



CROSS RIVER STATE OF NIGERIA

LAW NO. 10 (2015)

A Law to make provision for the establishment of the Cross River State Waterfront Infrastructure Management Agency and for matters connected therewith. Long Title.

Commencement.

The Cross River State House of Assembly enacts as follows -

Enactment.

PART I
ESTABLISHMENT OF WATERFRONT INFRASTRUCTURE MANAGEMENT AGENCY

1. (1) There is hereby established the Cross River State Waterfront Infrastructure Management Agency (in this Law referred to as "the Agency"). Establishment of the Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The common seal shall be authenticated by the Chairman or any other member authorized by the Board to act on her behalf.

(4) Judicial notice shall be taken of the common seal of the Agency to be authenticated in accordance with this Law.

2. The main aim of the Agency is the safety and management of waterfront infrastructure in the State. Aim of the Agency.

3. There is hereby established the Waterfront Infrastructure Management Board (in this Law referred to as "the Board") which shall be responsible for the carrying into effect the aim and functions of this Law. Establishment of the Board of the Agency.

4. The Board shall consist of the following members - Membership of the Board/Qualification.

(a) a Chairman, who shall be a graduate with cognate experience in the field of infrastructure management;

(b) six members to be drawn from the three senatorial districts of the State;

(c) State Security Adviser or his representative;

(d) a representative of the Office of the Surveyor-General;

(e) a representative of the Ministry of Lands and Housing;

(f) a representative of Geographic Information Agency;

(g) a representative of Department of Mineral Resources;

(h) a representative of Ministry of Environment;

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- (i) the Director-General of the Agency; and
- (j) a representative of the Calabar Chambers of Commerce.

(2) Members of the Board shall be persons of proven integrity and shall possess a university Degree or its equivalent with cognate experience.

(3) The Chairman and other members of the Board, except ex-officio members, shall be appointed by the Governor.

Tenure of office.

5. The Chairman and other members of the Board, except ex-officio members and the Director-General, shall serve on a part-time basis for 3 (three) years and may be eligible for reappointment for another term of 3 years and no more.

Remuneration of Board members.

6. Members of the Board, except ex-officio members and the Director-General, shall be paid such allowances as applicable in the State Public Service or as the Governor may determine.

PART II REGULATORY FUNCTIONS OF THE BOARD

Functions of the Board.

7. The Board shall develop a framework and make policies to –

- (a) ensure development of waterfront infrastructures across the State;
- (b) protect and maintain all waterfront infrastructures;
- (c) deal with the safety of waterfront;
- (d) manage the funds accruable to the Agency under this Law and all other properties that may from time to time be vested in it for the benefit of the people of the State;
- (e) grant permits for extraction of sand, stones and gravels from waterfronts of the State;
- (f) ensure balance between economic development and preservation that will permit the beneficial use of waterfronts while preventing the diminution of open space areas or public access to the waterfront, shoreline erosion, impairment of scenic beauty, or permanent adverse changes to ecological systems;
- (g) facilitate public access to waterfronts for recreational purpose;
- (h) minimize damage to natural resources and property from flooding and erosion, protection of waterfronts, beaches, dunes, barriers islands, bluffs and other critical coastal and inland waterway features;
- (i) initiate and develop waterfront restoration and revitalization programs;
- (j) enter into contracts with any person, firm, corporation, or governmental agency;
- (k) develop master -plan of all the waterfronts infrastructure of the State;

- (l) generally create conditions for the development, in the most economic and efficient manner of waterfront in the State;
- (m) retain and preserve all lands set aside as waterfront in the State;
- (n) establish and regulate standards for development of all waterfronts;
- (o) process waterfront land allocations;
- (p) liaise with federal government agencies and international organization for the development of waterfront;
- (q) conceiving and executing waterfront scheme in the State;
- (r) regulate existing structures and monitor dredging activities; and
- (s) make regulations for the operations of the Agency, which shall be laid before the House of Assembly.

8. (1) Notwithstanding the provisions of Section 5 of this Law, a member of the Committee shall cease to hold office if he – Cessation of the membership.

- ~~(a) resigns his appointment as a member of the Committee by notice under his hand addressed to the Governor;~~
- (b) becomes of unsound mind;
- (c) is convicted of a felony or any other offence involving dishonesty or corruption;
- (d) becomes bankrupt or makes a compromise with his creditors; or
- (e) becomes incapable of carrying out the functions of his office either arising from an infirmity of mind or body.

(2) Notwithstanding the provisions of sub-section (1) of this Section, a member of the Board may at any time be removed from the office by the Governor –

- (a) for misbehaviour; or
- (b) if he is satisfied that it is not in the interest of the Agency or of the public for the member to continue in office.

9. (1) The Board shall sit in session at least four (4) times in a year and as frequently as is necessary in situations of emergencies. Meetings of the Board.

~~(2) The chairman shall preside at all meetings of the Committee and in his absence, the members present at such meetings shall elect one of their numbers to preside.~~

10. No meeting of the Board shall proceed to business unless there is a quorum of at least 6 members present. Quorum.

11. The Board shall have power to co-opt any person to attend meetings, but such persons shall not have power to vote and shall not count towards quorum. Co-option of a person.

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Voting at meetings.
12. At meetings of the Board, issues requiring a vote shall be determined by a simple majority of votes of the members present and in the case of a tie, the Chairman shall have a casting vote.
- Validity of Proceedings.
13. The validity of any proceedings of the Board shall not be affected by the absence of any member of the Board or any defect in the appointment of a member or any vacancy in the membership of the Committee or by reason of a person, not so entitled, taking part in such meetings.
- Appointment of Sub-Committees.
14. The Board may appoint sub-committees to advise it or take other actions on any matter which it may participate in or any other purposes, whether general or special, relating to the functions where such other purposes would be better regulated or managed by means of sub-committees.
- Powers of the Agency.
15. The Agency under this Law shall have powers to -
- (a) grant operations permit relating to the functions and powers conferred on it under this Law;
 - (b) grant permit for sand dealing or sand dredging from within, around or on waterfronts and embankment within the State;
 - (c) grant permit to construct, develop or erect any building, or any other structure, not being a structure required for water transportation, along the waterfronts within the State.
 - (d) renew, revoke, suspend, cancel or transfer an operation permit granted under this Law;
 - (e) establish and regulate standards for development on all waterfronts; and
 - (f) remove any obstruction and impediment inhibiting access to waterfronts within Cross River State.
- Director-General of the Agency.
16. (1) There shall be a Director-General of the Agency who shall be a person of sound knowledge of and ability in the management of infrastructures and security of the waterfronts.
- (2) The Director-General shall be the Chief Executive Officer of the Agency and shall have responsibility for the implementation of the policies and decisions of the Board and the general administration of the Agency.
- (3) Without prejudice to the provisions of subsection (2) of this Section, the Director-General shall -
- (a) exercise general supervision and administrative control over staff of the Agency; and
 - (b) direct the activities of the Agency, subject to the directives of the Board.
- (4) The Director-General shall hold office for a period of four (4) years and may be re-appointed for another term of four (4) years and no more.
- Appointment of Secretary.
17. (1) The Governor shall appoint, from within the State Service a person to serve as the Secretary to the Board and the Agency.
- (2) The Secretary, who shall not be a member of the Board, shall be a legal practitioner of not less than eight (8) years post call experience.

(3) The Secretary to the Board and the Agency shall—

- (a) keep the records and conduct the correspondence of the Board;
- (b) perform such other duties of a secretarial nature as the Board or as the Director-General of the Agency may from time to time direct; and
- (c) shall serve as the legal officer of the Agency.

18. (1) The Agency may in consultation with the State Civil Service Commission, recruit such number of staff as may be necessary for its operations.

Staff of the Agency.

(2) The staff of the Agency may also be drawn on secondment from any Ministry, parastatals or Agency of the State.

(3) The staff of the Agency shall be entitled to salaries and allowances as are applicable in the State Service and particularly with regards to Pension Law of the State.

(4) The Agency shall have such Departments and Units as may be necessary for its operation.

PART III APPROVALS, OFFENCES AND PENALTIES

19. (1) Any person wishing to acquire or carry out any development of activity on the waterfront shall apply to the relevant authorities through the Agency after fulfilling the requirements laid down in the Schedules to this Law or any other law of the State.

Approval of development plan/Schedules I, II, III and IV.

(2) Any person who constructs, develops, erects any building or any other structure, not being a structure required for water transportation, along the waterfront and embankments within the State without a permit or in any other manner contravenes the provisions of this Law, and shall be liable, on conviction, to a fine of not less than Five Hundred Thousand Naira (N500,000) or for a term of six months imprisonment or to both.

(3) Any person who encroaches, obstructs, or impedes physical access to any waterfront, damages or impairs the aesthetic of any waterfront, whether partially or wholly, shall be liable on conviction, to a fine not below Two Hundred Thousand Naira (N200,000) or imprisonment for a term of three (3) months or both.

(4) Without prejudice to the provisions of subsections (2) and (3) of this Section, the fine for the breach of the provisions contained therein by a corporate body shall attract a fine of Two Million, Five Hundred Thousand Naira (2,500,000).

(5) Without prejudice to the provisions of any other law, the Agency may take all necessary measures, which may include demolition of structures, to ensure that the provisions of this Law are enforced.

20. From the commencement of this Law, every person, corporation, partnership or body involved in sand dealing, sand dredging operation or any other activity from within, around or on waterfronts and embankment within State shall obtain an operation permit from the Governor through the Agency.

Operation permit.

21. (1) Application for a grant of operation permit under this Law shall be made to the Governor through the Agency in a prescribed form and signed by the person making the application.

Application for operation permit.

(2) Every such application shall state the nature and the location of the proposed activity or development.

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(3) An applicant for dredging permit shall produce evidence of compliance with the registration requirements in Schedule 1 of this Law.

Procedure on receipt of application.

22. (1) The Agency shall inspect the specific location of the proposed activity or development to ensure compliance with the procedure laid down for obtaining operation permit.

(2) The Agency may charge fees for any service rendered under this Law.

Establishment of Liaison Offices.

23. (1) There shall be a liaison office of the Agency in each Local Government Area where there is a waterfront which shall be responsible for and oversee the activities in the Local Government Area.

(2) The Liaison office shall be manned by at least three persons to be appointed by the Board from the Local Government Area where the waterfront is situate.

(3) The Head each liaison office shall submit a monthly report to the Board on his activities for the preceding month.

PART IV FUNDS AND MISCELLANEOUS

Sources of funds.

24. The sources of the Agency's Funds shall consist of-

- (a) budgetary provisions;
- (b) donations from Donor Agencies;
- (c) contributions by way of corporate --social responsibility;
- (d) revenue accruing from the activities of the Agency; and
- (e) any other legal source.

Bank account.

25. The Agency shall open and operate an account in any reputable bank approved by the State Accountant-General and all monies received by or on behalf of the Agency shall be paid into the said account and no withdrawal shall be made from the account unless the Cheque or other instrument for such withdrawal has been signed by the Director-General and the Accountant of the Agency and confirmed by the Chairman or any other officer of the Agency as may be authorized in that behalf by the Board.

Annual estimates.

26. The Agency shall prepare not later than 15th September each year, estimates of the recurrent and capital expenditure for the succeeding year.

Accounts and Audit.

27. The Agency shall keep such proper accounts and financial records, which shall be audited by Auditors on the recommendation of the Auditor-General for the State.

Annual report to be submitted to the House.

28. The Agency shall within 3 months after the end of each financial year, submit to the House of Assembly-

- (a) report of its activities for the previous year;
- (b) the financial statement and balance sheet for that year; and
- (c) the report of the Auditor-General of the State.

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29. The Agency shall set aside 2% of its internally generated revenue for monitoring and oversight, respectively. Cost for monitoring and oversight.

30. As from the commencement of this Law, any person or corporate body who carries out the following activities - Extraction of sand, etc. without permit.

(a) extraction of sand;

(b) extraction of stones; or

(c) extraction of gravels

without first seeking and obtaining the permission of the Agency by way of permit commits an offence under this Law.

31. (1) Any person who commits the offence under Section 30 of this Law shall be liable on conviction to a fine of N100,000.00 (One Hundred Thousand Naira) only or to a term of imprisonment of one year or to both fine and imprisonment. Penalty.

(2) Where a corporate body or entity violates the provisions of Section 30 of this Law, such a corporate body shall be liable on conviction to a fine of N500,000.00 (Five Hundred Thousand Naira) only.

32. Any person caught in the act of committing the offence stipulated in section 30 of this Law shall be arrested without a warrant of arrest. Arrest without warrant.

33. In any legal action or proceedings, the Agency shall at any time be represented in court by a State Counsel or a Legal Practitioner nominated by the Attorney-General of the State. Representation in Court.

34. The High Court of the State shall have jurisdiction to determine cases of disputes arising from the operation of this Law. Jurisdiction.

35. In this Law, unless the context otherwise requires - Interpretation.

"Agency" means the Cross River State Waterfront Infrastructure Management Agency;

"Bank" means all types of banks including commercial banks;

"Board" means the Board established by this Law for the Agency;

"Chairman" means the Chairman of the Board of the Agency;

"Director-General" means the Director-General of the Agency;

"Governor" means the Governor of Cross River State;

"House of Assembly" means the Cross River State House of Assembly;

"Infrastructure" means any form of physical development carried out or intended to be carried out on the waterfronts of the State;

"Waterfront" means the internal waters and includes 150 metres from the shorelines to the mainland of the State;

"State" means Cross River State of Nigeria.

36. This Law may be cited as Cross River State Waterfront Infrastructure Management Agency Law, 2015 and shall come into force on theday of 2015. Short Title and Commencement.

SCHEDULE I

REGISTRATION REQUIREMENTS FOR DREDGES

CATEGORY A (DREDGING FIRMS ONLY)

1. Application Letter to the Director-General, WIMA
2. Payment of Application Fee (100,000)
3. Collection of Application Form
4. Submission of completed Forms-with the following attachments -
 - (a) Certificate of Incorporation/Article of Association
 - (b) Copy of Current Tax Clearance Certificate
 - (c) Detailed description of Dredging Machine
 - (d) Details of Technical Competence of Personnels;

CONSENT FEES

- | | | | |
|----|-----------------------------------|--------------|--------------|
| 1. | Hopper Dredge | -N10 Million | |
| 2. | Cutter Suction Dredge (24" – 30") | - | N10 Million |
| 3. | Cutter Suction Dredge (17" 23") | - | N3 Million |
| 4. | Cutter Suction Dredge (10" – 16") | - | N1.5 Million |

CATEGORY B (SAND SELLERS ONLY)

This category is for Firms and Individuals, who are into sand stock-piling and selling using Mechanical Dredging Equipment.

1. Application to Director-General, WIMA
2. Payment of Application Fee (N50,000)
3. Collection of Application Form
4. Submission of Application Form with the following attachment
 - (a) Certificate of Incorporation
 - (b) Copy of Current Tax Clearance Certificate
 - (c) Description of proposal dredging location
 - (d) Provision of Environmental Impact Analysis (E.I.A) Report
 - (e) Provision of the Hydrographic and Bathymetric Surveys of the proposed dredging location
 - (f) Provision of a recent sand search Report
 - (g) Survey Map of the Stockpiling Site

CONSENT FEE

One Million Naira (1,000,000) per annum

CATEGORY C (MANUAL DREDGING)

This category is for firms and individuals into sand dredging, stockpiling and selling, using manuel means (i.e. canoes).

1. Application to Director-General, WIMA
2. Payment of Application Fee (N50,000)
3. Collection of Application Form
4. Submission of Application Form with the following attachment –
 - (a) Certificate of Incorporation
 - (b) Copy of Current Tax Clearance Certificate
 - (c) Description of proposal dredging location
 - (d) Provision of Environmental Impact Assessment (E.I.A) Report
 - (e) Provision of the Hydrographic and Bathymetric Surveys of the proposed dredging location
 - (f) Provision of a recent sand search Report
 - (g) Survey Map of the Stockpiling Site

SCHEDULE II

REGISTRATION REQUIREMENTS FOR WATERFRONT BUILDING PLAN CLEARANCE

1. 3 sets of Architectural Drawing/Land Use Plan
2. 3 sets of Structural, Mechanical and Electrical Drawings
3. Proof of ownership/certificate of occupancy.
4. 3 sets of Environmental Impact Assessment (E. I. A.) Report
5. 3 sets of Sun Print Copies of Survey Plan of land
6. Evidence of payment of relevant charges
7. Evidence of payment of Waterfront Infrastructure Management Agency Administrative Charge
8. Formal letter of application addressed to the Director-General with all the above attached.

SCHEDULE III

REQUIREMENTS FOR SAND FILLING/RECLAMATION/EXTENSION WORK

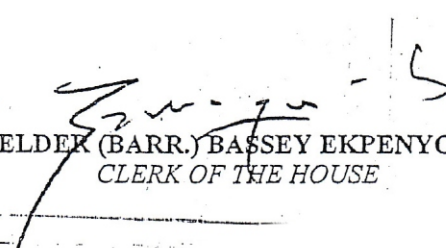
1. Proof of ownership/certificate of occupancy
2. Boundary survey existing land
3. Topography survey
4. Proposed ground finishing height
5. Environmental Impact Assessment (E. I. A) Report
6. Proposed Infrastructure Layout
7. Evidence of payment of WIMA Administrative charge
8. Formal letter of application addressed to the Director-General

SCHEDULE IV

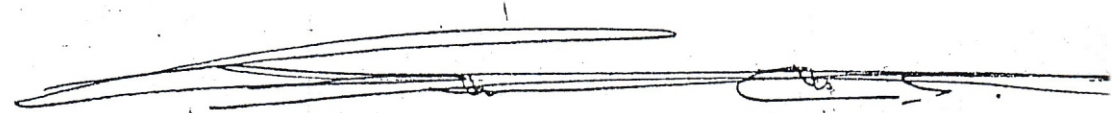
REQUIREMENTS FOR SHORELINE PROTECTION APPLICATION

1. 2 copies of site location sketch
2. 2 copies of site plan
3. photographs of the location
4. 3 sets of engineering draws and specification
5. structural details/calculation
6. dimension of boundary extension
7. proof of ownership/certificate of occupancy
8. boundary survey of existing land
9. topography survey
10. proposed ground finishing height
11. evidence of payment of WIMA charge/ other charges
12. formal letter of application addressed to the Director-General forwarding all of the above listed documents.

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


ELDER (BARR.) BASSEY EKPENYONG
CLERK OF THE HOUSE

I assent


SENATOR (PROF.) BEN AYADE
GOVERNOR
CROSS RIVER STATE

MADE AT Calabar this..... day of.....2015.