

**GOMBE STATE
DEBT MANAGEMENT AGENCY LAW,**

2021

**A LAW TO PROVIDE FOR THE ESTABLISHMENT OF GOMBE
STATE DEBT MANAGEMENT AGENCY AND OTHER RELATED
MATTERS THERETO 2021.**

ENACTED by the Gombe State House of Assembly as follows:

*Citation and
Commencement*

S.1 This Law may be cited as the Gombe State Debt Management Agency Law, 2021 and shall come into operation on the _____ day of _____ 2021.

Interpretation

S.2 In this Law unless the context otherwise requires:

“**Agency**” means the Debt Management Agency established under section 3;

“**Committee**” means the Debt Management Committee of the Agency established under section 7;

“**Debt**” includes internal and external debts;

“**Governor**” means the Governor of Gombe State;

“**Deputy Governor**” means the Deputy Governor of Gombe State;

“**FDMO**” means Federal Debt Management Office in Abuja;

“**Loans**” includes internal and external borrowings;

“**Local Governments**” means Local Government Councils of the State;

“**Commissioner**” means the Gombe State Commissioner of Finance;

“**Power**” means functions and Functions includes power;

“**Public bodies**” includes Federal, State, and Local Governments, their agencies, departments, or parastatals;

“**State**” Means Gombe State;

*Establishment of
Debt Management
Agency*

S.3(1) There shall be established for Gombe State an agency to be known as the Debt Management Agency

(2) The Agency shall:

- (a) be a body corporate with perpetual succession and a common seal; and
- (b) have power to sue and be sued in its corporate name.

(3) The Agency shall be under the supervision of the Ministry of Finance.

*Functions of the
Agency*

S.4(1) The Agency shall:

- (a) maintain a reliable database of all loans taken or guaranteed by the State or Local Governments or any of their agencies;
- (b) prepare and submit to the Governor a forecast of loan service obligations for each financial year;
- (c) prepare a schedule of any other State Government obligations such as contractor and supplier debt, pension liabilities, the loan from the Federal Government, and other contingent liabilities, both explicit and implicit, and provide advice on policies and proceedings for their management;
- (d) prepare and implement a strategy for the efficient management of the State's external and domestic debt obligations at sustainable levels compatible with desired economic activities for growth and development and participate in negotiations aimed at realizing those objectives;
- (e) verify and reconcile external debt serviced, guaranteed, or taken by the State Government with the FDMO;
- (f) verify and reconcile external debt serviced guaranteed or directly taken by the State Government with the Accountant General of the State;
- (g) based on agreement, service domestic debt taken by Local Government or any of their Agencies, where such debts are guaranteed by the State Government;

- (h) set guidelines for managing State Government financial risk and currency exposure with respect to all loans;
- (i) advise the State Government on the re-structuring and re-financing of all debts;
- (j) advise the State Government on the terms and conditions on which monies, whether in the currency of Nigeria or in any other currency, are to be borrowed;
- (k) in collaboration with the Budget and Planning Committee, use historical data to forecast Government financing needs and establish a financing gap for each year;
- (l) submit to the State Government for consideration in the annual budget, the State financing gap and forecast of borrowing capacity in local and foreign currencies for approval by the executive council and State House of Assembly in the appropriation bill;
- (m) establish and maintain relationships with international and local financial institutions, institutional investors, donor agencies and the FDMO;
- (n) assess and verify compliance to existing laws and borrowing guidance of every proposal for consent to obtain a loan submitted by any State agency or Local Government and recommend same for approval of the committee;
- (o) monitor all projects funded by loans and report to the executive council on the performance of all loans contracted by the State;
- (p) perform such other functions which in the opinion of the committee are required for the effective implementation of its functions under this Law; and
- (q) carry out such other statutory functions as may be assigned to it by the Governor.

Powers of the Agency

S.5 The Agency shall have power:

- (a) in collaboration with the State Ministry of Finance, to issue to the public from time to time as the need arises and within existing

- guidelines that will ensure sustainability, registered bond by the State Government in such aggregate sum as may be approved by the State Executive Council on the advice of the Committee;
- (b) to issue from time to time, guidelines for obtaining credit facilities by the State, its agencies and Local Government that will ensure the prudent management and smooth operation of the public debt or securities issuance programme of the State Government;
 - (c) in collaboration with the State Ministry of Finance, to obtain on-lending financial facilities and approvals from the FDMO on behalf of the State;
 - (d) to participate in the FDMO's programs that are aimed at ensuring debt sustainability for the State and the nation;
 - (e) to issue a consent to borrow subject to the full compliance with existing laws and borrowing guidelines and approval of the Committee, to its agencies or Local Governments desirous of borrowing;
 - (f) to require all persons and institutions having access thereto at the State or at the Local Government levels, at all reasonable times, to supply, in such forms as the agency may from time to time request information relating to or touching on or concerning matters affecting borrowing or public debts in the State or Local Governments; and
 - (g) undertake such other activities which in the opinion of the Committee relate to the management of external and domestic debts of the State and its Local Governments.

Units of the Agency

S.6 The Agency shall have three units:

- (a) The Front Office (Portfolio Management Unit), to engage in:
 - (i) loan negotiation;
 - (ii) Security Issuance;
 - (iii) Loans and other Financial Product;
 - (iv) Risk and Asset Management; and
 - (v) Government Guarantees.

- (b) The Middle Office (Policy, Strategy and Risk Management Unit), to engage in:
- (i) quarterly analysis of generated debt reports,
 - (ii) determine the State's funding gaps and borrowing needs;
 - (iii) conduct the State's Debt Portfolio Review and Debt Sustainability Analysis.
 - (iv) articulate State policy, Strategies and objectives of the public debt based on State Government Development Policy;
 - (v) analyze risk and mitigating factors associated with existing and new State debt portfolio;
 - (vi) Undertake research, document and publish periodic report on FDMO operations;
 - (vii) monitor compliance with approved work plan and procedures of projects financed by loan proceeds;
 - (viii) obtain from the back office, disbursement/amortization schedules for all categories of loans and forward copy to appropriate benefitting agency;
 - (ix) undertake inspection visit on projects funded by loans and prepare report on compliance on a project by project basis; and
 - (x) preparation of a quarterly report detailing progress of work on each project funded by loan.
- (b) The Back Office/Debt Recording and Settlement Unit:
The unit is responsible for
- (i) the administration of the full cycle of a debt contract/debt instrument, from the point of signature of the issue to its full repayment or maturity;
 - (ii) generating timely and accurate information on the State's total public debt status.
 - (iii) duly record internal and external debt, debt resulting from on-lent loans, grants and counterpart fund, contractors' debt, and contingency liabilities of the State;
 - (iv) on a quarterly basis, undertake debt data validations and reconciliation with the FDMO;
 - (v) promptly record new disbursements;
 - (vi) record and update service payments; Prepare on an annual basis, budget for debt service payments and their due dates for the approval of the Commissioner;

- (vii) making available at the beginning of each year a copy of the projected debt service payment schedules to the Accountant General of the State and at least, one month prior, advise the Accountant General on the due dates for the debt service payment; Obtain demand note/bills from creditors; Process and pass the Demand Notes to the Accountant General to issue payment mandate to effect payment;
- (viii) receive Payment Advice from the Accountant General, reconcile actual and the projected dates and amounts paid, and update the records accordingly;
- (ix) on a regular basis, undertake debt service data reconciliation with the Accountant General; and
- (x) On a regular basis, track and monitor the service of the counterpart funds

*Establishment of
Debt Management
Committee*

S.7(1)

There is established for the Agency a Debt Management Committee comprising of:

- (a) the Commissioner of Finance as Chairman;
- (b) the Attorney-General of the State;
- (c) the Special Adviser to the Governor on Budget;
- (d) Commissioner for Local Government;
- (e) the Accountant-General of the State; and
- (f) the Director-General of the Agency shall be the Secretary to the Committee.

(2) The supplementary provisions set out in the Schedule to this Law shall have effect with respect to the proceedings of the Committee and the other matters therein.

*Functions of the
Committee*

S.8

The Committee shall:

- (a) approve policies, strategies and procedures to be implemented by the Agency for the achievement of its objectives;
- (b) review from time to time, the economic and political impact of domestic and external debt management strategies;

- (c) appoint, as and when necessary, Technical Committees comprising persons with requisite technical competence from the private or public sector to advise the Agency on such matters as may be determined from time to time;
- (d) consider and approve loans and credit facility proposals recommended by the Agency; and
- (e) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Agency.

*Director-
General of the
Agency*

S.9(1) There shall be for the Agency, a Director-General, who shall be appointed by the Executive Governor.

(2) The Director-General shall:

- (a) be person possessing sound knowledge and cognate experience of at least ten (10) years in financial management, debt management and related disciplines;
- (b) hold Office for a period of 5 years in the first instance and may be re-appointed for another term of 5 years and no more;
- (c) be responsible to the Committee for policy direction and day-to-day administration of the Agency; and
- (d) subject to the provisions of paragraph (b) above, hold office on such terms and conditions as may be contained in his letter of appointment.

*Other Staff of
the Agency*

S.10(1) The Committee shall appoint for the Agency such other number of employees as may in the opinion of the Committee be expedient and necessary for the proper and efficient performance of the functions of the Agency.

- (2) The terms and conditions of service, including remuneration, allowances, benefits and pensions of the employees of the Agency shall be as determined by the Committee after consultation with the Governor.
- (3) The Committee shall have power to:
 - (a) appoint either on transfer or on secondment from any public service in the Federation or State, such number of employees as may, in the opinion of the Committee, be

required to assist the Agency in the discharge of any of its functions under this Law; and
(b) subject to the approval of the Governor, pay to persons so engaged such allowances as the Committee may deem fit.

Power to make Regulations

S.11(1)

The Agency may make staff regulations relating to the conditions of service of the employees of the Agency and without prejudice to the generality of the foregoing, such regulations may provide for:

- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Agency; and
- (b) appeals by such employees against dismissal or other disciplinary measures, Provided that before and until such regulations are made, any instrument relating to the conditions of service of Agencies in the civil service of the State shall be applicable, with such modifications as may be necessary, to the employees of the Agency.

Establishment of Debt Management Agency Fund

S.12 (1)

There is hereby established for the Agency Fund from which shall be defrayed all expenditure incurred by the Agency.

(2)

The funds and resources of the Agency shall consist of:

- (a) all budgetary allocations from the State Government.
- (b) such monies as may from time to time be granted to the agency by the Federal Government or its Agencies, State and or Local Government or its Agencies or Departments.
- (c) all monies raised by the Agency by way of gift, fees for service rendered, loans, grants in aid, testamentary disposition or otherwise; and
- (d) all other assets that may from time to time accrue to the Agency.

Management of Funds

S.13

The funds shall be managed in accordance with the rules made by the Committee which shall contain provisions:

- (a) specifying the manner in which the assets or the Fund of the Agency are to be held and regulating the makings of payments into and out of the Fund; and

- (b) requiring the keeping of proper accounts and records for the purpose of the fund, in such form as may be specified.

Expenditure of the Agency

S.14 The Agency shall apply the proceeds of the Fund to -

- (a) the cost of administration of the Agency ;
- (b) the payment of salaries, fees, remunerations, allowances, pensions and gratuities payable to the members of the Committee and the employees of the Agency;
- (c) the payment for all purchases ;
- (d) payment of inducement, dressing and other special allowances due to the nature of the work of the Agency; and
- (e) undertaking such other activities as are connected with all or any of the functions of the Agency under this Law.

Power to Accept Gifts

S.15 (1) The Agency may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.

- (2) The Agency shall not accept any gift if the conditions attached by the person or organization making the gift are inconsistent with the functions of the Agency under this Law or may result in conflict of interest.

Income and Expenditure

S.16 (1) The Agency shall, not later than 30th September in each year, submit to the Committee an estimate of the expenditure and income of the Agency during the following year.

- (2) The Agency shall cause to be kept proper accounts of the Agency in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than 6 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the State.

Audit

S.17 The Agency shall prepare and submit to the Committee not later than 30th June in each year, a report in such form as the Committee may direct on the activities of the Agency during the immediately preceding year, and shall include in the report

a copy of the audited accounts of the Agency for that year and the auditor's report thereon.

- Borrowing* S.18(1) The Agency shall annually advise the State Government on the financing gap for the succeeding financial year and the amounts to be borrowed both internally and externally for bridging the gap.
- (2) Any advice issued by the Agency under subsection (1) of this section shall, among other things, form the basis of the State borrowing program for the succeeding financial year as may be approved by the State House of Assembly.
- (3) The State Ministry of Finance and the Agency shall be responsible for leading negotiation and acquisition of such loans, grants and credit referred to in subsection (1) of this section.
- (4) All borrowings proposals of the State Government, its agencies and Local Government in a fiscal year may, subject to guidelines issued from time to time by the Agency to be submitted not later than 30th September of the previous year to the Debt Management Agency for incorporation into the borrowing program for the coming year.
- (5) Any loan or credit facility obtained in contravention of this law and guidelines issued there from shall be void.
- Agreement* S.19 An Agreement entered into for the purpose of subsection (1) of section 18 shall, subject to the provisions of this section, be executed for and on behalf of the State Government by the Commissioner or by such other person as the Commissioner may, from time to time and in writing, designate for that purpose.
- Approval of Loans* S.20 Loan shall be approved or obtained by the State, its agencies and Local Governments unless its terms and conditions are not in accordance with the existing borrowing guidelines issued by the Agency pursuant to this Law.
- Determination of the Stock* S.21 The total debt stock of the State shall not exceed a percentage of the State's income for the preceding year determined by the

Committee or; a percentage of the total budget of the State determined by the committee, whichever is lower.

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| <i>Guarantee on Loans</i> | S.22 | The State and Local Governments or any of their agencies shall not obtain any external loan except with a guarantee issued by the Commissioner. |
| <i>Government Guarantee</i> | S.23(1) | The State Government may, subject to the provisions of this section and the guidelines issued pursuant to this Law guarantee internal loans taken by its agencies or local governments |
| | (2) | A guarantee agreement for internal loans shall be executed on behalf of the State Government by the Commissioner or any other person designated by him in writing with the approval of the Committee. |
| | (3) | The Commissioner shall not guarantee an external loan unless the terms and conditions of the loan are in line with this Law and existing borrowing guidelines and have been laid before the State House of Assembly and approved by its resolution. |
| | (4) | Where any money is due to be paid by the State Government in satisfaction of any obligation arising from a borrowing or a guarantee by the Commissioner, that money shall be deemed to be charged on the Consolidated Revenue Fund of the State. |
| <i>Power to issue Security</i> | S.24 | Subject to the provisions of section 6 of this law, in collaboration with the Ministry of Finance, the Agency shall: |
| | (a) | determine: |
| | (i) | the floatation of State Government long-term securities to raise appropriate funds in the capital market; |
| | (ii) | the appointment of underwriters, registrars and other relevant parties to the issue specified in sub-paragraph (i) of paragraph (a) of this subsection to ensure their success; |
| | (iii) | the payment of interest, maintenance of a register of holders and redemption of securities at maturity; |
| | (iv) | the creation and management of sinking funds to provide for the redemption of securities at maturity. |

- (b) in collaboration with the FDMO and Security and Exchange Commission (SEC), determination of any other forms of securities that may be created, issued or floated to achieve the domestic debt management objectives of the State Government;
- (c) review and advise on the maintenance of statutory limits for all categories of loans or debt instruments at levels compatible with economic activities required for sustainable growth and development in collaboration with the FDMO and the SEC; and
- (d) liaise or cooperate with other State Governments or other relevant institutions within or outside Nigeria for the realization of the objectives of the Agency.

*Loan Deposit
and Application*

S.25(1)

Any monies received in respect of any loan contracted by the State Government shall be:

- (a) paid into and form part of the Consolidated Revenue Fund of the State; or
 - (b) paid into any other public fund of the State either existing at the time or created for the purpose of the loan; and
 - (c) 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.
- (2) Any monies received in respect of guaranteed loan on behalf of Local Government shall be:
- (a) paid into and form part of the Consolidated Revenue Fund of the Local Government; or
 - (b) paid into any other public fund of the Local Government either existing at the time or created for the purpose of the loan; and
 - (c) 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.
- (3) Where any amount have been paid out of the monies credited to the Consolidated Revenue Fund of the State, Local Government or other public funds under subsection (1) or (2) of this section,

the amount shall be deemed to be charge on the Consolidated Revenue Fund of the State, Local Government or such other public funds into which the monies have been paid.

*Terms and
Conditions for
Loans and
Guarantee*

S.26(1) The State House of Assembly shall by a resolution approve, from time to time, standard terms and conditions for the negotiation and acceptance of loans to be contracted by the State.

(2) Where the State Assembly has approved the terms and conditions under subsection (1) of this section, any agreement entered into by State Government shall come into operation with further reference to the State Assembly but subject to section 19 of this law.

(3) Notwithstanding the provisions of subsection (2) of this section, the State House of Assembly shall by a resolution request that a particular agreement shall be brought before it for further consideration.

Miscellaneous

S.27(1) Subject to the provisions of this Law, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Agency.

(2) Notwithstanding anything contained in any other law or enactment no suit shall lie or be instituted in any court against any member of the Committee, the Director-General or any other officer or employee of the Agency for any act done in pursuance or execution of this Law or any other law or enactment, or of any public duty or authority in respect of any alleged neglect or default in the execution of this law or such other law or enactment, duty or authority unless;

(a) it is commenced within 3 months next after the act, neglect or default complained of; or

(b) in the case of a continuation of damage or injury, within 6 months next after the ceasing, thereof.

(3) No suit shall be commenced against a member of the Committee, the Director-General, officer or employee of the Agency before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Agency by the intending plaintiff or his agent.

- (4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

Service of Documents

S.28 A notice, summons or other documents required or authorized to be served upon the Agency under this Law may be served by delivering it to the Director-General or any responsible officer of the Agency, or by sending it by registered post addressed to the Director-General at the principal office of the Agency.

Transition

S.29 (1) As from commencement of this Law, the powers of any Ministry or agency over the management of any debt, referred to in Section 5 and 6 of this Law shall by virtue of this Law and without further assurance, be vested in the Agency.

(2) Any proceeding or cause of action pending or existing immediately before the commencement of this Law by or against any such Ministry or agency over the management of any debt in respect of any right, interest, obligation or liability in relation to the management of a debt may be continued by or against the Agency, as if the Agency had been a party

(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 Agency to the same extent that the proceeding, cause of action or determination could have been continued/commenced by or against that Ministry or agency as if this Law had not been made, provided that nothing in this law shall prejudice the right of a citizen to directly commence or enforce such a right against any Ministry, Government Department or Agency.

Validation of Appointments

S.30 The appointment of officers and employees and other steps, actions or decision made by Debt Management Agency prior to the commencement of this Law shall be deemed to have been validly made under this Law, and accordingly the Agency shall assume ownership of all assets and liabilities and exercise all powers of the Debt Management Department given by any other law from the date of commencement of this law.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMITTEE

PROCEEDINGS OF THE COMMITTEE

1. Subject to this law, the Committee may make standing orders regulating its proceedings or those of any of its committees.
2. The quorum of the Committee shall be the Chairman, or the person presiding at the meeting and 3 other members of the Committee, and the quorum of any subcommittee of the Committee shall be determined by the Committee.
3. The Committee shall meet not less than four times in each year and subject thereto; the Committee shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him by not less than 4 other members, he shall summon a meeting of the Committee to be held within two weeks from the date on which the notice is given.
4. At any meeting of the Committee the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of them to preside at that meeting.
5. Where the Committee desires to obtain the advice of any person on a particular matter, the Committee may co-opt him to the Committee for such period as it deems fit but a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Committee and shall not count towards a quorum.

SUB-COMMITTEES

6. The Committee may appoint one or more committees to carry out, on behalf of the Committee, such functions as the Committee may determine.
7. A sub-committee appointed under this paragraph shall consist of such number of persons as may be determined by the Committee and a person shall, hold Office on the committee in accordance with the terms of his appointment.
8. A decision of a sub-committee shall be of no effect until it is confirmed by the Committee.

MISCELLANEOUS

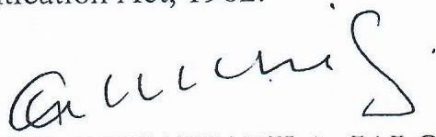
9. Any contract or instrument which, if made or executed by a person not being a corporate body, would not be required to be under seal, may be made or executed on behalf of the Agency by the Director-General or any person generally or specifically authorized by the Committee to act for that purpose.
10. Any document purporting to be a document duly executed under the seal of the Agency shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.
11. The validity of any proceeding of the Committee or of a sub-committee shall not be adversely affected by:
 - (a) A vacancy in the membership of the Committee or sub-committee; or
 - (b) A defect in the appointment of a member of the Committee or sub-committee; or
 - (c) Reason that a person not entitled to do so took part in the proceedings of the Committee or sub-committee.

**SUMMARY OF GOMBE STATE DEBT MANAGEMENT AGENCY
LAW, 2021**

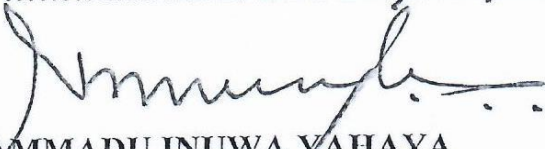
SHORT TITLE	LONG TITLE	SUMMARY	DATE PASSED
Gombe State Debt Management Agency Law, 2021	A Law to provide for the Establishment of Gombe State Debt Management Agency and related Matters thereto 2021	This Law seeks to establish the Debt Management Agency to among other things efficiently coordinate the management of domestic and external debt obligation by the State or Local Government or their Agencies, maintain a complete and accurate data base of all Government borrowings, verify and reconcile external debt serviced, guaranteed or taken by the State Government, Local Government or their Agencies.	21 st September, 2021

CERTIFICATION

I certify that this Law has been carefully compared by me with the decision reached by the Honourable House and found by me to be the true and correct assertion of the Hon. House and this is in accordance with the provisions of the Authentication Act, 1962.


BARR. RUKAIYATU A. JALO
CLERK-TO-THE-HOUSE

I ASSENT THIS ^{25th}..... DAY OF ^{September}.....2021


MUHAMMADU INUWA YAHAYA
GOVERNOR, GOMBE STATE

