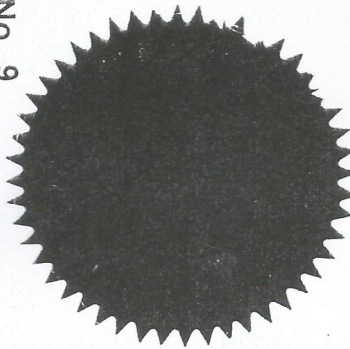


ASSENTED to by me this..... 3<sup>rd</sup> day of..... July..... 2012

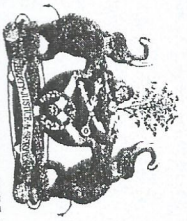


*[Signature]*  
.....

Governor

2012

No. 9



STATE OF OSUN, NIGERIA

**STATE OF OSUN FISCAL RESPONSIBILITY  
LAW, 2012**

**A LAW TO PROVIDE FOR THE ESTABLISHMENT OF  
THE FISCAL RESPONSIBILITY COMMISSION TO  
ENSURE THE PROMOTION AND ENFORCEMENT OF  
THE STATE'S ECONOMIC OBJECTIVES AND FOR  
OTHER RELATED MATTERS.**

BE IT ENACTED by the State of Osun House of Assembly *Enactment*  
in this Legislative Session convened as follows:-

# **TATE OF OSUN FISCAL RESPONSIBILITY LAW, 2012**



## **ARRANGEMENT OF SECTIONS**

### **SECTION:**

- Citation.
- (1). Establishment of Fiscal Responsibility Commission.
- Functions of the Commission.
- Responsibility and Power of the Commission.
- Composition of the Commission.
- Tenure of Office.
- Salary and Allowance.
- Removal from Office.
- Funds of the Commission.
- Submission of Annual Report of the Commission.
- Structure of the Commission.
- Medium-Term Expenditure Framework.
- Aggregate Expenditure Ceiling.
- Preparation of the Medium-Term Expenditure Framework to the
- Time limit for Presentation of Medium-Term Expenditure Framework to the State Executive Council.
- Publication of Medium-Term Expenditure Framework in the State Official Gazette.
- Modification of Medium-Term Expenditure Framework.
- Assistance to Local Government Councils.
- Annual Budget to be derived from Medium-Term Expenditure Framework.
- Annual Budget to be accompanied by certain Document.
- Preparation of Estimates of Revenue and Expenditure by Corporations, etc.
- Operating Surplus and General Reserve Fund.
23. Classification of Corporation Operating Surplus.
24. Cessation of Application of Part IV.
25. Annual Cash Plan.
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27. Power of Commissioner to approve Virement.
28. Power to Restrict further Commitments.
29. Responsibilities of the Ministry of Finance, Economic Planning and Bu
30. Application by Local Government Council.
31. Collection of Public Revenue.
32. Revenue Forecast.
33. Executive to breakdown Estimated Revenues.
34. Conditions for Increasing Government Expenditure.
35. Penalty for Contravention of section 34.
36. All Contracts to comply with Rules and Guidelines.
37. Framework for Debt Management.
38. Limits on Consolidated Debt of State and Local Government Councils.
39. Servicing of External Debt.
40. Conditions for Borrowing and Verification of Compliance with Limits.
41. Lending by Financial Institutions.
42. Application of section 46 of the Fiscal Responsibility Act.
43. Power of the Commissioner to Grant Guarantees.
44. Fiscal Transparency.
45. Publication of Audited Account.
46. Publication of a Report on Budget Execution.
47. Enforcement.
48. Jurisdiction of State High Court to Try Offences.
49. Government Securities as Collateral to Guarantee Loans.
50. Restriction of Utilization of Proceeds of Sale of Public Assets.
51. Technical and Financial Assistant to State and Local Government Cou
52. Pensions.
53. Application of the Law to Local Government Councils.
54. Power of the Governor to give Directions.
55. Interpretation.

1. This Law may be cited as the State of Osun Fiscal Responsibility Law, 2012;

*Citation.*

(1) There is hereby established, the State of Osun Fiscal Responsibility Commission (in this Law referred to as "the Commission").

*Establishment of Fiscal Responsibility Commission.*

(2) The Commission:

- (i) is a body corporate with perpetual succession and a common seal;
- (ii) may sue and be sued in its corporate name;
- (iii) has the functions assigned to it by this Law.

2. (1) The Commission shall:

*Functions of the Commission.*

- (a) monitor and enforce the provisions of this Law and by doing so promote the economic objectives of the State;

- (b) disseminate such standard practices including international best practices that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;
- (c) undertake fiscal and financial studies, analyze, and disseminate the result to the public;
- (d) ensure returns on revenue performance showing estimates, actual collection and remittance to the Consolidated Revenue Fund of the State by the

corporations, by attaching hard evidence of collections and remittance;

(e) ensure monthly monitoring meeting of all Revenue Collectors with a representative of the Office of the Accountant-General of the State;

(f) ensure quarterly and annual revenue collection Reports are produced and sent to the Commissioner not later than 30 days after each quarter, in the case of quarterly reports and 6 months after the end of each year, in the case of annual reports;

(g) design a scheme of incentives to reward performing agencies in the collection and remittance of internally generated revenue;

(h) design a comprehensive budgeting, planning, collection and remittance scheme applicable to the corporations to facilitate the accomplishment of its objectives;

(i) ensure the maintenance of proper books of accounts and prompt issuance of receipts for remittances paid through re-payment and follow up by the paying agencies;

- (j) ensure submission of scientific estimates and financial statements on a regular basis by the corporations;
  - (k) ensure dedication of appropriate revenue accounts by the State corporations to facilitate effective and proper monitoring of the objectives of this Law;
  - (l) make rules for carrying out its functions under this Law; and
  - (m) 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 provisions of Public Officers Protection Law shall apply to the Commission and any member of the Commission in the discharge of his functions under this Law.
3. (1) The Commission shall have power to:-
- (a) formulate and provide general guidelines for the discharge of its functions;
  - (b) superintend over the implementation of its policies;
  - (c) appoint such number of employees as may in its opinion be expedient for the performance of its functions;

(d) employ directly or on secondment from any civil service or public sector or any other body in the State such number of employees as may, in the opinion of the Commission, be required for the effective discharge of its functions;

(e) determine its terms and conditions of service as applicable to the public service of the State by:

- (i) applying the Civil Service rule to its employees;
- (ii) fixing the remuneration, allowances and benefits of the employees of the Commission as are applicable to other officers

of equivalent rank in the civil service of the State or as may be approved by the Governor;

- (iii) regulating its proceedings and making standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings in line with best practices and such other matters as the Commission may at any time determine;
- (iv) compelling any body to disclose information relating to public revenues and expenditure;

- (v) investigating whether any person has violated any provisions of this Law and where the Commission is satisfied that a person has contravened the provisions of this Law, it shall forward the report of its investigation to the Attorney-General of the State for prosecution;
  - (vi) making regulations for the effective implementation of this Law; and
  - (vii) doing such other things, which in its opinion are necessary for the effective performance of its functions under this Law.
4. (1) The Commission shall consist of:
- (a) A Chairman, who is the Chief Executive of the Commission;
  - (b) The Commissioner for Finance, Economic Planning and Budget and three (3) other members of the State Executive Council who shall be appointed by the Governor;
  - (c) A representative of the Ministry of Finance, Economic Planning and Budget not below the rank of a Director; and
  - (d) Three (3) other members each representing the three (3) Senatorial Districts of the State.

(2) The Chairman shall possess the relevant degree in either Public Administration, Management, Law, Economics, Accounting or Banking and Finance.

(3) The Chairman and 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.

(4) The Chairman and the Members shall be appointed by the Governor subject to confirmation by the House of Assembly.

(5) The Chairman and the three (3) Members representing the three (3)

Senatorial Districts shall be full time members.

5. The Chairman and the Members shall hold office for a single term of 4 years.

6. (1) The Chairman and Permanent Members shall be entitled to such salary, allowances and benefits as the Governor may at any time, approve.

(2) Other Members of the Commission shall be paid such sitting allowances and benefits as may be determined by the Governor, at any time.

7. (1) Notwithstanding the provisions of Section 5 of this Law, a member of the Commission shall cease to hold office if:

*Tenure of Office*

*Salary and Allowance*

*Removal from Office*



- (a) He becomes bankrupt or compromises with his creditors;
- (b) He is convicted of felony or any offence involving dishonesty, corruption or fraud;
- (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 the Commission or the interest of the public that the member should continue in office and the Governor removes him from office; provided that a motion seeking the removal is supported

- by two-third majority of members of the House of Assembly present and voting;
- (e) He has been found guilty of violation of the code of conduct or serious misconduct in relation to its duties;
- (f) He resigns his appointment by a notice under his hand, addressed to the 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.

(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.

8. (1) The Commission shall establish and maintain a Fund from which all expenditure incurred by it shall be defrayed.

(2) There shall be credited to the Fund established pursuant to sub-section (1) of this section, the budgetary allocation from the State Government and grants from any other sources.

*Funds of  
the  
Commission.*

9. The Commission shall prepare and submit to the House of Assembly not later than 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 of  
the  
Commission.*

10. (1) The Commission shall have the following division for the purposes of discharging its functions:

- (a) Policy and Standards;
- (b) Administration and Finance;
- (c) Monitoring and Evaluation;
- (d) Legal and Investigation;
- (e) Communications ; and
- (f) Planning, Research and Statistics.

*Structure of  
the  
Commission.*

*Medium-Term  
Expenditure  
Framework*

11. (1) The State Government after consultation with the Local Government Councils shall:
- (a) not later than six months from the commencement of this Law, prepare and lay before the House of Assembly for consideration a Medium-Term Expenditure Framework for the next three financial years; and
- (b) shall not later than four months before the commencement of the next financial year immediately after the end of every three financial year prepare a Medium-Term Expenditure Framework for the next three financial years.

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- (2) The State House of Assembly shall approve by a resolution the framework laid before it with some modifications, if any.
- (3) The Medium-Term Expenditure Framework shall contain:
- (a) The State economic framework setting out the State's economic projections, for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the State's economic projections for the preceding three financial years;
- (b) a Fiscal Strategy Paper setting out:

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- (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 relates to the economic objectives set out in Section 16 of the Constitution;

- (c) an expenditure and revenue framework setting out:
  - (i) estimates of aggregate revenue for the State for each financial year, based on the estimated Federal Allocation and tax revenue projections;

- (ii) aggregate expenditure projection for the State for each financial year in the next three financial years;
  - (iii) minimum capital expenditure flow 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 sub-section shall be:
- (i) based on reliable and consistent data certified in accordance with Section 18(a) of this Law;

- (ii) consistent with and derive from the underlying assumptions contained in the State 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.

12. The estimates of:

- (1) 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 percent of the Estimated Gross Domestic Product of the State or any sustainable percentage as may be determined by the House of Assembly for each financial year.

*Aggregate  
Expenditure  
Ceiling.*

- (2) aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of sub-section (1), if in the opinion of the Governor there is a clear and present threat to State Security or sovereignty of the Federal Republic of Nigeria.

13. (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 Medium-Term Expenditure Framework, the Commissioner:

- (a) may hold public consultation on the Stateeconomic 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 under consideration..

- (b) shall seek inputs from:
- (i) Ministry of Finance, Economic Planning and Budget;

- (ii) Local Government Councils;
- (iii) Osun State House of Assembly;
- (iv) Osun State Board of Internal Revenue; and
- (v) Any other relevant body as the Commissioner may determine.

(c) shall consider and reflect as may be deemed appropriate on the input of the bodies and persons referred to in sub-section (a) and (b).

14. (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

*Time limit  
for  
Presentation  
of Medium-Term  
Expenditure  
Framework  
to the State  
Executive  
Council.*

consideration and endorsement.

(2) The Medium-Term Expenditure Framework as endorsed by the State Executive Council shall take effect upon the approval of two-third majority of members of the House of Assembly present and voting.

15. The Medium-Term Expenditure Framework as approved by the House of Assembly shall be published in the State Official Gazette

*Publication of Medium-Term Expenditure Framework in the State Official Gazette.*

16. (1) Subject to sub-section (2), the Governor may cause adjustments to be made to a Medium-Term Expenditure Framework before the approval of the House of Assembly.

*Modification of 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.

17. Local Government Councils may be assisted by the State Government to manage their fiscal affairs within the medium-term framework.

*Assistance to Local Government Councils.*

18. Notwithstanding anything to the contrary contained in this Law or any other Law, the Medium-Term Expenditure Framework shall:

*Annual Budget to be derived from Medium-Term Expenditure Framework*



- (a) 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.
  - (b) have sectoral and compositional distribution of the estimates of expenditure referred to in subsection (a) and shall be consistent with the medium term developmental priorities set out in the Medium-Term Expenditure Framework.
19. The estimates of revenue and expenditure (in the 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;

*Annual  
Budget to  
be  
accompanied  
by certain  
Document.*

- (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget or 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 estimated Federal Allocation and Tax Revenues as contained in the Medium-Term Expenditure Framework;
- (d) measures on cost, cost control and evaluation of result of programmes financed by budgetary resources;

(e) 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.

20. In preparing their Annual Budget, Local Government Councils may adopt the provisions of this Law with such modification as may be necessary.

21. (1) Notwithstanding any other provision in this Law or any other Law, Government corporations, institutions, agencies government owned companies and statutory bodies listed in Schedule 1 of this Law (in this Law referred to as the "Corporations")

*Preparation  
of Estimates  
of Revenue  
and  
Expenditure  
by  
Corporations,  
etc.*

shall, not later than 6 months from the date of 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 scheduled estimates of revenue and expenditure for the next three financial years.

(2) Each of the corporations referred to in sub-section (1) 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 sub-section (1); and

(b) projected operating surplus

which shall be prepared in line with acceptable accounting practices.

- (c) its annual revenue estimate for the following year, including the net current revenue and the respective memorandum items. Estimated revenue shall be broken down by the corporations into monthly collection targets, including, where applicable, a separate description of measures to combat fraud and evasion.

- (3) The Commissioner shall cause the estimates submitted in pursuance of sub-section (2) to be attached as part

of the Appropriation Law to be submitted to the House of Assembly.

- 22. (1) Notwithstanding the provisions of any written Law governing a corporation, each corporation shall establish a general reserve fund and shall allocate to it at the end of each financial year, one-fifth of its operating surplus for the year.

- (2) Notwithstanding anything to the contrary contained in this Law, or the provisions of any written law governing a corporation, 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

*Operating  
Surplus  
and  
General  
Reserve  
Fund.*

deadline for publishing each corporation's account.

23. (1) The surpluses of the Corporations shall be classified as a State Treasury Revenue.

*Classification of Corporation Operating Surplus.*

(2) Where the account of a corporation is in deficit, the deficit shall be classified as the corporation's loss for the fiscal year.

(3) Each corporation shall, not later than three (3) months after the end of its financial year, prepare and publish its audited financial reports in accordance with such rules as may be prescribed by the Auditor-General of the State.

24. The provisions of Sections 20, 21 and 22 shall cease to apply to any corporation from the date of its privatization.

*Cessation of Application of Part IV.*

25. (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.

26. The Commissioner, shall within thirty (30) days of the enactment of the Appropriation

*Disbursement Schedule.*

Law, prepare and publish a disbursement Schedule for the purpose of implementing the Appropriation Law.

27. (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), the Commissioner, subject to the written approval of the Governor, may in exceptional circumstances and in the overall public interest, recommend for the approval of the House of Assembly virements from a sub-head of account, without exceeding the amount appropriated to another sub-head of account.

28. (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 thirty days of such determination, take appropriate measures to restrict further commitments and financial operation according to the criteria set in the Fiscal Risk Appendix.

*Power to  
Restrict  
further  
Commitments.*

(2) Where the target 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 sub-section (1) and (2) shall not apply to statutory or Constitutional expenditure.

29. (1) The Commissioner shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal target and report thereon on a quarterly basis to the Commission and the Finance Committee of the House of Assembly.

*Responsibilities  
of the  
Ministry of  
Finance,  
Economic  
Planning  
and  
Budget.*

(2) The Commissioner may publish the report prepared pursuant to sub-section (1) in the print and electronic media and on the State website.

30. In implementing its annual budgets, a Local Government Council may adopt the provisions of Sections 25 to 30 of this Law with such modifications as may be necessary.

*Application  
by Local  
Government  
Council.*

31. Any fund due to the State from a Local Government may be set off by the State in or towards payment or remittance of any sum due to that local government from the State.

*Collection  
of Public  
Revenue.*

32. The Executive Arm of the State Government shall, at least thirty (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

*Revenue  
Forecast.*

the net current revenue and the respective memorandum items.

33. Estimated revenue shall be broken down by the Executive Arm of Government into monthly collection targets, including, where applicable, a separate description of measures to combat tax fraud and evasion in accordance with the Personal Income Tax Act.

*Executive  
to  
breakdown  
Estimated  
Revenues.*

34. (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

*Conditions  
for  
Increasing  
Government  
Expenditure.*

(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.

35. Any person who contravenes the provisions of section 34 commits an offence and shall be liable, on conviction to imprisonment for one year or a fine of one hundred thousand naira.

*Penalty for  
Contravention  
of section 34*

36. All contracts with regards to the execution of annual budget shall comply with the provisions of the existing Public Procurement Law.

*All  
Contracts  
to comply  
with Rules  
and  
Guidelines.*

37. (1) The framework for debt management during the financial year shall be based on the following rules:

*Framework  
for Debt  
Management.*

(a) the State and Local Governments 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 reasonable 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 as a proportion of the State income is held at a sustainable level as prescribed by the House of Assembly, on the advice of the Commissioner.

(2) Notwithstanding the provisions of sub-section 1(a) and subject to the approval of the House of Assembly, the State and Local Government may borrow from the capital market.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable, on conviction to imprisonment for two (2) years or a fine of Five Hundred Thousand Naira (A500,000.00).



38. (1) The Governor shall within 90 days from the commencement of this Law and with advice from the Commissioner, subject to approval by the House of Assembly, set overall limits for the amounts of consolidated debt of the State and Local Government Councils pursuant to the provisions of items 7 of Part 1 of the Second Schedule to the Constitution and the limits and conditions approved by the House of Assembly, shall be consistent with the rules set in this Law and with the fiscal policy objectives in the Medium-Term Fiscal Framework.

*Limits on Consolidated Debt of State and Local Government Councils.*

(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 Government Councils.

(4) The Commission shall publish, on a quarterly basis, a list of Corporations, Agencies and Government-Owned Companies and Local Government Councils in the 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 the Corporations, Agencies and Government – Owned Companies and Local Government Councils exceed the limits; it shall be brought within the limit not later than the end of the three subsequent quarters with a minimum of 25 percent reduction in the first quarter.

(6) Violators of the limits specified pursuant to this section shall:

(a) be prohibited from borrowing from internal or external sources, except for the refinancing of existing debts; and

(b) bring the debt within the established limits by restricting funding commitments accordingly.

(7) Where non-compliance with the limit specified in this section persist after the time limited by sub-section (5), Corporations, Agencies, and Government-Owned Companies and Local Government shall be prohibited from receiving grants from government except for refinancing existing debt.

(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.

39. (1) Servicing of external debts shall be the direct responsibility of the Government that incurred the debt.

*Servicing  
of External  
Debt.*

(2) The cost of servicing State Government guaranteed loans shall be deducted at source from the share of the debtor Government from the State Joint Local Government Account.

40. (1) Any Government in the State 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  
for  
Borrowing  
and  
Verification  
of  
Compliance  
with Limits.*

and the method of repayment of the loan.

(2) Without prejudice to sub-section (1) each borrowing shall comply with the following conditions:

(a) the existence of prior authorization in the Appropriation or other Act or 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-terms capital expenditures.

(3) Nothing in this Section shall be construed to authorize borrowing in excess of the limits set out section 36 and 37 of this Law.

(4) The Commission shall verify on a quarterly basis compliance with the limits and conditions for borrowing by each Corporations, Agencies, Government – Owned Companies and Local Government in the State.

(5) Without prejudice to the specific responsibilities of the House of Assembly of the State, the Ministry of Finance, Economic Planning and Budget shall maintain comprehensive, reliable and current electronics database of internal and external public debts guaranteeing public access to the information.

41. (1) All banks and financial institutions shall request and obtain proof of

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*Lending by  
Financial  
Institutions.*

compliance with the provisions of this Law before lending to any Government in the State.

(2) Lending by banks and financial institutions in contravention of this Law shall be unlawful.

42. The Central Bank of Nigeria in its relations with State and Local Government Councils and government agencies and parastatals shall be subject to section 46 of the Fiscal Responsibility Act, No. 31 of 2007.

*Application  
of section  
46 of the  
Fiscal  
Responsibility  
Act.*

43. (1) Subject to the provisions of this Law, the Commissioner for Finance may with the approval of the State Executive Council, grant guarantees on behalf of any Corporation, Agency,

*Power of  
the  
Commissioner  
to Grant  
Guarantees.*

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Government-Owned Companies and  
Local Government in the State.

(2) Any guarantee granted pursuant to sub-section (1) of this section, 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 requesting Corporation, Agency, Government-Owned Companies or Local 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

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(b) the counter-guarantee required by the State Government from Local Government, may consist in the appropriation of tax revenue directly collected and resulting from statutory transfers and the guarantor shall be authorized to retain such revenue and use the respective amount to repay overdue debts.

(3) In the case of foreign currency borrowing, State Government guarantee shall be a requirement and no Local Government or State Agency shall, on its own borrow externally.

(4) Any person who gives guarantee provided in excess of the debt limits set pursuant to section 37(1) of this

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Law commits an offence and shall on conviction, be liable to imprisonment for 2 years or to a fine of five hundred thousand naira or both.

44. (1) The State Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and 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 Law.

*Fiscal  
Transparency;*

45. (1) The State Government shall publish their audited accounts not later than six months following the end of the financial year in the State Official Gazette, newspapers of national and local circulation or the website of the Ministry of Finance.

(2) The State Government shall, not later than two years following the commencement of this Law and thereafter, not later than 7 months following the end of each financial year, consolidate and publish in the mass media, its audited accounts for the previous year.

(3) The publication of general standards for the consolidation of public

*Publication  
of Audited  
Accounts.*

accounts shall be the responsibility of the Office of the Accountant-General of the State.

46. The State Government shall within 30 days after the end of the each quarter, publish a summarized report on budget execution in such form as may be prescribed by the 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 for submission to the House of Assembly and dissemination to the public.

*Publication  
of a Report  
on Budget  
Execution.*

47. (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.

(2) Any person who under-declares revenues generated or collected by any of the establishments listed in Schedule 1 shall be guilty of an offence and liable on conviction to imprisonment for a term of 5 years or a fine of 10 percent of the total amount under declared.

(3) Any person who authorizes the spending of any money collected or generated pursuant to Section 2 of

*Enforcement.*

this Law without appropriation by the House of Assembly shall be guilty of an offence and liable on conviction to imprisonment for a term of 5 years or a fine of 10 percent of the total amount expended.

48. The State High Court shall have exclusive jurisdiction to try offences under this Law.

*Jurisdiction of State High Court to Try Offences.*

49. Government securities, provided that, they are daily listed on the stock exchange, may be offered as collateral to guarantee loans or other financial transactions under this Law for their economic values as defined by the Ministry of Finance, Economic Planning and Budget.

*Government Securities as Collateral to Guarantee Loans.*

50. 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 shall be used to liquidate any existing liabilities over such properties or assets.

*Restriction of Utilization of Proceeds of Sale of Public Assets.*

51. The State Government shall provide technical and financial assistance to Corporations and Local Government Councils to enable them comply with the provisions of this Law and the modernization of their respective tax, financial and asset administration.

*Technical and Financial Assistant to State and Local Government Councils.*

52. Employment in the Commission shall be subject to the provisions of the Civil Service

*Pensions.*



rule of the State and employees of the Commission shall be entitled to pensions and other retirement benefits under the Pension Law.

53. The provisions of this Law shall apply to Local Government Councils.

*Application of the Law to Local Government Councils.*

54. The Governor shall, in addition to any other power conferred on him under this Law, have powers to give directives of a specific or general nature to the Commission, provided that such directives shall not be contrary to this Law.

*Power of the Governor to give Directions.*

55. In this Law:-

*Interpretation.*

“**Appropriation Law**” means a Law passed by the State House of Assembly

or Local Government Legislative Council authorizing spending from the Consolidated Revenue Fund and includes a Supplementary Appropriation Law;

“**Appropriation Law**” means the Law referred to in Section 100 of the Constitution of the Federal Republic of Nigeria, 1999;

“**Arms of Government**” means the Executive, Legislative and Judiciary;

“**Borrowing**” means any financial obligation arising from:

- a. any loan including principal, interest, 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 respect thereto;
- e. trade or bankers acceptance;
- f. Capitalized amount of obligations under leases entered into 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 agreements, capital lease or other little 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;

**“Commissioner”** means the Commissioner or Special Adviser charged with the responsibility for Budget and Economic Planning,

**“Concessional terms”** means that 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) borrowed money including principal, interest, fees of such borrowed money,
- (ii) the deferred payment for property, goods or services;
- (iii) bonds, debentures, note or similar instruments,
- (iv) letters of credit and reimbursement obligations with respect thereto;
- (v) Guarantees,
- (vi) trade or banker's acceptances,
- (vii) capitalized amounts of obligations under leases entered into primarily as a method of raising financing 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 comprises the cost of undertaking a service, project or programme with the benefits that citizens are likely to derive from it

**"Financial Year"** means 1st of January to 31st December.

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

**"Fiscal Year"** has the meaning ascribed in the Constitution;

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

**"Government"** means both State and Local Government in the State;

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

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

**"Medium Term Expenditure Framework"** means the document

referred to and the content of which is prescribed in Section 1 of this Law;

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

**"Public Revenue"** 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;

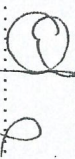
**"Recurrent Expenditure"** means normal overhead and administrative expenses and personnel cost including salaries, emoluments and other benefits of employees;

“State” means State of Osun;

“Tax revenue projections” means the projected collectible tax or revenue within a particular planning period;

This printed impression has been carefully compared with the Law which has been passed by the State of Osun House of Assembly and it is hereby certified to be a true and correctly printed copy of the Law.

  
.....  
**MR. F. T. OMISAKIN**  
*Permanent Secretary/Clerk of the House*  
*State of Osun House of Assembly*

  
.....  
**HON. NAJEEB F. SALAAM**  
*Hon. Speaker*  
*State of Osun House of Assembly*