

**EKITI STATE DEBT MANAGEMENT
OFFICE LAW, 2020.**

NO. 14 OF 2020

EKITI STATE OF NIGERIA

EKITI STATE DEBT MANAGEMENT OFFICE LAW, 2020.

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EKITI STATE DEBT MANAGEMENT OFFICE LAW, 2020.

NO. 14 OF 2020.

**A LAW TO PROVIDE FOR THE ESTABLISHMENT AND OPERATIONS
OF THE EKITI STATE DEBT MANAGEMENT OFFICE AND OTHER
MATTERS CONNECTED THEREWITH.**

EKITI STATE OF NIGERIA.

Commencement / /

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

PART I

**ESTABLISHMENT, FUNCTIONS AND POWERS OF THE DEBT
MANAGEMENT OFFICE.**

Establishment of Ekiti State Debt Management Office.

1. There is hereby established a body to be known as the Ekiti State Debt Management Office (in this Law referred to as 'the Office') which:
 - (a) shall be a body corporate with perpetual succession and common seal;
 - (b) may sue and be sued in its corporate name; and
 - (c) may acquire, hold and dispose off property whether movable or immovable for the purpose of exercising its functions under this Law.

Functions of the Office.

2. The Office shall:
 - (a) issue, on behalf of the State, such debt securities as the State may approve from time to time;
 - (b) borrow, on behalf of the State Government, from any individual or Institutional bodies as may be approved by the State;

- (c) maintain a reliable database of all debt securities, loans, taken or guaranteed by the Government or any of its agencies and all contingent liabilities related to it;
- (d) prepare and submit to the Government, a forecast of loan service obligations for each financial year;
- (e) prepare and implement a plan for the efficient management of the State's debt obligations, sustainable levels compatible with desired economic activities for growth and development; and participate in negotiation aimed at realizing those objectives;
- (f) verify and service debt guaranteed or taken directly by the Government;
- (g) reconcile and where applicable service debts taken by local government where such debts are authorized and guaranteed by the Government;
- (h) set guidelines for managing Government financial risks and financial exposure with respect to all loans and instruments;
- (i) advise Government on the restructuring and refinancing of all debt obligation;
- (j) advise Government on the terms and conditions on which monies are to be borrowed;
- (k) submit to the Government for consideration in the annual budget, a forecast of the State's borrowing capacity;
- (l) prepare a schedule of any other Government obligation such as trade debt and other contingent liabilities and provide advice on policies and procedures for their management;
- (m) ensure that charge of grant, guaranteed debt and contingent liabilities are registered and updated regularly;
- (n) provide timely and accurate information on the Government debt to assist policy makers;
- (o) assess lending terms from various sources and negotiate best possible terms for future borrowings;
- (p) establish and maintain relationships with international and local financial institutions, creditors and institutional investors in Government debts;

- (q) collect and collate data on debt management and disseminate information with the approval of the Board;
- (r) advise and propose funding mechanisms for infrastructural projects that may be referred to it;
- (s) consult with the Central Bank of Nigeria with respect to the general objectives of its debt management functions as they relate to the existing monetary policy in Nigeria, and;
- (t) carry out such other functions which are required for the effective implementation of its functions under this Law.

Powers of the Office.

3. The Office shall have the power to:
- (a) issue and manage the State loans as prescribed under any regulation/laws and upon such terms and conditions as may be approved by the Executive Council;
 - (b) issue, from time to time, guidelines for the smooth operation of any debt, bond or securities issuance programme of the State and;
 - (c) do such other things which, in the opinion of the Board, relate to the management of debts of the State.

PART II ADMINISTRATION.

Establishment of the Board for the Office.

4. (1) There is established for the office a Board to be known as the Ekiti State Debt Management Office Board (in this Law referred to as 'the Board') which shall consist of:
- (a) the Commissioner for Finance, who shall be the Chairman;
 - (b) the Attorney-General and Commissioner for Justice, who shall be the Vice - Chairman;
 - (c) the Commissioner for Budget and Economic Planning,
 - (d) the Secretary to the State Government;
 - (e) the Accountant-General of the State;
 - (f) the Executive Secretary; and

- (g) a representative of the private sector appointed by the Governor, who shall be a person competent in financial matters;
- (2) The Executive Secretary shall serve as the secretary to the Board.

Tenure of office and allowance of Board members.

- 5. (1) Subject to the confirmation of the House of Assembly, the members of the Board shall hold office for a period of four (4) years and may be eligible for re-appointment for a further term of four (4) years, as may be approved by the Governor.
- (2) Members of the Board shall be paid such allowance as may be approved by the Governor.

Removal or cessation of the Board members.

- 6. (1) Notwithstanding the provision of Section 5 (1) of this Law, a member of the Board shall cease to hold office if he has:
 - (a) resigned his appointment as a member of the Board by notice under his hand, addressed to the Governor;
 - (b) by reason of mental or bodily infirmity, become incapable of discharging his duties;
 - (c) been convicted of an offence which involves dishonesty or moral turpitude and;
 - (d) become bankrupt or made a compromise with his Creditors.
- (2) The Governor may remove any member of the Board if he is satisfied that it is in the public interest to do so.

Functions of the Board.

- 7. The Board shall:
 - (a) approve policies, strategies and procedures to be adopted by the Office for the achievement of its objectives;
 - (b) review, from time to time, the economic and political impact on the State of debt management strategies;
 - (c) appoint, as and when necessary, technical committees comprising of persons with requisite technical competence from the private or public

sector to advise the Office on such matters as may be determined from time to time;

- (d) recommend, for the approval of the Governor, member of any debt issuance programme of restructuring Committee; and
- (e) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Office.

Quorum of the Board.

- 8. (1) Subject to the provisions of this Law and the Interpretation Law, the Board may take Standing Orders regulating its proceedings or those of any of its Committees.
- (2) The quorum of the Board shall be the Chairman, Vice-Chairman or the person presiding at the meeting and three (3) other members of the board, and the quorum of any committee of the Board shall be determined by the Board.

Notice of Meeting of the Board.

- 9. (1) The Board shall meet not less than four times in each year and subject thereto, the Board shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by the notice given to him by not less than four (4) other members, he shall summon a meeting of the Board to be held within twenty-eight (28) days from the date on which the notice is given.
- (2) At any meeting of the Board, the Chairman shall preside, but if he is absent, the Vice-Chairman shall preside over the meeting, if the Vice-Chairman is absent, the members present at the meeting shall appoint one of them to preside over the meeting.
- (3) Where the Board desires to obtain the advice of any person on a particular matter, it may co-opt such person to the Board for such period as it deem fit; provided a person who is in attendance by virtue of this sub-section shall not be entitled to vote at any meeting of the Board and shall not count towards as a quorum.

Appointment of Committees.

10. (1) The Board may appoint one or more committees to carry out on its behalf such functions as it may determine.
- (2) A committee appointed under this paragraph shall consist of members of person as may be determined by the Board, and such person shall be member of the committee in accordance with the terms of his appointment.
- (3) A decision of a committee shall be of no effect until it is confirmed by the Board.

Official Seal.

11. (1) The fixing of the Seal of the Office shall be authenticated by the signatures of the Chairman or any person generally or specifically authorized by the Board to act for that purpose, and that of the Executive Secretary.
- (2) Any contract or instrument which, if not made or executed by a person not being a body corporate, would not be required to be under seal, may be made, or executed on behalf of Office by the Executive Secretary or any other person generally or specifically authorized by the Board to act for the purpose.
- (3) Any document purporting to be a document duly executed under the seal of the Office shall be received in evidence, and shall, unless and until the contrary is proved, be presumed to be so executed.
- (4) The validity of any proceeding of the Board or a committee shall not be adversely affected by:
- (a) a vacancy in the membership of the Board or Committee;
 - (b) a defect in the appointment of a member of the Board or Committee; and
 - (c) reason that a person not entitled to do so took place in the proceeding of the Board or Committee.

Appointment of the Executive Secretary.

12. (1) There shall be appointed for the Office, an Executive Secretary, who shall be appointed by the Governor on the recommendation of the Head of Service.

- (2) The Executive Secretary shall:
- (a) be a career officer of proven integrity with experience in Financial Administration, Debt Management and/or planning;
 - (b) be the Accounting Officer of the Office
 - (c) be responsible to the Board for the day to day running of the Office;
 - (d) hold office in accordance with the terms and conditions guiding such appointments in the Civil Service of Ekiti State.

Appointment of staff for the Office.

13. (1) The Board may appoint for the Office such number of employees as may be expedient and necessary for the proper and efficient performance of the functions of the Office.
- (2) The terms and conditions of services (including remunerations, allowances, benefits and pensions) of the employees of the Office shall be as in force in the Civil Service of the State.
- (3) The staff of the Board may be drawn from the mainstream of the Civil Service of the State, either on posting, transfer or on secondment.
- (4) The Board shall have power to employ any member of staff from the public service or private sector as may be required.

Establishment of the Management Team.

14. (1) There is established for the Office a management team comprised of the Executive Secretary and the Head of Departments of the Office.
- (2) The Management Team shall, under the direction of the Executive Secretary, be responsible for the implementation of the policies of the Board and the day-to-day administration of the Office.

PART III

FUNDS FOR THE OFFICE.

Establishment of Fund for the Office.

15. (1) There is hereby established for the Office, a fund from which all expenses incurred by the Office shall be defrayed.

- (2) There shall be paid to the Fund:
 - (a) any allocation to the Office from the Consolidated Revenue Fund of the State;
 - (b) such monies that may, from time to time, be granted or lent to the Office by the Federal Government, a State Government or a Local Government;
 - (c) all monies raised for the purpose of the Office by way of gifts, loans, grant-in-aid, testamentary disposition or otherwise; and
 - (d) all monies and assets that may, from time to time, accrue to the Office;
- (3) The Fund shall be managed in accordance with the rules made by the Board and without prejudice to the generality of the power to make rules under this subsection, the rules shall in particular contain provisions:
 - (a) specifying the manner in which the assets or the fund of the Office are to be held, and regulating the making of payments into and out of the Fund, and;
 - (b) requiring the keeping of proper accounts and record for the purpose of the Fund in such form as may be specified in the rules.

Expenditure of the Office.

- 16.** The Office shall apply the proceeds of the Fund to:
- (a) the cost of administration of the Office
 - (b) the payment of salaries, fees, remuneration and allowances payable to the members of the Board and the employees of the Office;
 - (c) the payment for all consultancies, legal fees, financial advisers, contract for the construction of property for the Office or for effective running of the Office and cost on contract administration;
 - (d) the payment for all purchase; and
 - (e) undertaking such other activities as are connected with all or any of the functions of the Office under this Law or any other Regulation.

Gifts made to the Office.

17. (1) The Office may accept gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization giving the gift.
- (2) The Office shall not accept any gift if the conditions attached by the person or Organization giving the gift are inconsistent with the functions of the Office under this Law, and are such that would influence the decision and or functions of the Office.

Annual Estimates and Expenditure.

18. (1) The Board shall, not later the 30th September in each year, submit to the Commissioner an estimate of the expenditure and income of the Office during the next succeeding year.
- (2) The Board shall cause to be kept, proper accounts of affairs of the Office in respect of each year, and shall cause the account to be audited not later than six months after the end of each year by the auditors appointed from the list of accredited auditors approved by the Board and in accordance with the guidelines supplied by the Auditor-General of the State.

Annual Report.

19. (1) The Office shall prepare and submit to the Commissioner, not later than 30th June in each year, a report in such form as the Commissioner may direct on the activities of the Office during the immediately preceding year, and shall include in the report, a copy of the Debt Returns for the year.
- (2) Within fifteen (15) days of the receipt of such report, the Commissioner shall forward a copy each to the Governor and the State House of Assembly.

PART IV BORROWINGS.

Borrowing.

20. The Office shall advise the Government annually on any shortfall in financing obligations of the State for the succeeding financial year and the amount as shall be necessary for the Government to borrow for bridging such gap either locally or abroad and or in Naira or whatever other currencies that may be financially prudent for the State.

Government Guarantee, etc.

21. (1) The Government may, subject to the provision of this Section, authorize and guarantee any loan to be taken by any local government or other Agencies of Government.
- (2) A Guarantee agreement for External Loan shall be executed on behalf of the Government by the Commissioner or any other person designated by him in writing.
- (3) Where any money is due to be paid by the Government in satisfaction of any obligation arising from a borrowing or a guarantee under this Section, that money shall be deemed to be a charge on the Consolidation Reserve Fund of the State.

Internal Borrowing.

22. (1) Subject to the provision of Section 3 of this Law, the Office shall:
- (a) determine:
- (i) the amount and the time schedule for the issuance of Government short-term securities in the Nigerian Money market
 - (ii) the pre-payment or roll-over of existing or maturing issues;
 - (iii) the floating of Government long-term securities to raise appropriate funds in the capital market;
 - (iv) the payment of interest and redemption of securities at maturity of the sinking Fund, or Consolidation Debt Service Account or the Consolidated Revenue Fund of the State.

- (b) maintain the register of the holders of all debt securities issued by the State and record the particulars of all holders and all transaction entered into with regards to such debt securities therein.
 - (c) with the approval of the Executive Council, determine any other form of securities that may be created, issued or floated to achieve the debt management objectives of the Government.
 - (d) maintain a record of all guarantees by the Government, of any authorized loan, taken by any other local government or other agencies of government;
 - (e) review and advise on the maintenance of statutory limits of all categories of loans or debt instruments at levels compatible with economic activities required for sustainable growth and development in collaboration with the Accountant General's Office of the State.
 - (f) ensure that the level of public debt or internal debt as a proportion of the State income is held at a sustainable level as prescribed by the House of Assembly from time to time.
 - (g) liaise or cooperate with other State Government or other relevant institutions within or outside Nigeria for the realization.
- (2) For the purpose of carrying out the responsibility under sub-section (1) (b) of this Section, the Office with the approval of the Executive Council shall appoint a Registrar with the Securities and Exchange Commission upon such terms and conditions that it may prescribed.

Approval for Grant / loans.

23. (1) Approval for grants or loans to other State or any of its agencies may be granted in accordance with the procedure specified in this section.
- (2) Applications for grants or loans to other States shall be submitted by the Governor to the House of Assembly and may be approved subject to such terms and conditions as may be approved by a resolution of the House of Assembly.

- (3) An application specified in subsection (2) of this Section shall indicate the:
- (a) objective, as the case may be underlying the request or proposal;
 - (b) terms and conditions of the grants or loans;
 - (c) benefits which the State stands to derive from the grant or loan; and
 - (d) state of the relations existing between the other State and the State; at the time of request or proposal.

Loan Agreement.

24. An agreement entered into for the purpose of Section 21 of this Law, its execution shall be in writing and shall be executed for and on behalf of the State by the Commissioner or by such other person as the Commissioner may, from time to time designate.

Suit or Cases.

25. Notwithstanding anything contained in any other regulation or enactment, no suit shall lie or be instituted in any Court against any member of the Board or any other officer or employees of the Office for act done in pursuance or execution of this Law, or any other regulation or enactment, of any public duty or authority in respect of any alleged neglect or default in the execution of this Law or such other regulation or enactment, duty or authority unless-
- (a) it is commenced within three months after the act, neglect or default complained; or
 - (b) in the case of a continuation of damage or injury, within six months after cessation thereof.

Service of Judgment, Notices, Summons, etc.

26. Any notice, summons, or other documents required or authorized to be served upon the Office under this Law or any other regulation or enactment may be served by delivering it at the principal office of the Office.

Judgement Debt to be paid from the Fund of the Office.

27. Any sum of money which may, by judgment of any court, be awarded against the Office shall, subject to any direction given by the Court where notice of appeal of the said judgment has been given, be paid from the fund of the Office.

**PART V
MISCELLANEOUS PROVISIONS.**

Transitional Provision, etc.

28. (1) As from the commencement of this Law, the powers of any Ministry or Extra-Ministerial Department over any debt involving the Government shall, by virtue of this Law and without further assurance, be vested in the Office established by this Law and in accordance with the provision of this Law.
- (2) Accordingly, any proceeding or cause of action pending or existing immediately before the commencement of this Regulation by or against any such Ministry or Extra-Ministerial Department over the management of any debt in respect of the right, interest, obligation or liability in relation to the management of the debt referred to in subsection (1) of this Section, may be continued or commenced, as the case may be, by or against the Office had been a party thereto.
- (3) The determination of a Court of law, Tribunal or other authority or person made in any proceeding or cause of action referred to in subsection (2), may be enforced by or against the Office to the same extent that the proceeding cause of action or determination could have been continued, commenced or enforced by or against that Ministry or Extra-Ministerial Department if this Law had not been made.

Rules.

29. The Office shall have powers to make regulations for the operations of this Law including the issuance of:

- (a) guidelines for obtaining loans, issuing bonds securities or debts instrument, derivatives, swaps or hedge instruments by the Government or any of its agencies;
- (b) guidelines in respect of lending to public bodies, and
- (c) guidelines on any other matters as the Board may deem fit in each circumstance.

Repeal.

30. The Ekiti State Regulation to Provide for the Establishment of the State Debt Management Office and for Connected Purposes, Regulation No. 1 of 2011, is hereby repealed.

PART VI INTERPRETATION AND CITATION.

Interpretations.

31. In this Law, unless the context otherwise requires:

“**Board**” means the Supervisory Board of the Office established under Section 4 of this Law

“**Commissioner**” means the Commissioner charged with the responsibility of Finance;

“**Committee**” means Debt Management Committee established under Section 10 of this Law;

“**Consolidated Revenue Fund of the State**” means the total revenue and assets of the Government maintained in an account by that name including all statutory allocations from the consolidated revenue Fund of the Federal Government and all internally generated Revenue;

“**Debt**” includes domestic, external debt with other liabilities debt securities

“**Debt Securities**” means any registered bond, bearer bonds promissory notes, syndicated notes or such other securities or debt instruments as may be issued by the Ekiti State Debt Management Office on behalf of the Government, pursuant to this regulation;

“**Executive Council**” means the Executive Council of Ekiti State Government, comprising the Governor, the Deputy Governor, the

Commissioners appointed by the Governor and such other officials as may be invited into the Council by the Governor.

“Executive Secretary” means the Executive Secretary of the office, appointed pursuant to Section 12 of this Law;

“Governor” means The Executive Governor of Ekiti State;

“Government” means the Government of Ekiti State;

“Loan” includes both internal and external borrowings;

“Office” means the Debt Management Office established under Section 1 of this Law;

“Register” means a register of such registers as shall be maintained by Ekiti State Debt Management Office in which details of any instruments including particulars of the holders thereof, transactions in any debt securities entered into by the Government and details of subsequent transactions in such Instruments and Securities shall be recorded.

“Registrar” means any person appointed by the Office for the purpose of maintaining any Register; issuing and delivering certificates and other instruments of titles to subscribers to any debt issuance programme of the State on Instrument holders, verifying instruments of title, and recording in the Register details of any transaction in such instruments.

“State” means Ekiti State of Nigeria;

“Sinking Fund” means a specific fund established whenever it is necessary to do so in connection with a particular issue of instrument into which contributions shall be made from the consolidated Debt Service Account in accordance with the terms and conditions of issue of the particular instrument.

“Public Bodies” includes the Federal, State and Local Government or their Agencies and Parastatals.

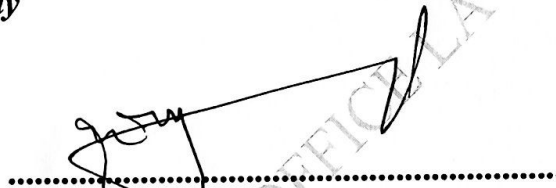
Citation.

32. This Law may be cited as the Ekiti State Debt Management Office Law, 2020.

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



.....
MR. TOLA ESAN
Clerk of the House of Assembly


.....
RT. HON. FUNMINIYI AFUYE
Speaker of the House

Governor's Assent

I hereby signify my assent to this Bill


DR. JOHN KAYODE FAYEMI
Executive Governor of Ekiti State

MADE AT ADO EKITI THIS 27th DAY OF July 2020.