

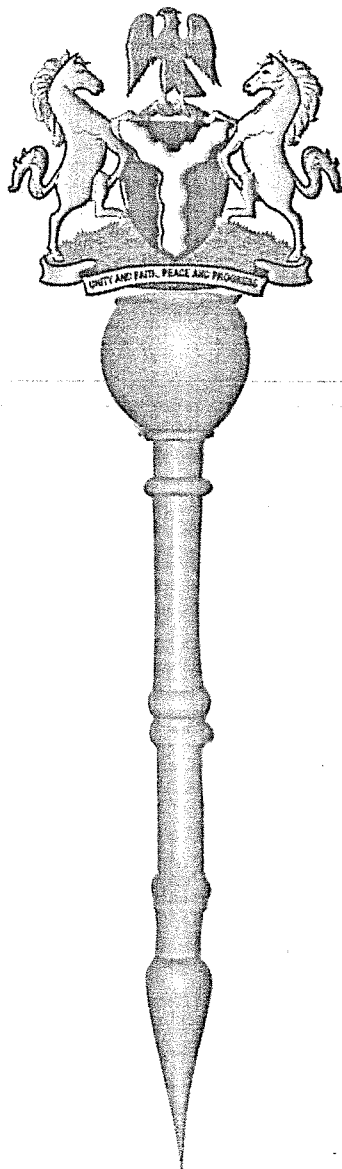


LAWS

ENACTED BY THE

**RIVERS STATE
HOUSE OF ASSEMBLY**

**2007 - 2011
VOLUME 3**



**LAWS ENACTED BY THE
RIVERS STATE HOUSE OF ASSEMBLY,**

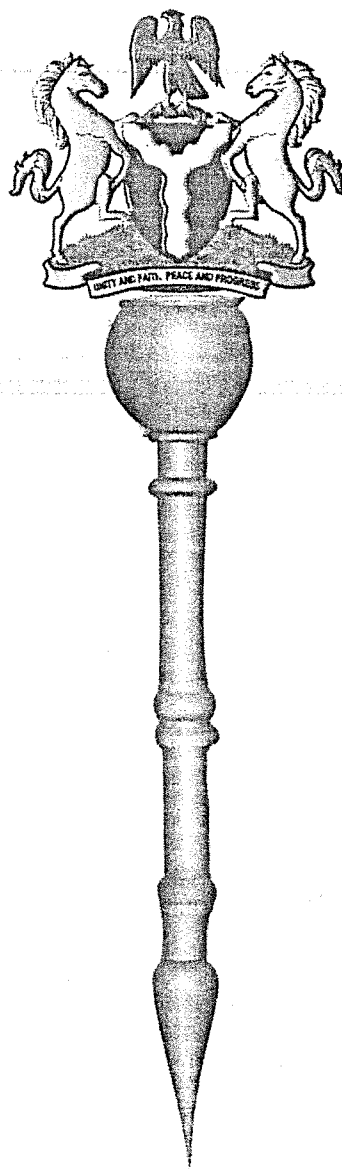
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VOLUME 3

**LAWS ENACTED BY THE
RIVERS STATE HOUSE OF ASSEMBLY**

2007 - 2011



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RIVERS STATE HOUSE OF ASSEMBLY**

Hon. Martin C. Amaewhule JP

VOLUME 3

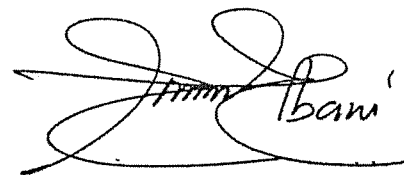
FORWARD

As Rt. Hon. Speaker of the Eight Assembly, I have immeasurable pleasure to associate my self with tendencies that are liberal enough to deepen democratic values and norms especially when placed on the canvass of justice.

Against this back-drop therefore I much welcome this reprinted edition of volume 3 of the laws enacted by the Rivers State House of Assembly from 2007-2011. We are acutely aware of the depth and breadth of the obstacles facing those who need to use the justice system and indeed honourable members and staff of the assembly as a result of unavailability of the previous edition. This reprinted edition is therefore a big step forward in our continuing efforts to make the laws available to people.

Our commitment to peace, order and good governance remains unwavering and this would further be enhanced by the quality of service we render to the citizenry through quality laws and collaboration with other arms of government. Making available bound copies of all laws passed by the House will therefore remain one of our cardinal objectives.

I commend the House Leader, Hon. Martin Chike Amaewhule for seeing to it that this volume is reprinted and in good time thereby closing the gap created by its unavailability.



Rt. Hon. Ikuinyi-Owaji Ibani
Speaker

CHAPTER 26

RIVERS STATE FISCAL RESPONSIBILITY LAW,
NO. 8 OF 2010

Assented to 2nd this day of September, 2010

ARRANGEMENT IN SECTIONS

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- Enactment
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SCHEDULE

CHAPTER 26

**RIVERS STATE FISCAL RESPONSIBILITY LAW,
NO. 8 OF 2010**

A Law to provide prudent management of the State's Resources, ensure Long-term Macro-Economic stability of the Economy of the State, 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.

]

BE IT ENACTED by the House of Assembly of Rivers State of Nigeria

General Statement of Purpose

Commencement

Enactment

**PART 1 - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE
FISCAL RESPONSIBILITY COMMISSION**

1. (1) There is hereby established, the Rivers State Fiscal Responsibility Commission (in this Law referred to as "the Commission").
 - (2) The Commission:
 - (i) is a body corporate with perpetual succession and a common seal; may sue and be sued in its corporate name; has the functions assigned to it by this law.
 - (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:
 - (a) monitor and enforce the provisions of this Law, and 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, diagnose and disseminate the result to the public;
 - (d) make rules for carrying out its functions under this Law; and
 - (e) 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 Act shall apply to 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;

Establishment of the
fiscal responsibility
Commission

Functions of the
Commission

Responsibilities and
powers of the
Commission

- (b) superintend over the implementation of its policies;
- (c) appoint such number of employees as may in its opinion be expedient for the proper and efficient 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 the terms and conditions of service as applicable to the public service of the state;
 - (i) apply the Civil Service rules to its employees
- (f) fix 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;
- (g) 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 in line with best practices and such other matters as the Commission may at any time, determine;
- (h) compel any body to information relating to revenues and expenditure; disclose public revenues and expenditure.
- (i) investigate 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;
- (j) make regulations for the effective implementation of this Law; and
- (k) do such other things, which in its opinion are necessary for the effective performance of its functions.

(1) The Commission shall consist of:

- (a) a chairman, who is the Chief Executive and accounting officer of the Commission;

Composition of the
Commission

- (b) Four other commissioners who shall be appointed by the Governor:
 - (c) a representative of the Ministry of Finance not below Salary Grade Level 15;
 - (d) a representative from the Ministry of Budget and Economic Planning not below Salary Grade Level 15; and
 - (e) one commissioner to represent each of the three Senatorial Districts of the State.
- (2) The Chairman shall be a person of proven integrity who shall -
- (a) possesses the relevant degree in either public administration, management, law, economics, accounting or banking and finance; and
 - (b) be an indigene of Rivers State.
- (3) All commissioners, including the chairman, 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 commissioners shall be appointed by the Governor subject to confirmation by the House of Assembly.
- (5) The Chairman and commissioners representing the three senatorial districts shall be full time members.
5. The Chairman and the commissioners shall hold office for a single term of 5 years.
6. (1) There shall be paid to the Chairman and commissioners, such salary, allowances and benefits as the Governor may at any time, approve.
- (2) There shall be paid to other members of the Commission 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 -
- (a) he becomes bankrupt or compromises with his creditors;
 - (b) he is convicted of a felony or any offence involving dishonesty, corruption or fraud;

Tenure of office

8

Emoluments etc of Commissioners

9

Removal from office

10

- (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 2/3 (two- third) majority of members present and voting.
- (e) he has been found guilty of violation of the code of conduct or serious misconduct in relation to his duties;
- (f) he resigns his appointment by a notice under his hand, addressed to the 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.

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

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

Funds of the
Commission

The Commission shall prepare and submit to the House of Assembly not later than 30th June in each financial year; a report of its activities including all cases of contravention investigated during the preceding financial year, and shall include in the report a copy of its audited accounts for the preceding financial year.

Submission of
annual report of the
Commission

PART II - THE MEDIUM-TERM EXPENDITURE FRAMEWORK

(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.
- (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) State economic Framework setting out the State economic projections, for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the State 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, 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 relating to the economic objectives set out in Section 16 of the Constitution;
 - (c) an expenditure and framework setting out: revenue
 - (i) estimates of aggregate revenues 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 subsection shall be:

- (i) based on reliable and consistent data certified in accordance with Section 12 (2) (b) 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.

11. 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.
- (2) aggregate expenditure for financial year may exceed the ceiling imposed by the provisions of subsection (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.

Aggregate expenditure ceiling

12. (1) The Commissioner in charge of budget 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 State economic Framework, the Fiscal Strategy Paper, the Revenue and Expenditure Framework, the strategic, economic, social and developmental priorities of government, and such other matters as the Commissioner deems necessary:

Provided that, such consultations shall be open to the public, the press and any citizen or authorized representatives of any organization, group of citizens, who may attend and be heard on any subject matter under consideration.

(b) shall seek inputs from:

- (i) Ministry of Finance;
- (ii) Greater Port Harcourt City Development Authority.
- (iii) Rivers State Sustainable Development Agency;
- (iv) Rivers State Microfinance Agency;
- (v) Local Government Councils;
- (vi) Rivers State House of Assembly;
- (vii) Rivers State Board of Internal Revenue; and
- (viii) any other relevant body as the Commissioner may determine.

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

13. (1) The Commissioner shall before the end of the second quarter of each financial year, present Medium-Term Expenditure Framework to the State Executive Council for consideration and endorsement.

Time limit for presentation of medium Term Expenditure Framework to State Executive Council

(2) The Medium-term Expenditure Framework as endorsed by the State Executive Council shall take effect upon the approval of 2/3 (two-third) majority of members of the House of Assembly present and voting.

14. 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 Gazette

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

Publication 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.

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

Assistance to Local Governments Councils

PART III - THE ANNUAL BUDGET

17. 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 (1) and shall be consistent with the medium term developmental priorities set out in the Medium Term Expenditure Framework.

18. The estimates of revenue and expenditure (in the Law referred to as the "*Annual Budget*") shall be accompanied by:

Annual budget to be accompanied by certain documents.

- (a) a copy of the underlying revenue and expenditure profile for the next two years;
- (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget 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 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.

19. In preparing their annual budget, Local Government Councils may adopt the provisions of this Part with such modification as may be necessary.

Application of Part III to Local Government Councils

PART IV - BUDGETARY PLANNING OF CORPORATIONS AND OTHER RELATED STATUTORY BODIES

20. (1) Notwithstanding any other provision in this Law or any other Law, Government corporations, institutions, agencies government owned companies and statutory bodies listed in the Schedule to this Law (in this Law referred to as the Corporations) shall, not later than 6 months from the date of commencement of this Law and for every three financial years

Preparation of estimates of revenue and expenditure by corporations, etc.

thereafter and not later than the end of the second quarter of every year, cause to be prepared and submitted to the Commissioner their Schedule estimates of revenue and expenditure for the next three financial years.

(2) Each of the bodies referred to in subsection (1) shall submit to the Commissioner not later than the end of August in each financial year;

Schedule

(a) an annual budget derived from the estimates submitted in pursuance of subsection (1); 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) to be attached as part of the Appropriation Bill to be submitted to the House of Assembly.

21. (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.

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 account.

22. (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 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.

23. 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

PART V - BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

Annual Cash Plan

(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.

(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.

The Commissioner, shall within 30 days of the enactment of the Appropriation Law, prepare and publish a disbursement Schedule for the purpose of implementing the Appropriation Law.

Disbursement
Schedule

(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.

Power to restrict
further Commitment

(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 operation according to the criteria set in the Fiscal Risk Appendix.

(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 subsections (1) and (2) shall not apply to statutory or Constitutional expenditure.

(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 Commission and the Finance Committee of the House of Assembly.

Responsibility of the
Ministry of Budget and
Economic Planning.

(2) The Commissioner may published the report prepared pursuant to subsection (1) in the print and electronic media and on the State website.

Application of Part V
to Local Government
Councils.

29. In implementing its annual budgets, a Local Government Council may adopt the provisions of this Part with such modifications as may be necessary.

PART VI - PUBLIC REVENUES

30. 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. Forecast and collection of public revenues.
31. The Executive Arm of the State Government shall, at least 30 days before the deadline for the submission of its budget proposals, place at the disposal of the House of Assembly, the revenue estimates for the following year, including the net current revenue and the respective memorandum items. Revenue forecast.
32. 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 revenue.

PART VII - PUBLIC EXPENDITURE

33. (1) The creation, expansion or improvement in government action which result in an expenditure increase shall be accompanied by: Conditions for increasing government expenditure.
- (a) an estimate of the budgetary or financial impact in the year it becomes effective and in the two subsequent years; and
 - (b) a statement by the person requesting for the expenditure, stating 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.
34. All contracts with regards to the execution of annual budget shall comply with the provisions of the Public Procurement Law No.4 of 2008. All contracts to comply with rules and guidelines.
35. Any person who contravenes the provisions of section 34 commits an offence and shall be punished in accordance with the provisions of the Public Procurement Law No.4 of 2008. Penalty for contravention of Section 34.

PART VIII - DEBT AND INDEBTEDNESS

36. (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 subsection 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 2 years or a fine of one hundred thousand naira.
37. (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 respective limits; it shall be brought within the limit not later than the end of the three subsequent quarters with a minimum of 25 per cent reduction in the first quarter.

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

- (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 subsection (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.

38. (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.

PART IX – BORROWING

39. (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, and the method of repayment of the loan.

Conditions of borrowing and verification of compliance with limit

(2) Without prejudice to subsection (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 in 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 State House of Assembly the Ministry of finance shall maintain comprehensive, reliable and current electronic database of internal and external public debts guaranteeing public access to the information.

40. (1) All banks and financial institutions shall request and obtain proof of compliance with the provisions of this Part before lending to any Government in the State.

Lending by Financial Institutions

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

41. 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.

42. (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 Corporation, Agency, Government - Owned Companies and Local Government in the State.

Power of the Commissioner of Finance to grant guarantees.

(2) Any guarantee granted by the Commissioner for Finance subject to the approval of the Executive Council, 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
 - (b) the counter-guarantee required by the State Government from Local Government, or by State 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 Law commits an offence and shall on conviction, be liable to imprisonment for 2 years or to a fine of one hundred thousand naira or both.

PART X - TRANSPARENCY AND ACCOUNTABILITY

- 43. (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 Bill.
- 44. (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 accounts shall be the responsibility of the office of the Accountant-General of the State.
- 45. The State Government shall through its budget within 30 days after the end of the each quarter, publish a summarized report on budget-execution

Fiscal Transparency

Publication of Audited Account

Publication of a 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.

PART XI – ENFORCEMENT

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

Enforcement

PART XII - MISCELLANEOUS PROVISIONS

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

Government Securities, as collateral to guarantee loans

8. 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 on utilization of proceeds of sale of Public Assets, etc.

9. 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.

10. Employment in the Commission shall be subject to the provisions of the Civil Service rule of the State and employees of the Commission shall be entitled to pensions and other retirement benefits.

Pensions

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

Application of this Law to Local Government

PART XIII - INTERPRETATION

12. 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 Bill" means the Bill referred to in Sections 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:

- (i) any loan including principal, interest, fees of such loan;
- (ii) the deferred payment for property, goods or services;
- (iii) bonds, debentures, notes or similar instruments;
- (iv) letters of credit and reimbursement obligations respect thereto;
- (v) trade or bankers acceptance;
- (vii) Capitalized amount of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased;
- (ix) 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
- (x) a conditional sale agreements, capital lease or other little retention agreement;

"Budget call Circular" means:

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

"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 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;

"Ex-Officio Members" means representatives of bodies or groups.

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

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

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

"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 Rivers State;

"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;

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

"Public Debt Securities" means public debt represented by securities issued by the State 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" 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;

"Reference Commodity Price" means such price as may be determined by the Governor Subject to the approval of the House of Assembly;

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

"State Financial institution" means any financial institution in which one or more state governments have controlling shares;

"State" means Rivers State;

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

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

54.

This Law may be cited as the Rivers State Fiscal Responsibility Law, 2010

Citation

SCHEDULE

Section 20
LIST OF CORPORATIONS, AGENCIES AND
GOVERNMENT-OWNED COMPANIES

1. Rivers State Newspaper Corporation.
2. Rivers State Microfinance Agency.
3. Rivers State Sustainable Development Agency.
4. The Rivers State Broadcasting Corporation.
5. The Rivers State Council for Arts and Culture.
6. The Rivers State Sports Council.
7. The Sports Institute, Isaka.
8. The Rivers State Stadia Authority.
9. The Rivers State Housing and Property Development Authority.
10. The Parks and Gardens Committee.
11. The Rivers State School to Land Authority.
12. The Rivers State Environmental Sanitation Authority.
13. Rivers State Independent Electoral Commission Law.
14. Rivers State College of Health Technology.
15. Rivers State Traffic Management Authority.
16. Any other corporation, agency or government-owned company that is included by Commissioner of Finance through a local notice.

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