law by obtaining prerogative orders or other remedies at the State High Court, without having to show any special or particular interest.

Enforcement

- (2) The court shall have the power to, whether under a criminal or civil action brought pursuant to the provisions of this Law, order the recovery of all proceeds of corrupt enrichment or wrongful benefit obtained by or conferred on any person from any public revenue, fund or other opportunity that belongs to government.
- (3) Every public fund recovered under this Law shall be paid into the Consolidated Revenue Fund of Imo State.

PART XIII MISCELLANEOUS PROVISIONS

43. State Government securities, provided that, they are duly listed on the stock exchange, may be offered as collateral to guarantee loans or other financial transactions under this Law for their economic value as defined by the Ministry.
44. The proceeds derived from the sale or transfer of public properties and rights over public assets shall not be used to finance recurrent and debt expenditure, provided that, such proceeds may be used to liquidate existing liabilities directly charged against such properties or assets.
45. The State Government may provide technical and financial assistance to Local Governments that adopt similar fiscal responsibility legislation along the same lines as this Law for the modernization of their respective tax, financial and asset administration.
46. The Governor shall, in addition to any other power, conferred on him under this Law, make regulations generally for the purposes of carrying into effect the provisions of this Law.

PART XIV ESTABLISHMENT, FUNCTIONS AND POWERS OF IMO STATE FISCAL RESPONSIBILITY COMMISSION

- 47.(1) There is hereby established, a body to be known as the Imo State Fiscal Responsibility Commission (in this Law referred to be as "the Commission").
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue

*Establishment
of the Fiscal
Responsibility
Commission*

and be sued in its corporate name and shall have the power to acquire and own properties for the performance of its functions under this Law.

48. (1) The Commission shall consist of -
- Composition
of the
Commission
- (a) a Chairman, who shall be the Chief Executive and Chief Accounting officer of the Commission;
 - (b) one representative each from:-
 - (i) the organized private sector;
 - (ii) civil Society engaged in causes relating to probity, transparency and good governance,
 - (iii) Organized labour;
 - (c) a representative of Imo State Ministry of Finance whose level shall not be below the rank of a Director; and
 - (d) one member to represent each of the 3 geo-political zones of Imo State, (**Okigwe, Orlu and Owerri**).
 - (e) Accountant-General;
 - (f) Auditor-General for the State;
 - (g) Auditor-General for Local Government..
- (2) All members of the Commission shall be persons of proven integrity and must possess appropriate qualifications with not less than 10 years cognate post qualification experience in managing successful public or private enterprises.
- (3) The Chairman and other members of the Commission other than ex-officio members shall be appointed by the State Governor subject to confirmation by the House of Assembly.
- (4) The Chairman and members representing the 3 geo-political zones of the State divisions shall be full time members.

49. The Chairman and members of the Commission shall hold office for a term of 5 years, provided that the Governor shall have the power to reappoint a member for another term and no more. *Tenure of Office*
- 50.(1) A member of the Commission shall cease to hold office if- *Cessation of Membership*
- (a) he becomes bankrupt or makes a compromise with his creditors;
 - (b) he is convicted of a felony or any offence involving dishonesty, corruption or fraud by any court whether in Nigeria or elsewhere;
 - (c) he becomes incapable of carrying out the functions of his office either by reason of an infirmity of mind or body;
 - (d) the Governor is satisfied that It is not in the interest of Imo State or the interest of the public that the member should continue in office and the Governor removes him from office; provided that the proposed removal of a member must be supported by a two-third majority vote of members of the Imo State House of Assembly;
 - (e) he has been found guilty of violation of the code of conduct or serious misconduct in relation to his duties;
 - (f) he resigns his appointment by a notice under his hand, addressed to the State Governor; or
 - (g) In the case of a person who becomes a member by virtue of the office he occupies, he ceases to hold such office for whatever reason.
- (2) Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, provided that the successor shall represent the same interest as his predecessor.

- 51.(1) There shall be paid to the Chairman and full time members of the Commission such salaries, allowances and benefits as are paid to chairmen and members of other commissions in Imo State. *Emoluments etc of Members*
- (2) There shall be paid to other members of the Commission such sitting allowances and benefits as are paid to members of other commissions in Imo State.
- 52.(1) For the purpose of performing its functions under this Law, the Commission shall have power to:- *Responsibility and powers of the Commission*
- (a) compel any person or Government Institution to disclose information relating to public revenues and expenditure; and
 - (b) conduct investigations to ascertain whether any person has violated any provisions of this Law;
 - (c) request for and obtain information relating to public revenue, expenditure and related matters from any person, department, public institution or body, or arm of the State Government;
 - (d) request and be permitted by all Government Ministries, Departments, Extra-Ministerial Departments, Agencies, Public bodies, Institutions, Corporations and arms of government to inspect all documents, records, minutes, entries, electronic systems, machine and objects which the Commission shall deem necessary for the performance of its functions under this Law;
 - (e) interview any person it deems necessary with regard to government revenue and expenditure;
 - (f) monitor and enforce the remittance of revenue by all Corporations and Government Agencies into the Consolidated Revenue Fund as is herein provided and publish same at the commencement of every fiscal year;

- (g) collaborate and cooperate with the House of Assembly, the Nigerian Police, the Economic and Financial Crimes Commission, the Independent Corrupt Practices and other Related Offences Commission and any other Agency, Public body, Ministry or Extra-ministerial Department in the performance of any of its functions under this Law;
 - (h) without prejudice to the powers of the Auditor General of the State, review or verify the financial records of any Government Agency, Corporation, Ministry, Department, Extra-ministerial Department etc; Provided it is not in conflict with the powers of the House of Assembly under Section 128 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).
 - (i) Make rules and issue guidelines for implementation of this Law; and
 - (j) do other things which, in its opinion, are necessary for the efficient performance of its functions under this Law.
- (2) If the Commission is satisfied that a person has committed any punishable offence under this Law, or violated any provisions of this Law, the Commission shall undertake the prosecution of the alleged offender.
- (3) Every prosecution of an offender under this Law by the Commission or its appointed Legal Practitioner shall be done with the consent of the Attorney General of the State.
53. (1) The Commission shall:-
- (a) monitor and enforce the provisions of this Law and by so doing, promote the economic objectives and growth of Imo State.
 - (b) disseminate such standard practices including international good practices that will result in greater efficiency in the allocation and management of

*Functions of
the
Commission*

public expenditure, revenue collection, debt control and transparency in fiscal matters;

- (c) undertake fiscal and financial studies, analysis and diagnosis and disseminate the result to the general public;
- (d) make rules for carrying out its functions under this Law;
- (e) enforce the submission of periodic returns on revenue performance showing estimates, actual collection and remittances to the Consolidated Revenue Fund of the State Government by Corporations and Agencies accompanied by accurate documentary evidence of collections and remittances;
- (f) attend and monitor monthly monitoring meeting of all revenue collectors in collaboration with the office of the Accountant General of the State; and Imo State House of Assembly Committees on Finance and Budget
- (g) appoint for the Commission, such number of employees as it may deem expedient and necessary for the proper and efficient performance of its functions under this Law, subject to the approval of the Governor;
- (h) determine the terms and conditions of service in the Commission, including disciplinary measures for the employees of the Commission as approved by the State Government;
- (i) develop and implement appropriate staff conditions of service for its staff including fixing of remuneration, pension scheme and other fringe service benefits subject to the approval of the Governor;

- (j) regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters as the Commission may, from time to time determine; and
 - (k) perform any other function consistent with the promotion of the objectives of this Law.
- (2) The Commission shall be independent in the performance of its functions.
- (3) The provision of Public Officers Protection Act shall apply to the members of the Commission in discharge of their functions under this Law.
54. (1) The Commission shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Commission. *Establishment of a Fund for the Commission*
- (2) There shall be credited to the Fund established pursuant to subsection (1) of this section, the budgetary allocation from Imo State Government and grants from other sources.
55. The Commission shall prepare and submit to the House of Assembly not later than 30th June in each financial year; a report of its activities including all cases of contravention investigated during the preceding financial year, and shall include in the report a copy of its audited accounts for the preceding financial year. *Submission of Annual report to the House of Assembly*
- 56(1) The Commission shall appoint persons to hold office or function in such other offices as may constitute the Departments of the Commission and its Units. *Powers of Commission to make appointments*
- (2) The power of the Commission to appoint under subsection (1) of this Section shall include power to –

- (a) promote, transfer and confirm appointments of persons employed by the Commission;
 - (b) retire, dismiss and exercise disciplinary control over such persons holding or acting in such offices;
 - (c) and implement guidelines; and
 - (d) perform such other duties and functions as are necessary or expedient for the discharge of its functions under this Law.
- (3) If the Commission 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 appropriate 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.
- (4) Where any member of staff of any Service Commission is seconded or transferred under subsection (3) of this Section, he shall be notified of the terms and conditions of the secondment; or transfer; and the transfer shall be without prejudice to any pension rights which, despite the secondment or transfer would still accrue to him.
- (5) Any member of staff of the Commission may elect to transfer or be seconded to any other public service of the State and such right of transfer shall not operate to the disadvantage of the officer concerned.
57. The Commission may make regulations relating to the conditions of service of the employees of the commission and without prejudice to the generality of the foregoing such regulations may provide for-

*Staff
Regulations*

- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Commission; and
 - (b) appeals by such employees 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 of the Commission.
- 58.(1) Notwithstanding the provisions of the Pensions Reform Law 2008, service in the Commission shall be service in the Public Service for the purpose of that Law and accordingly, officers of the Commission shall in respect of their services in the Commission be entitled to such Pensions, Gratuities and other Retirement Benefits as are prescribed under the State Pensions Reform Regulations or Law. *Pensions*
- (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 Pensions Reform Law, any power exercisable under the provisions of that 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 foregoing 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 Commission.

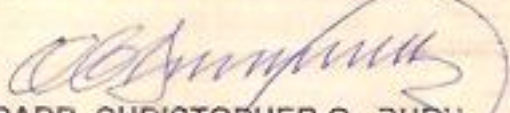
59. The Commission may co-opt person(s) who are not members of the Commission for any meeting of the Commission or its Committee and such co-opted person(s) may take part in the deliberations of the Commission or any of its Committees but shall not be entitled to vote or be counted as part of the quorum of the meeting. *Power to co-opt*
- 60.(1) The meetings of the Commission shall be convened by the Chairman or by a simple majority of members. *Meetings of the Commission*
- (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 four members.
- (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 presiding 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.
- (6) The Secretary of the Commission shall not vote at any meetings of the Commission.
61. No member of the Commission or Committee shall be liable for any act done in the course of exercising his legal duty or function imposed on him by the Commission. *Protection of members*

62(1) Any report, statement, communication, recording of any meeting or proceedings of the commission made in the due exercise of its functions or which any member of the Commission may make in the course of performing his official duties shall be regarded as privileged.

*Reports,
statements etc
to be
privileged*

(2) Subject to sub-section (1) of this Section, a report, statement, communication, record of any meeting or proceedings of the Commission shall be released on the order of court or by a resolution of the Imo State House of Assembly.

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


BARR. CHRISTOPHER O. DURU
Clerk of the House of Assembly
Imo State of Nigeria

Assented to by me this 10TH day of MARCH, 2016



~~OWELLE ANAYO ROCHAS OKOROCHA, OON
Governor
Imo State of Nigeria~~

Assent withheld by me this day of 2016

OWELLE ANAYO ROCHAS OKOROCHA, OON
Governor
Imo State of Nigeria

Passed again by the Imo House of Assembly by two-thirds majority this
Day of 2016



RT. HON. IHIM IHEANACHO CELESTINE
Speaker
Imo State House of Assembly