

EKITI STATE FISCAL RESPONSIBILITY LAW, 2019.

NO. 12 OF 2019

EKITI STATE OF NIGERIA

**A LAW TO PROVIDE FOR PRUDENT MANAGEMENT OF THE
STATE'S RESOURCES, ENSURE LONG – TERM MACRO ECONOMIC
STABILITY, SECURE GREATER ACCOUNTABILITY AND
TRANSPARENCY IN FISCAL OPERATIONS WITHIN A MEDIUM TERM**

**FISCAL POLICY FRAME WORK AND THE ESTABLISHMENT OF THE
FISCAL RESPONSIBILITY COMMISSION TO ENSURE THE
PROMOTION AND ENFORCEMENT OF THE STATE'S ECONOMIC
OBJECTIVES AND OTHER MATTERS CONNECTED THEREWITH.**

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A LAW TO PROVIDE FOR PRUDENT MANAGEMENT OF THE STATE'S RESOURCES, ENSURE LONG – TERM MACRO ECONOMIC STABILITY, SECURE GREATER ACCOUNTABILITY AND TRANSPARENCY IN FISCAL OPERATIONS WITHIN A MEDIUM TERM FISCAL POLICY FRAME WORK AND THE ESTABLISHMENT OF THE FISCAL RESPONSIBILITY COMMISSION TO ENSURE THE PROMOTION AND ENFORCEMENT OF THE STATE'S ECONOMIC OBJECTIVES AND OTHER MATTERS CONNECTED THEREWITH.

NO. 12 OF 2019

EKITI STATE OF NIGERIA

Commencement / /

ENACTED by the Ekiti State House of Assembly as follows:

**PART I.
ESTABLISHMENT, FUNCTIONS AND POWERS, OF THE FISCAL
RESPONSIBILITY COMMISSION.**

1. Establishment.

- (1) There is hereby established a body to be known as the Fiscal Responsibility Commission (hereinafter in this Law referred to as “the Commission”).
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

2. Power to Compel Disclosure and To Order Investigation.

- (1) For the purpose of performing its functions under this Law, the Commission shall have power to –
 - (a) Inspect all offices/corporations, be given access at all times thereto to all available information it may require with regard to revenues generated/operating surplus and all documents and records in respect thereof;
 - (b) Compel any person or government institution to disclose information relating to public revenues and expenditure ;
 - (c) Cause an investigation into whether any person has violated any provision of this Law and
 - (d) Sanction revenue diversion, failure to remit collections, delayed remittance and revenue consumption without appropriation and related corrupt practices;
- (2) If the Commission is satisfied that such a person has committed any punishable offence under this Law or violated any provision of this Law, the Commission shall forward a report of the investigation to the Attorney General and Commissioner for Justice for possible prosecution.

3. Functions of the Commission.

- (1) The Commission shall:-
 - (a) monitor and enforce the provisions of this Law and by so doing, promote the economic objectives contained in Section 16 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);
 - (b) disseminate such standard practices including international good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;
 - (c) undertake fiscal and financial studies, analyses and diagnoses and disseminate the result to the relevant authorities;
 - (d) ensure returns on revenue performance showing estimates, actual collection and remittance to the State Consolidated Revenue Fund by the Ministries, Departments, Agencies and Corporations by attaching hard evidence of collections and remittance;
 - (e) ensure monthly monitoring meeting of all the revenue collectors with representative of the Ministry of Finance and Economic Development;
 - (f) ensure that quarterly and annual revenue collection reports are produced and sent to the FRC not later than 30 days after each month and 6 months after the end of the year;
 - (g) ensure the maintenance of proper books of accounts (particularly for remittances paid through the e-payment and follow-up by the prescribed treasury cash book) and prompt issuance of receipts paying agencies;
 - (h) make rules for carrying out its functions under this Law; and
 - (i) perform any other function consistent with the promotion of the objectives of this Law.
- (2) The Commission shall be an independent and autonomous body and shall not be subject to the direction or control of any other authority of person in the exercise of its powers and functions under this Law.
- (3) The provisions of the Public Officers' Protection Law shall apply to the members of the Commission in the discharge of their functions under this Law.

4. Establishment of a Fund for the Commission.

- (1) The Commission shall establish and maintain a fund from which it shall defray all expenditure incurred by the Commission.
- (2) There shall be credited to the fund established pursuant to subsection (1) of this Section, the budgetary allocation from the State Government and all other such monies that shall accrue to the Commission by way of grant, technical support, etc

5. Composition of the Commission.

- (1) The Commission shall consist of -
 - (a) a Chairman, who shall be the Chief Executive of the Commission;
 - (b) one member representing the organized private sector;
 - (c) a representative of the Ministry of Justice not below the rank of Director;
 - (d) a representative of the Ministry of Finance and Economic Development not below the rank of Director
 - (e) a representative of the Ministry of Budget and Economic Planning not below the rank of Director and
 - (f) at least one member from each of the three Senatorial Districts.
- (2) All members of the Commission shall be persons of proven integrity and must possess a minimum of First Degree or its equivalent with not less than 10 years post qualification experience.
- (3) The Chairman and other members of the Commission other than ex-officio members shall be appointed by the Governor, subject to confirmation by the State House of Assembly.
- (4) The Chairman and members representing the three Senatorial Districts shall be full time members.
- (5) The Chairman and members of the Commission shall hold office for a single term of 5 years.
- (6) There shall be appointed for the Commission an Executive Secretary, who shall be the Accounting Officer responsible for the day to day administration of the Commission.

6. Power of the Commission.

The Commission shall have the power to –

- (a) formulate and provide general policy guidelines for the discharge of the functions of the Commission;
- (b) superintend the implementation of the polices of the Commission;
- (c) appoint for the Commission, subject to the approval of the Government, such number of employees as may in the opinion of the Commission be expedient and necessary for the proper and efficient performance of the functions of the Commission;
- (d) without prejudice to the provisions of Subsection (c) of this section, the Commission shall have power to appoint either on transfer or secondment from any public service in the State, such number of employees as may be required in the performance of its functions;
- (e) determine the terms and conditions of service in the Commission including disciplinary measures for the employees of the Commission in accordance with laid down regulations;

- (f) fix the remuneration, allowances and benefits of the employees of the Commission as approved by the State Government;
- (g) do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission; and
- (h) regulate its proceedings and make standing order with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters that the Commission may, from time to time, determine.

7. Cessation of Membership.

(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 make a compromise with his creditors; or
- (b) he is convicted of a felony or any offence involving dishonesty; corruption or fraud; or
- (c) he becomes incapable of carrying out the functions of his office by reason of infirmity of mind or body; or
- (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 subject to the confirmation of the majority of members of the House of Assembly; or
- (e) he has been found guilty of violation of the code of conduct or serious misconduct in relation to his duties: or
- (f) he resigns his appointment by a notice under his hand, addressed to the Governor; and
- (g) in the case of a person who becomes a member by virtue of the office he occupies, he ceases to hold such office for whatever reason.

(2) Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, provided that the successor shall represent the same interest as his predecessor.

8. Salaries and Allowances.

There shall be paid to the Chairman and members of the Commission such salaries, allowances and benefits as the State Government may approve.

9. Structure of the Commission.

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

- (a) Administration and Supplies;
- (b) Finance and Accounts;
- (c) Policy and Standard;
- (d) Monitoring and Evaluation and
- (e) Planning, Research and Statistics.

Report of Activities of the Commission.

(2) The Commission shall prepare and submit to the House of Assembly not later than 30th June in each 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 account for the preceding financial year.

PART II.

The Medium-Term Expenditure Framework.

10. Time Limit for the preparation of the Medium –Term Expenditure Framework.

- (1) The State Government after consultation with the Local Government Councils shall not later than six months from the commencement of this Law, cause to be prepared and laid before the House of Assembly for its consideration a Medium – Term Expenditure Framework for the next three financial years.
- (2) The Framework so laid shall be considered for approval with such modifications, if any, as the House of Assembly finds appropriate by its resolution.
- (3) The Medium –Term Expenditure framework shall contain –
 - (a) a Macro-economic Framework setting out the macro –economic projections for the next three financial years, the underlying assumptions for those projections, and evaluation and analysis of the macro-economic projections for the next 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 revenue raising strategies, recurrent (non-debt) expenditure, debt expenditure, capital expenditure, borrowings and other liabilities, lending and investment;
 - (iii) the strategic, economic, social and development priorities of the State Government for the next three financial years;
 - (iv) an explanation of how the financial objectives, strategic, social and developmental priorities and fiscal measures set out pursuant to paragraphs (i), (ii) and (iii) of this subsection

relate to the Economic objectives set out in Section 16 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

- (c) an Expenditure and Revenue Framework setting out-
 - (i) estimates of aggregate revenues for the State for each financial year in the next three financial years;
 - (ii) an aggregate expenditure projection, for the State for each financial year in the next three financial years;
 - (iii) a projection of the aggregate cost of collecting revenues for the State for each financial year in the next three financial years;
 - (iv) minimum capital expenditure flow for the State for each financial year in the next three Financial years; Provided that, the estimates and expenditures provided pursuant to paragraph (d) of this subsection, shall be:
 - (a) based on reliable and consistent data certified in accordance with Section 10 sub-section (3)(b) of this Law;
 - (b) targeted at achieving the macro-economic projections set out in pursuance of paragraph (a) of sub-section (3) of this section,
 - (c) consistent with and derive from the underlying assumptions contained in the Macro-economic Framework, the objectives, policies, strategic priorities and explanations in the Fiscal Strategy Paper;
 - (d) a Consolidated debt statement setting out and describing the fiscal significance of the debt liability of the State Government and measures to reduce any such liability; and
 - (e) a statement describing the nature and fiscal significance of contingent liability and quasi-fiscal activities and measures to offset the crystallization of such liabilities.

11. Aggregate Expenditure Ceiling.

- (1) The estimates of aggregate expenditure and the aggregate amount appropriated by the House of Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit not exceeding 25% (twenty five percent) of the estimated revenue or shall not at any time exceed 50% of the total revenue for the previous year. Provided that the total amount set aside for the repayment of loans and

interest shall not constitute more than 30% of the total expenditure for the year.

- (2) The aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) of this Section, if in the opinion of the Governor such a step will strengthen the security of the State; promote good governance and the overall welfare of the citizens.
- (3) However, the reason for such breach must be clearly explained, including when and how the government intends to revert to compliance with subsection (1) of this Section.

12. Preparation of Medium Term Expenditure Framework.

- (1) The Ministry of Budget and Economic Planning shall be responsible for the preparation of the Medium Term Expenditure Framework
- (2) In preparing the draft Medium-Term Expenditure Framework; the Ministry of Budget and Economic Planning shall:-
 - (a) make public consultation on the Macro – Economic Framework; the fiscal strategy paper, the Revenue and Expenditure Framework, the strategic, economic, social and developmental priorities of government, and such other matters as the Ministry shall deem necessary; provided that, such consultations shall be open to the public, the press and any citizen or authorized representatives of any organization, group of citizens, who may attend and be heard on any subject matter properly in view;
 - (b) seek inputs from the-
 - (i) Ministry of Finance and Economic Development;
 - (ii) State Development Council;
 - (iii) House of Assembly;
 - (iv) State Fiscal Advisory Committee;
 - (v) Ekiti State Bureau of Statistics ;
 - (vi) Federal Bureau of Statistics;
 - (vii) any other relevant statutory body as the Ministry of Budget and Economic Planning may determine; and
 - (c) consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in subsections (a) and (b) of this Section.

13. Time Limit for Presentation of the Medium Term Expenditure Framework.

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

(2) The Medium Term Expenditure Framework as endorsed by the State Executive Council shall take effect upon approval by a resolution of the House of Assembly.

14. Publication of Medium Term Expenditure Framework.

The Medium –Term Expenditure Framework as approved by the House of Assembly shall be published.

15. Adjustment to the Medium Term Expenditure Framework.

- (1) Subject to subsection (2) of this Section, the Governor may cause adjustment to be made to the Medium Term Expenditure Framework.
- (2) Any adjustment to the 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.

PART III.

The Annual Budget.

16. Annual Budget to Be Derived From Medium Term Expenditure Framework.

- (1) Notwithstanding anything to the contrary contained in this Law or any other Law, the Medium Term Expenditure Framework, shall be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the House of Assembly under Section 121(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
- (2) The sectoral and compositional distribution of the estimates of expenditure referred to in subsection (1) of this Section shall be consistent with the medium term developmental priorities set out in the Medium Term Expenditure Framework.

17. Annual Budget to be accompanied by certain documents.

- (1) The estimates of revenue and expenditure, in this Law referred to as the Annual Budget shall be accompanied by-
 - (a) a copy of the underlying revenue and expenditure profile for the next one year;
 - (b) a report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the 12 months from January to December of preceding financial year;
 - (c) a revenue Framework for the whole fiscal year prepared on the basis of the predetermined statutory allocation as contained in the Medium-Term Expenditure Framework;

- (d) measures on cost, cost control and evaluation of results of programmes financed with budgetary resources;
- (e) a Fiscal Target Appendix derived from the underlying Medium-Term Expenditure Framework setting out the following targets for that financial year;
 - (i) National target inflation rate (if available)
 - (ii) target fiscal account balances;
 - (iii) target internally generated revenue to recurrent expenditure, expressed as a ratio;
 - (iv) any other development target deemed appropriate; and
- (f) a Fiscal Risk Appendix evaluating the fiscal and other related risks to the Annual Budget and specifying measures to be taken to offset the occurrence of such risks.

PART IV

Budgetary Planning of Corporations And Other Related Agencies.

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

- (1) All Government Corporations and agencies shall not later than 6 months from the commencement of this Law and for every three financial years thereafter, not later than the end of the second quarter of every year, cause to be prepared and submitted to the Ministry of Budget and Economic Planning, their estimates of revenue and expenditure for the next three financial years.
- (2) Each of the bodies referred to in subsection (1) of this section shall submit to the Ministry of Budget and Economic Planning not later than the end of August in each financial year.
 - (a) an annual budget derived from the estimates submitted in pursuance of subsection (1) of this section;
 - (b) projected operating surplus, which shall be prepared in line with acceptable accounting practice.
- (3) The Ministry of Budget and Economic Planning shall forward the estimates submitted in pursuance of subsection (2) of this Section to the State Executive Council to be attached as part of the draft Appropriation Bill to be submitted to the House of Assembly.

19. General Reserve Fund and Operating Surplus.

- (1) Notwithstanding the provisions of any written Law governing each revenue generating Corporation, the Corporation shall pay a certain percentage of their revenue to government coffer as may be statutorily approved by the State Government.

- (2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the State, not later than one month following the statutory dead line for publishing each Corporation's account.

20. Classification of Corporation's Operating Surplus.

- (1) The Corporations' surpluses shall be classified as a State Treasury Revenue.
- (2) Where a Corporation's result is a deficit, the deficit shall be classified as the Corporation's loss for the fiscal year.
- (3) Each Corporation shall not later than three months after the end of its financial year, cause to be prepared and published its audited financial reports in accordance with such rules as may be prescribed from time to time.

21. Cessation of application of Sections 19 and 20.

The provisions of sections 19 and 20 shall cease to apply to any corporation from the date of its privatization.

PART V.

Budgetary Execution and Achievement of Targets.

22. 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.

23. Disbursement Scheduled.

The Commissioner for Finance and Economic Development shall within 60 days of the enactment of the Appropriation Law prepare a disbursement schedule derived from the Annual Cash Plan for the purpose of implementing the Appropriation Law.

24. Power of the Commissioner of Finance and Economic Development to recommend Virement.

- (1) The sum appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation law.
- (2) Without prejudice to subsection (1) of this section, the Commissioner for Finance and Economic Development, may in exceptional circumstances and in the overall public interest, recommend for the

approval of the House of Assembly, virement from sub-heads under heads of account, without exceeding the amount appropriated to such head of account.

25 Power to Restrict Further Commitment.

- (1) Where, by the end of three months after the enactment of the Appropriation Law, the Commissioner for Finance and Economic Development determines that the target revenues may be insufficient to fund the heads of expenditure in the Appropriation Law, the Commissioner shall within the next 60 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 appropriation for which further commitment were restricted shall be restored proportionately.
- (3) The provisions of subsections (1) and (2) of this section shall not apply to statutory or constitutional expenditure.

26. Restriction on the Grant of Tax Relief.

Any proposed Tax Relief shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and in the three subsequent years, and shall only be approved by the Commissioner for Finance and Economic Development, if it does not adversely impair the revenue estimates in the Annual Budget or if it is accompanied by countervailing measures during the period mentioned in this subsection through revenue increasing measures such as rates increase and expansion of the revenue base.

27. Ministry of Budget and Economic Planning to Monitor and Report on Implementation.

- (1) The Commissioner for Budget and Economic Planning 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 Fiscal Responsibility Commission and the Finance and Appropriation Committee of the House of Assembly.
- (2) The Commissioner for Budget and Economic Planning shall cause the report prepared pursuant to subsection (1) to be submitted to the Executive Council.

**PART VI.
Public Revenue.**

28. Revenue Forecast.

The Executive arm of the State Government shall at least 30 days before the deadline for the submission of its budget proposal, place at the disposal of the House of Assembly, the revenue estimates for the following year, including the net current revenue and the respective memoranda items.

29. The Executive to breakdown Estimated Revenue.

Estimated Revenue shall be broken down by the Executive arm of Government into quarterly collection target including where applicable, a separate description of measures to combat tax fraud, evasion and other general revenue leakages.

**PART VII
Public Expenditure.**

30. Conditions for increasing Government expenditure.

- (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 increase in the year it becomes effective and in the subsequent year;
 - (b) a statement by the person requesting for the expenditure, stating that the increase is consistent with the Appropriation Law and Medium Term Expenditure Framework.
- (2) The provisions of this section shall not apply to expenditure deemed inconsequential.

31. Conditions for increasing Personnel Expenditure.

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

32. All Contracts to comply with Rules and Guidelines.

- (1) All contracts with regards to the execution of annual Budget, shall comply with the rules and guidelines on:
 - (a) Procurement and award of contract; and
 - (b) Due process and certification of contract.

Notification of Awarded Contracts.

- (2) Letters of Award of all newly awarded contracts financed from the Budget of Ekiti State Government should be forwarded to the Fiscal Responsibility Commission by the State Tenders Board or any other contract awarding Government organizations not later than three weeks after the award of such contracts.
- (3) For proper technical valuation and thorough fiscal responsibility, copies of certificate of payment of contracts must pass through the Commission while clearance certificate or any other comments shall be issued by the Commission before being forwarded to appropriate quarters.

33. Effect of Violation of Public Expenditure Rules.

Any violation of the requirements in Sections 30, 31 and 32 of this Law shall be an offence, punishable under relevant existing Public Service Laws and as prescribed in this Law.

**PART VIII
Debt and Indebtedness.**

34. Framework for Debt Management.

- (1) The Framework for Debt Management during the financial year shall be based on the following rules:
 - (a) The State Government shall only borrow for capital expenditure and human development, provided that, such borrowing shall be on concessional terms with reasonable interest rate and with a reasonably long amortization period subject to the approval of the appropriate legislative body where necessary;
 - (b) The State Government shall ensure that the level of public or internal debt as a proportion of State income is held at a sustainable level as prescribed by the House of Assembly from time to time on the advice of the Fiscal Responsibility Commission, but not more than 25% of the estimated total revenue of the State for the year or shall not at any time exceed 50% of the total revenue for the previous year, provided that the total amount committed to loan repayment shall not exceed 30% of the total expenditure for the year.
 - (c) Notwithstanding the provision of subsection 1 (a) of this section and subject to the approval of the House of Assembly, the State Government may borrow from the capital market.
- (2) Noncompliance with the provisions of this section shall be an offence punishable under relevant existing Public Service Laws.

PART IX
Borrowing.

35. Conditions for Borrowing and Verification for Compliance.

- (1) The State government 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 which the intended borrowing is to be applied.
- (2) Without prejudice to subsection 1 of this section, each borrowing shall be subject to the existence of prior authorization in the Appropriation Law or other laws for the purpose for which the borrowing is to be utilized.
- (3) The Fiscal Responsibility Commission shall verify on a quarterly basis, compliance with the limit and conditions for borrowing by the State and Local Government Councils in the State.
- (4) Without prejudice to the specific responsibility of the House of Assembly, the Debt Management Department shall maintain a comprehensive, reliable and current electronic database of internal and external public debts.

36. Lending by Financial Institutions.

- (1) All banks and financial institutions shall request and obtain from the Commission, proof of compliance with the provisions of this Law before lending to the State or any of its agencies.
- (2) Lending by banks and financial institutions in contravention of this Law shall be an offence punishable under existing appropriate Laws.

37. Power of the Commissioner of Finance and Economic Development to grant Guarantees.

- (1) Subject to the provisions of this part, the Commissioner for Finance and Economic Development, may with the approval of the State Executive Council, grant guarantees on behalf of any Government Departments, Agencies, Corporations or Local Government Councils in the State.
- (2) Any guarantee granted by the Commissioner shall be conditional upon the provision of a counter –guarantee in an amount equal to or higher than the guaranteed obligation, provided that, there are no overdue obligations from the requesting agency, corporation or Local Government Council in the State to the State Government and its

controlled corporations/agencies and such guarantee shall be in compliance with the following:

- (a) Counter – guarantee shall only be accepted from State or Local Government Council; and
- (b) The counter – guarantee required by the Federal Government from State or Local Government Council or by State from Local Government Council, 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, Federal Government Council guarantee shall be a requirement and the State, the Local Government Council or any State Agency shall not on its own borrow, without the guarantee of the Federal Government.
- (4) Any guarantee provided in excess of the debts limit set pursuant to subsection (1) of section 35 of this Law shall be an offence.

PART X

Transparency and Accountability.

38. Fiscal Transparency.

- (1) The State Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly shall ensure full and timely disclosure and wide publication of its financial statement.
- (2) The State Government through the Commissioner for Finance and Economic Development shall prepare and publish on annual basis a borrowing plan- Annual Borrowing Plan- which shall be raised quarterly at the Executive Council meeting.
- (3) The House of Assembly shall ensure transparency during the discussion of the Medium Term Expenditure Framework, Annual Budget and the Appropriation Bill.

39. Preparation and publication of Audited Account by all Levels and Arms of Government.

- (1) The State Government shall publish its audited account not later than six months following the end of the financial year.
- (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 government gazette, its audited account 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.

PART XI. Enforcement.

40. Penalty.

- (1) Any person who under-declares revenue generated or collected by any Ministry, Department, Agency or Corporation 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 declaration.
- (2) Any person who authorized the spending of any money collected or generated pursuant to Section 2 of this Law without appropriation by the State 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.

41. Capacity to Enforce Law.

- (1) The Commission shall have legal capacity to enforce the provisions of this Law by obtaining prerogative order or other remedies at the State High Court.
- (2) No action shall be preferred pursuant to sub-section 1 without a notice of thirty days served personally on the Appropriate Authority to be so sued.
- (3) Without prejudice to the provision of sub-section 1 of section 41, it shall constitute a criminal offence to accuse a public officer wrongly.

PART XII. Miscellaneous Provisions.

42. Collateral to Guarantee Loans.

Government securities, provided that they are dully listed on the Stock Exchange, may be offered as collateral to guarantee loans or other financial transactions under the law for their economic value as defined by the Ministry of Finance and Economic Development.

43. Restriction on utilization of proceeds of sales of public properties or assets.

The proceeds derived from the sale or transfer of public property and right over public assets shall not be used to finance recurrent and debt expenditure, provided that, such proceeds may be used to liquidate existing liabilities directly charged against such properties or assets.

44 Binding effect of Law.

This Law shall be binding on all arms of the State Government, their Agencies and Parastatals as well as Local Government Councils.

45. Power of Governor to make Regulations.

The Governor may in addition to any other power conferred on him under this Law, make regulations generally for the purpose of carrying into effect the provisions of this Law.

46. Repeal.

The Fiscal Responsibility Law, No. 6 of 2010 is hereby repealed.

PART XIII.

Interpretation and Citation.

47. Interpretation.

In this Law except the context otherwise requires:

“**Appropriation Law**” means a Law passed by the State House of Assembly or a Local Government Legislative Council authorizing spending from the Consolidated Revenue Fund including a Supplementary Appropriation Law:

“**Appropriation Bill**” means the Bill referred to in Section 121 of the Constitution of Federal Republic of Nigeria, 1999 (as amended)

“**Arms of Government**” means the Executive, the Legislative and the 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) bond, debentures notes or similar instruments; (iv) letters of credit and reimbursement obligations with respect thereto; (v) trade or bankers’ acceptance; (vi) capitalized amounts of obligation under leases entered into primarily as a method of raising finance or of financing the acquisition of the asset leased; (vii) agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency and (viii) a conditional sale agreement, capital lease or the title retention agreement;

“Budget” means estimates of revenue and expenditure

“Budget Call Circular” means a circular (i) requesting the submissions in a prescribed form, of the revenue and expenditure estimates of Ministries, Extra- Ministerial Departments, and other executing Agencies of Government for the next financial year; and (ii) giving detailed guidelines and instruction 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 Frame Work.

“Capital Expenditure” means spending on an asset that lasts for more than one financial year and expenses associated with the acquisition of such asset.

“Commission” means the State Fiscal Responsibility Commission.

“Concessional” means the terms of the loan with regards to interest and tenor are most competitive.

“Consolidated debt” means the aggregate of the outstanding financial obligation 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, notes or similar instrument; (iv) letter of credit and reimbursement obligation with respect thereto; (v) Guarantees; (vi) trade or bankers’ acceptances; (vii) capitalized amount of obligation under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased; (viii) agreement providing for swaps, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency and conditional sale agreement, capital or other title retention agreement;

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

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

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

“Financial Year” has the meaning ascribed thereto in the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

“Fiscal Policy Objective” means the goals set by Government for attainment of set target for a given period.

“House of Assembly” means the Ekiti State House of Assembly.

48. Citation.

This Law may be cited as Fiscal Responsibility Law, No. 12 of 2019.

FISCAL RESPONSIBILITY LAW, 2019.