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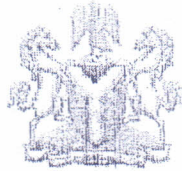
The following is published as a Supplement to this *Gazette*—

Page

Law No. 13 – Ebonyi State Debt Securities Issuance and Related Matters
Law, 2009

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EBONYI STATE OF NIGERIA

2009 No. 13

A Law to provide for the raising of Loans through the issuance of debt securities for purposes connected therewith.

Title.

BE IT ENACTED by the Ebonyi State House of Assembly as follows:—

Enactment.

SECTION 1

1. This Law may be cited as the Ebonyi State Debt Securities Issuance and Related Matters Law, No. 13 of 2009.

Citation.

SECTION 2

This Law shall be deemed to have come into effect on Thursday, the 10th day of December, 2009.

Commencement.

SECTION 3

In this Law, unless the context otherwise requires:

Interpretation.

"Accountant-General" means the Accountant-General of Ebonyi State or any other person appointed by the State and charged with the responsibility of administering the State's Consolidated Revenue Account and preparing financial statements for Ebonyi State.

"Attorney-General" means the Attorney-General and Commissioner for Justice of Ebonyi State.

"Commission" means the Securities and Exchange Commission established under the Investments and Securities Act No. 29 of 2007.

"Commissioner" means the Commissioner for the time being charged with the responsibility for matters relating to finance in Ebonyi State.

"Consolidated Revenue Fund of the Federation" means the total revenue and assets of the Federal Republic of Nigeria maintained in such account(s) by that name and from which payments required to be made by the Federation to any State, in accordance with Part I of Chapter VI of the 1999 Constitution of the Federal Republic of Nigeria are charged.

"Consolidated Revenue Fund of the State" means the total revenue and assets of the State maintained in an account by that name including all statutory allocations from the Consolidated Revenue Fund of the Federation and all

internally generated revenue.

"Debt Securities" means registered bonds, bearer bonds, promissory notes, syndicated notes, certificates, debentures and such other securities, debt instruments, financial instruments or other obligations authorized to be issued and secured by the State pursuant to this Law and payable as provided in this Law.

"Debt Service Reserve Fund" means a dedicated internally segregated savings fund into which revenue appropriated by the State for the repayment of public debts and such other Debt Securities as are issued pursuant to the provisions of this Law or other Debt Issuance Law of the State shall be paid.

"Executive Council" means the Executive Council of Ebonyi State Government, comprising the Governor, the Deputy Governor, the Commissioners appointed by the Governor and such other officials as are invited into the Council by the Governor.

"Gazette" means the Official Gazette of the government in which laws, subsidiary legislations and other statutory instruments are regularly published by the government.

"Government" means the government of Ebonyi State of Nigeria.

"Governor" means the Governor of Ebonyi State.

"House of Assembly" means the House of Assembly of Ebonyi State.

"Office" means Debt Management Office under the Ministry of Finance established for the management conduct and implementation of any debt issuance programme of the Ebonyi State Government for purpose of financing its capital budget, or public investment projects and commitments or the restructuring of any existing debts.

"Programme" means the Debt Issuance Programme, which may be established under Section 4(1) of this Law.

"Project" means any of the capital projects facilities, places, buildings, or undertakings within the State which are, or will be, developed, maintained or operated for socio-economic, industrial, commercial or business purposes, and are approved by the Executive Council for the financing authorized by this Law and includes, without limitation, capital projects, real property, land, buildings, structures, fixtures, machinery and/or equipment and all such property related to or required or useful for the operation of a project upon completion provided that a project does not include any facility, place or, building used or to be used primarily for devotional activities or religious worship.

"Register" means a register or such registers as shall be maintained by the government in which details of any Debt Securities including particulars of the holders thereof, transactions in any debt securities entered into by the State and details of

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"Registrar" means any person appointed by the Governor for the purpose of maintaining any Register, issuing and delivering certificates and other instruments of title to subscribers to any debt issuance programme, verifying instruments of title and recording in the Register, details of any transactions in Debt Securities.

"Revenue" means amount received by the State as proceeds, including without limitation rents, charges, fees, income and receipts derived by the State from the projects authorized by the provisions of this Law, any amounts received by the State as investment earnings on monies deposited in any fund securing the Debt Securities, and any such other legally available monies as the State may, in its discretion, lawfully designate as Revenue, for the assignment as security for repayment of any Debt Securities.

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

"State Fiscal Year" means the time period beginning of January 1 of any given year and ending on December 31 of the same year.

"The State" means Ebonyi State of Nigeria.

"Trustee" means any Trustee appointed under this Law to represent and oversee the interests of the holders of instruments.

"VAT" means Value Added Tax collected by the State.

SECTION 4

1. The States is hereby authorized to raise loans and borrow any sums of money required to finance the capital budget of the Government or to refinance the obligations of the Government in respect of its public investment projects by the issuance of Debt Securities from time to time, in such form, series and or amounts (by the establishment of a debt issuance programme or not), as are determined by the State Executive Council to be necessary and appropriate to provide for the economic and developmental well-being of the State.
2. All of the Debt Securities hereby authorized to be issued under the provisions of this Law shall be limited obligations of the State from all or against any specified part of the revenues and the monies and assets authorized to be pledged or assigned to secure the payment of the Debt Securities. Such Revenues, monies or assets shall be the sole source of repayment of such issue of Debt Securities.

Power to Raise
Loans.

3. Notwithstanding the provisions of subsection (2) of this section, the Executive Council shall have the discretion to pledge the faith and credit of the State and a proportion of its statutory allocation to the payment of the principal or premium, if any, or interest on any tranche, from or series of Debt Securities issued.

SECTION 5

Issuance of Debt
Securities.

The Executive Council shall determine the terms, timing and sequence of the issuance of particular tranches and series of Debt Securities either under a Programme or not. The Debt Securities shall bear such date or dates, mature at such time or times not to exceed twenty five (25) years, bear interest at such fixed or variable or zero coupon rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in the lawful currency of the Federal Republic of Nigeria or other agreed currency at such place or places, be subject to such terms of redemption and have such other terms or conditions as such resolution to be passed by the State Executive Council shall provide.

SECTION 6

Mode of
Offering Debt
Securities.

The State may through the office and subject to the provisions of this Law and in accordance with the prevailing rules and regulations of the Commission in pursuance of the purposes and section 4 of this Law issue Debt Securities by means of: -

- (a) public offers;
- (b) auctions;
- (c) syndications;
- (d) book building
- (e) private placements;
- (f) reverse enquiries; and
- (g) such other transaction or issuance mode as may be determined by the Executive Council.

SECTION 7

Determina-
tion of Offer
Size.

The specific amount that the State may raise or borrow through the issue of Debt Securities from time to time shall be determined by taking into consideration the followings:

- (a) the total revenue of the State for the year preceding the year in which the Debt Securities are to be issued;
- (b) the current revenue of the State and the projected revenue for the succeeding years;
- (c) the average economic growth rate for the three (3) years preceding the year of any issue;

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- (d) the existing public debt portfolio; and
- (e) the gross domestic product of the State for the year preceding any issue.

SECTION 8

1. The State may establish a Debt Service Reserve Fund for the purpose of accumulation of monies to make required payments on principal and interest for all liabilities and obligations of the State. Establishment of a Debt Service Reserve Fund.
2. The Debt Service Reserve Fund shall be fully funded in cash equal to maximum annual debt service on the tranches, series or issues of Debt Securities issued from time to time by the State.

SECTION 9

1. The Governor is hereby authorized to appropriate the Revenues for the servicing of the obligations arising from the financing of the Projects. Authority to Effect Appropriations for debt Service.
2. The Governor is further authorized to appropriate any portion or part of the State's monthly Internally Generated Revenue (IGR) and Value Added Tax (VAT) collections to the Debt Service Reserve Fund.
3. The House of Assembly shall have the powers to make such supplemental appropriations to the Debt Service Reserve Fund to meet the State's debt obligations in the event of the aggregate appropriations under subsections (1) and (2) not being sufficient to effect payment of principal and interest as required under the terms of issue of Debt Securities.

SECTION 10

1. A Debt Service Reserve Fund Account shall be maintained in any bank duly licensed by the Central Bank of Nigeria. Authority to open a debt Service Reserve Fund Account.
2. The management of the amounts accredited to and utilized by the Debt Service reserve Fund Account is hereby granted to the Commissioner who shall perform his responsibilities in compliance with the provisions of this Law.
3. All sums received and deposited in the Debt Service Reserve Fund Account shall be held inviolate and applied solely for the payment of the principal of, and interest on the Debt Securities issued from time to time, for the financing of the Projects.
4. The Commissioner shall keep proper records/statements of account of all inflows and transfers out of the Debt Service Reserve Fund Account for audit purposes at the end of the State Fiscal year.

SECTION 11

Establishment of
Sinking Funds.

1. The State shall establish a specific Sinking Fund in connection with a particular tranche, series or issue of Debt Securities.
2. Any sums credited to the Sinking Fund established pursuant to subsection (1) of this Section shall be utilized solely for the purpose of making principal and interest payments on a particular tranche, series or issue of Debt Securities.
3. The State shall, as appropriate and on the specified dates pay out of the Debt Service Reserve Fund Account (if any) and or directly from the statutory allocations from the Consolidated Revenue Fund of the Federation (pursuant to the issuance of an Irrevocable Standing Payment Order to the Accountant-General of the Federation) into the Sinking Fund, the sums required to meet necessary payment obligations which have been specified in the terms and conditions of issue that tranche of Debt Securities.
4. The Sinking Fund shall, at all times, be completely segregated and set apart from all other funds of the State and shall be a trust fund for the security and payment of the principal and any interest on the tranche of debt Securities in respect of which it was established, as the same shall become due.

SECTION 12

Appointment
of Trustees.

1. The Office shall subject to the approval of the Executive Council appoint a registered corporate trustee company for the purpose of acting on behalf of the holders of the Debt Securities with regard to every loan issued under this Law.
2. Any trustee appointed pursuant to the provisions of this section shall be registered with the Commission.
3. Any trustee appointed pursuant to the provisions of this section shall not have a fiduciary relationship with the State.
4. The regulation and operation of the Trustee appointed pursuant to subsection (1) of this section shall be in accordance with the terms of a Trust Deed delivered in accordance with section 13 of this Law.

SECTION 13

Power of Trustees.

1. The Executive Council is hereby authorized to vest in the trustee or trustees appointed under section 12 of this Law the right to receive all or any part of the income and revenue pledged and assigned to, or for the benefit of the holder or holders of the Debt Securities issued under the Programme, and to hold, apply and dispose of the same and the right to enforce any covenant made to secure or pay or in relation to the Debt Securities; to execute and deliver a trust deed or trust deeds which may set forth the powers and duties and the remedies available to such trustee or trustees and limiting

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the liabilities thereof and describing what occurrences shall constitute events of default and prescribing the terms and conditions upon which such trustee or trustees of the holder or holders of any specified amount or percentage of such Debt securities may exercise such rights; and to enforce any and all such covenants and resort to such remedies as may be appropriate.

2. Notwithstanding that such acts or things may not be enumerates herein, the trustee or trustees shall have powers to perform all acts and to do all things not inconsistent with the provisions of the Trustees Act, the Trustees Investment Act, the Investment and Securities Act No 29 of 2007 and the rules and regulations of the Commission together with any other law for the time being in force.

SECTION 14

1. Notwithstanding anything to the contrary in this Law, if at anytime the Trustee is satisfied that the Sinking Fund established under the Law will be sufficient with further accumulations of interest, but without further payments of contributions to enable the State to redeem any debt Securities at the time fixed for their redemption, it shall inform the State accordingly.
2. Upon receiving a notification from the Trustee in accordance with subsection (1) of this Section, the State shall duly inform the Accountant-General and the Accountant-General shall suspend further payments of contributions to the Sinking Fund.
3. A detailed account standing to the credit of the State after suspension of contributions shall be made and presented to the House of Assembly.
4. The contributions to the Sinking Fund shall recommence if the Trustee at anytime thereafter informs the State and the Accountant-General that it is no longer satisfied that the Sinking Fund with further accumulations of interest will be sufficient for the redemption of such Debt Securities repayable out of the Sinking Fund.

Suspension of
Contributions
to the
Sinking Fund.

SECTION 15

All expenses specifically incurred or incidental to the investment and management of any Sinking fund and the redemption of any tranche of Debt Securities repayable out of such Sinking Fund shall be paid out of the Sinking Fund.

Expenses to
be paid out
of sinking
Fund.

SECTION 16

In circumstances where at any time the Sinking Fund is deemed to be insufficient to make the principal and interest payments due on any debt Securities, the deficiency shall be paid first out of the Debt Service Reserve Fund Account, then the statutory allocation

Deficiencies
in Sinking
Fund
Chargeable
on Revenue.

from the Consolidated Revenue Fund of the Federation and if same are insufficient to pay the deficiency, the outstanding balance shall be paid from the Consolidated Revenue Fund of the State.

SECTION 17

Issuance of
Undertakings.

1. For the purpose of giving full effect to sections 4(3) and 16 of this Law and the provisions of the Investment and Securities Act No 29 of 2007, the Commissioner, after approval the Governor shall direct the Accountant-General to issue on behalf of the State, the appropriate irrevocable undertaking or such other undertakings instructions and or documents or authorizations as may be required for the purpose of making the appropriate payments or providing the appropriate securities.
2. The undertakings issued under subsection (1) of this Section shall cease to be valid where the liabilities upon the debt with respect to which the undertaking was made have been fully settled, or the period of validity of the undertakings, as stated therein, has expired.
3. The Office shall maintain a record of undertaking issued under this Section and shall also keep records of undertakings which have ceased to be valid pursuant to subsection (2) of this Section.

SECTION 18

Publication of
Legal Notice
in Official
Gazette.

1. The issuance of any Debt Securities made pursuant to this Law shall be published by legal Notice in the Official Gazette by the Commissioner after such Debt Securities has been issued in Nigeria and or abroad, and same has been announced to the general public.
2. Any Legal Notice published pursuant to subsection (1) of this Section shall contain detailed and specific information and terms of the issue, including:
 - (a) the amount of money to be raised by the issue;
 - (b) the mode or modes of effecting the issue;
 - (c) the rate of interest payable on the loan;
 - (d) the dates in each year on which the interest on the loan shall be payable;
 - (e) the date of redemption;
 - (f) the purpose of raising the loan;
 - (g) the market and the currency of issue; and
 - (h) any other information relating to the issue which is deemed necessary to effectively raise the required sums, and or preliminary information to subscribers or as required by any other relevant law.
3. Any Debt Securities issued under this Law may or may not be listed on any stock exchange or any equivalent trading floor

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*Ebonyi State Debt Securities Issuance
and Related Matters Law, 2009*

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Law No. 13 of 2009

in any jurisdiction.

SECTION 19

1. Upon the publication of the Gazette pursuant to Section 18(I) of this Law, the Office shall, subject to further directions of the commissioner, make all such arrangements as may be necessary and appropriate to issue the debt Securities and raise the loans. Arrangement
s for Issuance
of Debt
Securities.
2. The Governor may, on the advice of the Officer or the Attorney-General as the case may be, appoint such reputable issuing houses, financial advisers, brokers, accountants, legal advisers and any other professional adviser required to act in connection with any issuance under the provisions of this Law.
3. All such advisers referred to in subsection (2) of this section shall be dully registered with the Commission in accordance with the provisions of the Investment and Securities Act No. 29 of 2007.
4. For the purpose of giving effect to this Law, the State shall be empowered to and may where convenient and or necessary, cooperate or partner with markets makers, dealers and investors.

SECTION 20

1. The Governor may from time to time, upon the advice of the Executive Council, approve standard terms and conditions for the negotiation and acceptance of loans and facilities and issuance of Debt securities and guarantees. Terms and
Conditions of
Loans, Debt
Securities
Issuance and
Guarantees.
2. Where the Governor has approved the terms and conditions under subsection (1) of this section, any agreement entered into by any person or body appointed under this Law to act on behalf of the State in connection with the issuance of Debt Securities, shall come into operation, without further reference to the Governor, where the terms and conditions are in conformity with the terms of this Law and the said approval.
3. Notwithstanding the provision of subsection (2) of this section, the Governor may request that a particular agreement be brought to him for further approval.
4. No agreement in respect of which the approval of the Governor is required shall come into force without such approval.

SECTION 21

1. Subject to the provisions of this Law, any monies received in respect of any loan contracted by, or guaranteed on behalf of the State shall be: Application of
Loan
Receipts.

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- (a) applied solely for the purpose for which it was obtained and in accordance with the terms and conditions of the agreement under which it was obtained or;
- (b) paid into any public fund of the State either existing at the time or created for the purpose of the loan; or
- (c) paid into and form part of the Consolidated Revenue Fund of the State.

2. Where any amount has become payable out of the monies credited to any public fund of the State or the Consolidated Revenue Fund of the State, or other public funds under subsection (1) of this Section, the amount shall be deemed to be a charge on such public fund or the Consolidated Revenue Fund of the State as the case may be.

SECTION 22

Appointment of
Registrar.

For the purpose of carrying out the responsibilities under section 23 of this Law, the Governor shall appoint a registrar registered with the Securities Exchange Commission (SEC) subject to any terms and conditions which it deems fit.

SECTION 23

Register of Debt
Securities.

1. The Registrar shall be responsible for maintaining Registers in which all transactions in securities entered into pursuant to the provisions of this Law shall be recorded.

2. A Register kept in accordance with subsection (1) above shall be kept in such place as may be approved by the State, and shall among other things, include the following:

- (a) the type of Debt Securities to which it relates;
- (b) the maturity date of such debt Securities and its interest or coupon payment dates;
- (c) the names and addresses of the holders, for the time being, of the Debt Securities concerned;
- (d) the date on which the name of every holder is entered in respect of the Debt Securities held in his name; and
- (e) the amount of Debt Securities held by each holder.

3. The Registrar shall, upon written request, provide to the Office and or the Trustees appointed on behalf of the holders of the Debt Securities the registers, reports and or accounts which he maintains in respect of his functions under the provisions of this Law or any information therein.

SECTION 24

Closing of the
Register.

The Registrar shall be closed for a period not exceeding five (5) working days immediately proceeding each date upon which interest on the Debt Securities fall due and no transfer of interests in the Debt Securities shall be registered during that period.

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SECTION 25

1. The entries in the register kept under the provisions of this Law shall be conclusive evidence of the facts, matters, particulars and transactions to which those entries relate.
2. Notwithstanding the provisions of any other enactment, a copy of any entry in the register certified under the hand of the Registrar or any authorized officer of the State to be a true copy of the original entry shall be receivable in evidence in any judicial proceeding unless a judge shall otherwise direct.

Register to
be
Conclusive
Evidence of
facts entered
in it.

SECTION 26

1. The Debt Securities issued under this Law shall be transferable in the manner specified in the legal notice published in respect of their issuance.
2. The title of the holder of any Debt Securities shall not be deemed to be transferred to any other person save upon the execution of an approved instrument of transfer or in accordance with the transfer process of any stock exchange and upon the registration of the transferee as the holder, in the register.
3. Interest or coupon payment which has fallen due in respect of any Debt Security but which has not been paid to the holder for the time being, shall not be payable to a transferee of that Debt security unless the instrument of transfer and the transferee's name has been registered in the register.

Transfer of Debt
Securities.

SECTION 27

No person shall be registered as the transferee of any Debt Securities except upon surrender in accordance with the offering documents, or to the Registrar of any certificate issued in respect of such Debt Securities and the instrument of transfer relating to the said Debt Securities, and upon payment of the prescribed fee.

Registration of
Transfers on
Debt Securities.

SECTION 28

1. A rating agency or agencies accredited and registered with the Commission shall be appointed from time to time by the Governor after consultation with the Office.
2. Prior to the issuance of any Debt Securities (not the issuance of tranches or sequences thereof) the Commissioner shall apply for and obtain a credit rating from a rating agency or agencies appointed under subsection (1) of this Section.

Rating of Debt
Securities

SECTION 29

Save as otherwise provided in this Law, no notice of any trust in respect of any registered Debt Securities shall be receivable by the State or the Commissioner.

Notice of
Trust.

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SECTION 30

Inspection of
Register.

No person shall be entitled to inspect or to receive information derived from any Register, book or other document kept or maintained by or on behalf of the State in relation to registered Debt Securities, save on the payment of such fee and under such circumstances, terms and conditions as may be prescribed by the State.

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SECTION 31

Power to make
Regulations.

1. Subject to the approval of the House of Assembly, the Commissioner may make regulations for the purpose of giving effect to the provisions of this Law.
2. Regulations made under subsection (1) of this Section may Regulations provide for all or any of the following matters:
 - (a) the issue, transfer, forfeiture and redemption of Debt Securities;
 - (b) the payment by way of interest or otherwise of such amounts as may be determined by or under the regulations;
 - (c) the fees to be paid in respect of anything to be issued or done under the provisions of this Law;
 - (d) all matters required by this Law to be prescribed, not being specifically reserved to the House of Assembly or the Governor and all matters incidental to or connected with such matters.

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SECTION 32

Object and
purpose.

The object of this law is the Issuance of Debt Securities to provide financial assistance for the economic development of the state so as to realise:


- (a) the development of new commercial, industrial and business facilities;
- (b) the full and efficient utilization and modernization of existing industrial, commercial and business facilities;
- (c) the full and gainful employment of residents of the State;
- (d) the stability and diversification of the State's economy;
- (e) the enhancement of the general economic prosperity, health, safety and welfare of the citizens and residents of the State;
- (f) the development of socio-economic facilities and other matters related thereto.

14

SCHEDULE

FORM A

This printed impression has been compared by me with the Bill which has been passed into Law by the Ebonyi State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.


MRS ROSE NNENNIA NWOKPORO
Clerk of House of Assembly
EBONYI STATE OF NIGERIA

Dated this 15th day of December, 2009

FORM B

Assented to by me this 18th day of December, 2009




CHIEF MARTIN N. ELECHI MFR
GOVERNOR, EBONYI STATE OF NIGERIA

FORM C

I withhold my assent.

GOVERNOR
EBONYI STATE OF NIGERIA

Datedthe dayof 2009.