

HOUSE OF ASSEMBLY  
OGUN STATE OF NIGERIA  
THE NINTH LEGISLATURE (2019 – 2023)  
ENROLLED HOUSE BILL NO. 55/OG/2020

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No. 55

2020



OGUN STATE OF NIGERIA

PRINCE 'DAPO ABIODUN, MFR  
Governor of Ogun State

A BILL FOR 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 FRAMEWORK, AND THE ESTABLISHMENT OF THE FISCAL RESPONSIBILITY COMMISSION TO ENSURE THE PROMOTION AND ENFORCEMENT OF THE STATE'S ECONOMIC OBJECTIVES; AND FOR RELATED MATTERS

(Date Assented to/Vetued)

1. BE IT ENACTED by the House of Assembly of Ogun State of Nigeria as follows:  
2. This Law may be cited as the Ogun State Fiscal Responsibility Law, 2020.  
In this Law unless the context otherwise requires:

Date of  
Commencement.

Short Title,  
Interpretation

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

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

"Arms of Government" means the Executive, Legislature and Judiciary of the State;

"Borrowing" means any financial obligation arising from:

- (a) any loan including principal, interest and, fees of such loan,
- (b) the deferred payment for property, goods or services,
- (c) bonds, debentures, notes or similar instruments,
- (d) letters of credit and reimbursement obligations in respect thereto,
- (e) trade or bankers' acceptances,
- (f) capitalized amount of obligations under leases entered primarily as a method of raising financing or of financing the acquisition of the asset leased,
- (g) 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
- (h) a conditional sale agreement, capital lease or other title retention agreement;

**"Budget Call Circular"** means a circular:

- (a) 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
- (b) 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;

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

**"Commissioner"** means the Commissioner for the time being charged with the responsibility for matters relating to budget and planning in the State;

**"Concessional terms"** means the terms of a loan must be at an interest rate not exceeding three (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:

- (a) borrowed money including principal, interest or fees incurred in respect of borrowed money;
- (b) the deferred payment for property, goods or services;
- (c) bonds, debentures, notes or similar instrument;
- (d) letters of credit and disbursement obligations with respect thereto;
- (e) guarantees;
- (f) trade or bankers' acceptances;
- (g) capitalized amounts of obligations under leases entered primarily as a method of raising finance or financing the acquisition of the asset leased;
- (h) agreements providing for swaps, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency;
- (i) a conditional sale agreement, capital lease or other title retention agreement; and
- (j) judgment debts not subject to appeal.

**"Constitution"** means the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

**"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;

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

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

**"Financial Year"** means Financial year as defined in the Constitution;

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

**"Government"** means the government of the State ;

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

**"Governor"** means the Governor of the State;

**"House of Assembly"** means the Ogun State House of Assembly;

**"Medium-Term Expenditure Framework"** means the document referred to and the content of which is prescribed in section 12 of this Law;

**"Ministries, Departments and Agencies"** means government Ministries, Departments, Extra Ministerial Departments, Offices, Institutions and Agencies from all arms of the Ogun State government and shall include all government

owned corporations, educational institutions, Boards and all Public Bodies;  
"Public Debt Securities" means public debt represented by securities issued by the Federal 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 moneys received by the State or Local Government in the State;

"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;

"Refinancing of debt securities" means issuance of securities to repay the existing debt;

"State" means Ogun State of Nigeria;

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

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

"Tiers of Government" means the Federal, State and Local Governments ;

#### PART I

### ESTABLISHMENT, FUNCTIONS AND POWERS OF THE FISCAL RESPONSIBILITY COMMISSION

3. (1) There is hereby established, a body to be known as the Fiscal Responsibility Commission (hereinafter referred to as "the Commission").
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
4. (1) The Commission shall consist of:
- (a) a Chairman, who shall be the Chief Executive and Accounting Officer of the Commission with over 10 (ten) years of cognate experience in economic, financial and fiscal matters;
  - (b) a representative of the State's Chamber of Commerce
  - (c) an Economist representing the organised private sector
  - (d) a representative of the Board of Internal Revenue not below the rank of Director;
  - (e) a representative of the State Debt Management Office not below the rank of a Director;
  - (f) a representative of the State Ministry of Finance of a level not below the rank of a Director;
  - (g) a representative of the State Ministry of Budget and Planning of a level not below the rank of a Director.
- (2) The Chairman of the Commission shall be a full time member. All other members of the Commission shall be part time members
- (3) The Chairman and other members of the Commission, who shall be professionally qualified and competent in financial and fiscal matters, shall be appointed by the Governor and confirmed by the House of Assembly.
5. The Chairman and the other members of the Commission shall hold office for a term of three (3) years and are eligible for re-appointment for a further term of three (3) years .
6. (1) A member of the Commission shall cease to hold office if:
- (a) he becomes bankrupt or makes a compromise with his creditors;
  - (b) he is convicted by a court of law (whether in Nigeria or elsewhere) of a felony or any offence involving dishonesty, corruption or fraud;

Establishment of the Fiscal Responsibility Commission.

Composition of the Commission.

Tenure of Office.

Cessation of membership.

- (c) he becomes incapable of carrying out the functions of his office either by reason of an infirmity of mind or body;
  - (d) he has been found guilty of violation of the code of conduct for public officers or wanting of a serious misconduct in relation to the performance of his duties as a member of the Commission;
  - (e) he resigns his appointment by a notice under his hand, addressed to the Governor; or
  - (f) 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;
  - (g) the Governor is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office and the Governor removes him from office and such removal is approved by the House of Assembly;
- (2) Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor who meets the qualification requirements to hold such office for the remainder of the tenure of office of his predecessor, provided that the successor shall be from the nominating authority, body or institution.
7. (1) There shall be paid to the Chairman such salaries, allowances and benefits as the Governor may determine, from time to time from the Consolidated Revenue Fund of the State, provided that such salaries, allowances and benefits shall not be below what a Permanent Secretary in the State is entitled to receive. Emoluments, etc. of members.
- (2) There shall be paid to other members of the Commission such sitting allowances and benefits as may be approved by the Governor.
8. (1) For the purpose of performing its functions under this Law, the Commission shall have power to: Powers of the Commission.
- (a) compel any person or government institution in the State to disclose information relating to public revenues and expenditure;
  - (b) investigate whether any person has violated any provisions of this Law. The Investigation Report and recommendation shall be published and submitted to the House of Assembly and Attorney General of Ogun State for necessary action;
  - (c) formulate and provide general policy guidelines for the discharge of the functions of the Commission;
  - (d) superintend the implementation of the policies of the Commission;
  - (e) appoint for the Commission, in consultation with the Head of Service, such numbers of employees not exceeding twenty (20) employees or less which, as may, in the opinion of the Commission, be expedient and necessary for the proper and efficient performance of the functions of the Commission;
  - (f) determine the terms and conditions of service including disciplinary measures for the employees of the Commission, in consultation with the Head of Service;
  - (g) fix the remuneration, allowances and benefits of the employees of the Commission subject to approval by the Civil Service Commission of the State;
  - (h) 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
  - (i) do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission.

9. (1) The Commission shall:
- (a) monitor and audit the implementation of capital expenditure in accordance with the annual Budget of the State as may be contained in the Appropriation Law for each year.
  - (b) prepare forecasts and technical advisory papers of the fiscal and macroeconomic consequences of proposed capital and recurrent Budgets for the State in time for consideration by the House of Assembly before enactment of the Appropriation Law for each year.
  - (c) monitor and enforce the provisions of this Law and shall send timely reminders at least two weeks prior to the time required in this Law for doing anything or performing any act, in writing to any person or authority of steps required to be taken by them under this Law to prevent any possible omission or violation or delay.
  - (d) disseminate such standard practices including international good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;
  - (e) undertake fiscal, financial, macro and micro-economic studies, analysis and diagnosis and disseminate the result to the Governor, House of Assembly and the general public;
  - (f) make rules for carrying out its functions under this Law; and
  - (g) 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 Law of Ogun State shall apply to the members of the Commission in the discharge of their functions under this Law.
- 10.(1) The Commission shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Commission.
- (2) There shall be credited to the Fund established pursuant to subsection (1) of this section, the budgetary allocation from the State and grants from any other source.
11. 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 contraventions investigated during the preceding financial year, and shall include in the Report a copy of its audited accounts for the preceding financial year.

Functions of the Commission.

Establishment of a fund for the Commission.

Submission of Annual Report of the Commission

## PART II

### THE MEDIUM-TERM EXPENDITURE FRAMEWORK

- 12.(1) The State Government after consultation with the Local Governments shall:
- (a) not later than six months from the commencement of this Law, cause to be prepared and laid before the House of Assembly, for its consideration, a Medium-Term Expenditure Framework (MTEF) for the next three financial years; and
  - (b) thereafter, not later than the end of August in each year cause to be prepared and laid before the House of Assembly for consideration, the Medium-Term Expenditure Framework for the next three financial years.
- (2) The framework so laid shall be considered for approval within two (2) weeks of its submission subject to such modifications if any, as the House of Assembly may find appropriate by a resolution of the House of Assembly.
- (3) 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

Medium-Term Expenditure.

for those projections and an evaluation and analysis of the macro-economic 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) expenditure, 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;
  - (iv) an explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to sub-paragraphs (i), (ii) and (iii) of this paragraph relate to the economic objectives set out in section 16 of the 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 fundamentally relevant indices for the State (e.g. oil prices, VAT & Federal allocation, IGR) 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; and
  - (iv) minimum capital expenditure floor for the State for each financial year in the next three financial years;

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

- (a) based on reliable and consistent data certified in accordance with the provisions of this Law;
- (b) targeted at achieving the macro-economic projection set out in subsection (2) (a) of this section;
- (c) consistent with and derived from the underlying assumptions contained in the Macro-economic framework, the objectives, policies, strategic priorities and explanations 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; and
- (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.

13.(1) The estimates of 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 of the State for each financial year.

Aggregate expenditure ceiling

14.(1) The Commissioner shall be responsible for the preparation of the Medium-Term Expenditure Framework.

Preparation of the Medium-Term Expenditure Framework.

(2) In preparing the draft Medium-Term Expenditure Framework, the Commissioner:

- (a) may hold public consultation 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 may deem necessary;

Provided that, such consultations shall be open to the public, the press and any authorized representatives of any organization or group of citizens, who may attend and be heard on any subject matter properly in view; -

- (b) shall seek inputs from the-
- (i) State Executive Council,
  - (ii) House of Assembly,
  - (iii) The Commission,
  - (iv) Ogun State Bureau of Statistics
  - (v) any other relevant statutory body as the Commissioner may determine; and
- (c) shall consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in subsection (a) and (b) of this section.
- 15.(1) The Commissioner shall before or by the 15th of August of each financial year, present the Medium-Term Expenditure Framework to the State Executive Council for consideration and endorsement.
- (2) The Medium-Term Expenditure Framework as endorsed by the State Executive Council in accordance with the provision of sub-section (1) of this section shall take effect upon approval by a resolution of the House of Assembly.
16. The Medium-Term Expenditure Framework as approved by the House of Assembly shall be published in the Gazette.
- 17.(1) Subject to subsection (2) of this section, the Governor may cause adjustments to the Medium-Term Expenditure Framework.
- (2) Any adjustment to a 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.
- 18.(1) Local Governments shall be assisted by the State Government to manage their fiscal affairs within the medium-term framework.
- (2) All Local Governments shall be guided by and shall adopt relevant provisions of the law with such modification as may be deemed appropriate in ensuring prudence in fiscal management at the Local Government level.
- PART III**  
**THE ANNUAL BUDGET**
- 19.(1) Notwithstanding anything to the contrary contained in this Law or any other 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
- (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
20. The estimates of revenue and expenditure (in this Law referred to as the 'Annual Budget') shall be accompanied by:
- (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 prepared based on fundamentally relevant indices for the State (e.g. income tax, levies and charges, VAT & Federal allocation) as contained in the Medium-Term Expenditure Framework;

Time limit for presentation of Medium-Term Expenditure Framework to State Executive Council.

Publication of Medium-Term Expenditure Framework in the Gazette.

Assistance by the State to Local Governments.

Annual budget to be derived from Medium-Term Expenditure Framework.

Annual budget to be accompanied by certain documents.

- (d) measures on cost, cost control and evaluation of results of programmes financed with 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,
    - (iii) any other development target deemed appropriate; and
  - (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.
21. In preparing their annual budget, Local Governments shall adopt the provisions of this Part with such modification as may be appropriate and necessary.

**PART IV**

**BUDGETARY PLANNING OF CORPORATIONS AND OTHER RELATED AGENCIES**

- 22.(1) All Government corporations and agencies and government owned companies shall, not later than 6 months from the commencement of this Law and for every three financial years thereafter and not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner their estimates of revenue and expenditure for the next three financial years.
 

Preparation of estimates of revenue and expenditure by Corporations, etc.
- (2) Each of the bodies referred to in subsection (1) of this section shall submit to the Commissioner not later than the end of August in each financial year:
  - (a) an annual budget derived from the estimates submitted in pursuance of subsection (1) of this section; and
  - (b) projected operating surplus which shall be prepared in line with acceptable accounting practices.
- (3) The Commissioner shall cause the estimates submitted in pursuance of subsection (2) of this section to be attached as part of the draft Appropriation Bill to be submitted to the House of Assembly.
- 23.(1) Notwithstanding the provisions of any written law governing the corporation, each corporation shall establish a general reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year.
 

Operating surplus and general reserve fund.
- (2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the State Government, not later than one month following the statutory deadline for publishing each corporation's accounts.
- 24.(1) The corporation's surpluses shall be classified as a State Treasury Revenue.
 

Classification of corporation operating surplus
- (2) Where a Corporation's result is a deficit, the deficit shall be classified as the corporation's loss for the fiscal year.
- (3) Each 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.
- 25. The provisions of sections 22,23 and 24 shall cease to apply to any of the corporations from the date of their privatization.
 

Cessation of application of Part IV to privatized companies.

**PART V**

**BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS**

- 26.(1) The State Government shall cause to be drawn up in each financial year, an Annual Cash Plan which shall be prepared by the office of the Accountant-General of the State.
 

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 periodically to reflect actual cash flows.
- 27. The Commissioner for Finance, 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.



- 28.(1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Law.
- (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.
- 29.(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 out in the Fiscal Risk Appendix.
- (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.
- 30.(1) Any proposed tax expenditure 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 for Finance, 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.
- (2) The provisions of this section shall not apply to:
- (a) changes in the rates of the taxes mentioned in Item 7, Part II of the Second Schedule by an Act of the National Assembly referenced in section 163 of the Constitution; and
- (b) debt cancellation in an amount lower than the cost of collection.
- 31.(1) The Commissioner 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 Appropriation Committee of the House of Assembly.
- (2) The Commissioner shall cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media and on the Ministry of Budget and Planning website, not later than 30 days after the end of each quarter.
32. In implementing their annual budgets, Local Governments shall adopt the provisions of this Part with such modifications as may be appropriate and necessary.

Power of Commissioner to approve virement.

Power to restrict further commitments.

Restriction on the grant of tax relief.

Monitoring and report on implementation of the Appropriation Law

Executive to break down estimated revenue.

**PART VI  
PUBLIC REVENUES**

33. Any fund due to the State from any tier of Government shall be set off by the State in or towards payment or remittance of any sum due to that tier of Government from the State.
34. The Executive Arm of the Government through the Commissioner 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 and expenditure estimates for the following year, including the net current revenue and the respective memorandum items.
- 35.(1) 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.
- (2) Revenue forecast revisions by the House of Assembly shall only be permitted upon proof of technical or legal error or omission.

**PART VII  
SAVINGS AND ASSET MANAGEMENT**

- 36.(1) Where the fundamentally relevant indices for the State (e.g. oil prices, VAT and Federal allocation) rise above the predetermined level, the resulting excess proceeds shall be saved as the Commissioner for Finance may direct and invested in accordance with the provisions of subsection (2) of this section. If and where revenue heads of the State and Local Governments exceed budgeted figures, no less than 35% of the excess revenue shall be placed in a reserve account which shall form part of the Consolidated Revenue Fund of the State.
- (2) The Commissioner for Finance shall, in consultation with the Local Government Treasurers, invest, for and on behalf of the Governments in the State, the savings of each Government and such investment can be undertaken in a consolidated manner, provided that, the shares of the State and Local Governments and income due to them from the investment are clearly identified.
- (3) The Commissioner for Finance in the discharge of its obligation under subsection(2) of this section shall, observe the limits and conditions imposed by safety and prudential considerations and the need to maintain macro-economic stability and such safety and prudential conditions are to be agreed upon with the Local Government Treasurers.
- (4) No Government in the State shall have access to the savings made in pursuance of subsection (2) of this section, unless the fundamentally relevant indices for the State (e.g. oil prices, VAT and Federal allocation) fall below the predetermined level for a period of three consecutive months and there is need for augmentation of the revenue of the relevant government.
- (5) The augmentation referred to in subsection (4) of this section shall be limited to such sums that will bring the revenue of government to the level contained in its budget estimates.
- (6) Notwithstanding the provisions of subsections (4) and (5) of this section and subject to agreement by the State Government and the Local Governments in the State, a proportion of the savings may be appropriated in the following year for the capital projects and programmes.
37. 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.

Treatment of excess revenue.

**PART VIII  
PUBLIC EXPENDITURE**

38. Government shall conduct economic appraisal, project cost and monitor the implementation of public investment projects.
- 39.(1) The creation, expansion or improvement in government action which result in an expenditure increase shall be accompanied by-
- (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 that the increase is consistent with the Appropriation Law and the Medium-Term Expenditure Framework.
- (2) The provisions of this section shall not apply to expenditures deemed inconsequential and shall apply to all Local Governments.
40. The granting of any advantage or increase of remuneration, the creation of posts or alteration of career structures and admission of 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.

Conditions for increasing government expenditure.

Conditions for increasing personnel expenditure

41. All contracts with regards to the execution of the annual budget shall comply with the rules and guidelines on:
- (a) procurement and award of contracts; and
  - (b) due process and certification of contracts.
42. In incurring public expenditures, Local Governments shall adopt the provisions of this Part with such modifications as may be appropriate and necessary.

All Contracts to comply with Rules and Guidelines.

Provisions in relation to Local Governments.

#### PART IX

#### DEBT AND INDEBTEDNESS

- 43.(1) The framework for debt management during the financial year shall be based on the following rules:
- (a) The State and Local Government shall only borrow for capital expenditure and human 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 appropriate legislative body where necessary; and
  - (b) Government shall ensure that the level of public debt of the State as a proportion of its income is held at a sustainable level in accordance with standards stipulated by the State Debt Management Office (DMO) and bearing in mind standards that may be proposed by the National Debt Management Office from time to time.
- (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, multilateral financial institutions, domestic financial institutions or take advantage of any other debt or financing scheme.
44. (1) The Governor shall, within 90 days from the commencement of this Law and with the advice of the Commissioner for Finance set overall limits for the amounts in the consolidated debt of the State and Local Governments in accordance with the overall limits set by the President pursuant to section 42 (1) of the Fiscal Responsibility Act, 2007. Provided that in the absence of such a limit the House of Assembly shall after consultation with the Commission and the State's Debt Management Office prescribe limits for the amounts of consolidated debt of the State and Local Governments. The limits and conditions approved by the State House of Assembly shall be consistent with the provisions of this Law and with the fiscal policy objectives in the Medium-Term Fiscal Framework.
- (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 the State and Local governments.
- (4) The Commission shall publish, on a quarterly basis, a notice to the effect that the State or a Local Government has 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 the State or Local Governments exceeds 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) Where the limits set pursuant to subsection (1) of this section have been exceeded, the State shall ensure that:
- (a) neither the State nor any Local Government borrows from internal or external sources, except for the refinancing of existing debts; and
  - (b) the State or the relevant Local Government brings the debt within the established limit by restricting funding commitments accordingly.
- (7) Where non-compliance with the limit specified pursuant to this section persists

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41. All contracts with regards to the execution of the annual budget shall comply with the rules and guidelines on:
- (a) procurement and award of contracts; and
  - (b) due process and certification of contracts.
42. In incurring public expenditures, Local Governments shall adopt the provisions of this Part with such modifications as may be appropriate and necessary.

All Contracts to comply with Rules and Guidelines

Provisions in relation to Local Governments.

**PART IX  
DEBT AND INDEBTEDNESS**

- 43.(1) The framework for debt management during the financial year shall be based on the following rules:
- (a) The State and Local Government shall only borrow for capital expenditure and human 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 appropriate legislative body where necessary; and
  - (b) Government shall ensure that the level of public debt of the State as a proportion of its income is held at a sustainable level in accordance with standards stipulated by the State Debt Management Office (DMO) and bearing in mind standards that may be proposed by the National Debt Management Office from time to time.
- (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, multilateral financial institutions, domestic financial institutions or take advantage of any other debt or financing scheme.
44. (1) The Governor shall, within 90 days from the commencement of this Law and with the advice of the Commissioner for Finance set overall limits for the amounts in the consolidated debt of the State and Local Governments in accordance with the overall limits set by the President pursuant to section 42 (1) of the Fiscal Responsibility Act, 2007. Provided that in the absence of such a limit the House of Assembly shall after consultation with the Commission and the State's Debt Management Office prescribe limits for the amounts of consolidated debt of the State and Local Governments. The limits and conditions approved by the State House of Assembly shall be consistent with the provisions of this Law and with the fiscal policy objectives in the Medium-Term Fiscal Framework.
- (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 the State and Local governments.
  - (4) The Commission shall publish, on a quarterly basis, a notice to the effect that the State or a Local Government has 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 the State or Local Governments exceeds 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) Where the limits set pursuant to subsection (1) of this section have been exceeded, the State shall ensure that:
    - (a) neither the State nor any Local Government borrows from internal or external sources, except for the refinancing of existing debts; and
    - (b) the State or the relevant Local Government brings the debt within the established limit by restricting funding commitments accordingly.
  - (7) Where non-compliance with the limit specified pursuant to this section persists

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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 Government within or outside the State.

- (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.
- 45.(1) Servicing of external debts shall be the direct responsibility of the government that incurred the debt.
- (2) The cost of servicing Local Government guaranteed loans by the State shall be deducted at source from the debtor Local Government's share of revenue from the State Joint Allocation Committee Account.

Servicing of external debt.

#### PART X BORROWING

46. Borrowing shall only be applied towards capital expenditures included in the Appropriation Law.
- 47.(1) The State, and its Ministries, Departments, Agencies and Corporations and Local Governments desirous of borrowing shall, specify the purpose for which the borrowing is intended and present to the State Debt Management Office a cost-benefit analysis, detailing the economic and social benefits of the purpose to which the intended borrowing is to be applied.
- (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 Law 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.
- (c) The borrowing shall be at reasonably low interest rate and have long amortization period.
- (3) Nothing in this section shall be construed to authorize borrowing in excess of the limits set out in section 44 (1) of this Law.
- (4) The Commission shall verify on a quarterly basis, compliance with the limits and conditions for borrowing by each tier of Government in the State.
- (5) Without prejudice to the specific responsibilities of the House of Assembly the Debt Management Office shall maintain comprehensive, reliable and current electronic database of internal and external public debts and guarantee public access to the information.
- 48.(1) All banks and financial institutions shall request and obtain proof of compliance with the provisions of this Part before lending to any Arm of Government in the State, Ministry, Department, Agency or Local Government (except for short term borrowing for day to day running of the government).
- (2) Lending by banks and financial institutions in contravention of this Part shall be unlawful.
- 49.(1) Subject to the provisions of this Part, the Commissioner for Finance may, with the approval of the State Executive Council, grant guarantees on behalf of any Local Government, Ministry, Department, Agency, or Government Owned Company in the State intending to borrow in accordance with this Law.
- (2) Any guarantee granted by the Commissioner for Finance 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:
- (a) requesting government in the State to the guarantor and its controlled corporations and such guarantee shall also be in compliance with the following: a. counter-guarantee shall only be accepted from Local Governments; and
- (b) the counter-guarantee required by the State Government from Local Governments, may consist in 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.

Conditions of borrowing and verification of compliance with limits.

Lending by financial institutions.

Power of the Commissioner for Finance to Grant Guarantees.

- (3) In the case of foreign currency borrowing, Federal Government guarantee shall be a requirement and the State, Local Government or State Agency shall, on its own borrow externally.
- (4) Any guarantee provided in excess of the debt limits set pursuant to section 44(1) of this Law shall be unlawful.
- 50. 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 the law for their economic value as defined by the Ministry of Finance.

#### PART XI

#### TRANSPARENCY AND ACCOUNTABILITY

- 51.(1) The State 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. Fiscal transparency.
- (2) The House of Assembly shall ensure transparency during the preparation and discussion of the Medium-Term Expenditure Framework, the Annual Budget and the Appropriation Bill.
- 52.(1) The State shall, not later than six (6) months following the end of each financial year, consolidate and publish in the mass media, its audited accounts for the previous year. Publication of audited accounts.
- (2) 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.
- 53. The State, through the Ministry responsible for Budget and Planning, 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 Fiscal Responsibility Commission and not later than seven (7) 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 for Budget and Planning for submission to the House of Assembly and dissemination to the public. Publication of a summarized report on budget execution.

#### PART XII

#### ENFORCEMENT AND SANCTIONS

- 54.(1) Any 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.
- (2) It shall be an administrative misconduct for any person, without lawful excuse, to fail to perform a duty imposed upon or assigned to him or the office which he occupies under this Law.
- (3) It shall be an administrative misconduct for any person to fail to retire sums granted to him or his office for official purposes at the end of a financial year.
- (4) It shall be an administrative misconduct for any person to fail, without reasonable excuse, or to refuse to give information to another or submit a report upon a request made in the performance of function imposed by this Law.
- (5) Enquiry into and sanctions against administrative misconduct provided for in this Law or that may be provided for in the Regulations made from time to time by the Commission shall be in accordance with this Law

#### PART XIII

#### MISCELLANEOUS PROVISIONS

- 56. In the implementation of this Law, the State may provide technical and financial assistance to Local Governments in the modernization of their respective tax, financial budget and asset administration.
- 57. 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.

This printed impression has been carefully compared with the Bill, the Ogun State Fiscal Responsibility Law, 2020, having Fifty-Seven (57) Sections, which has been passed by the Ogun State House of Assembly and found to be a true and correct printed copy of the said Bill.



Rt. Hon. (PRINCE) OLUOMO, OLAKUNLE TAIWO  
Speaker



ADEYEMO, ADEDEJI TAIWO  
Clerk/HLS

Assented to by me this

27<sup>th</sup>

day of

August

2020



PRINCE DAPO ABIODUN, MFR  
Governor, Ogun State of Nigeria.