

# A BILL

## FOR

AN ACT TO AMEND THE ASSET MANAGEMENT CORPORATION ACT; AND  
FOR RELATED MATTERS

*Sponsored by Hon. Nkeiruka Onyejeocha*

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal  
Republic of Nigeria:

1           1.. The Asset Management Corporation of Nigeria Act (in this Act  
2 referred to as the "Principal Act") is hereby amended as set out in this Bill.

Amendment of  
the Principal Act

3           2.-(i) Section 6(1) of the Principal Act is hereby amended by the  
4 replacing Section 6(1)(v) with the following:

Amendment of  
Section 6

5           "6(1)(V) The Corporation shall pursuant to an order of the Federal  
6 High Court obtained *ex parte* be entitled to do the following:

7           (a) To place any bank account or any other account comparable to a  
8 bank account of a debtor of an eligible financial institution, under  
9 surveillance;

10           (b) Obtain access to any computer system component, electronic or  
11 mechanical device of any debtor with a view to establishing the location of  
12 funds belonging to the said debtor.

13           (c) Obtain information in respect of any private account together  
14 with all bank financial and commercial records of any debtor of any eligible  
15 financial institution;

16           (d) Banking secrecy and the protection of customer confidentiality  
17 shall not be a ground for the denial of the power of the Corporation under this  
18 section."

19           (ii) Section 6(1)(v) is accordingly renumbered as 6(1)(w);

20           (iii) Section 6 of the Principal Act is amended by the inclusion of  
21 Section 6(6) as follows:

1           “6(6) It shall be mandatory for all debtors to which this Act applies  
2 whether personal or corporate, who are engaged in business with the Federal  
3 Government of Nigeria or any of its Ministries, Departments or Agencies to  
4 obtain prior clearance from the Corporation as a condition precedent to the  
5 grant or approval of such contract or receipt of any payment due on such  
6 contract.”

Amendment of  
Section 9

7           3. Section 9 of the Principal Act is amended by the inclusion of  
8 Section 9(3) as follows:

9           “9(3) The Board of Directors of the Corporation shall exercise the  
10 discretion in respect of all questions relating to whether an application or  
11 request brought pursuant to the provisions of the Freedom of Information Act is  
12 in the overriding public interest or otherwise”.

Amendment of  
Section 19

13           4. Section 19 of the Principal Act is amended by the inclusion of  
14 Sections 19(3), 19(4) and 19(5) as follows:

15           “19(3) No enforcement proceedings or execution in respect of a  
16 money judgment shall be commenced against the Corporation unless the prior  
17 consent of the Attorney-General of the Federation has been obtained”

18           “19(4) All monies held by the Corporation, pursuant to the exercise of  
19 its duties, powers and functions under this Act, shall be deemed to be in the  
20 custody and control of the Corporation, notwithstanding that such monies are  
21 held in a bank account”.

22           “19(5) Where any proceeding is pending in any court of competent  
23 jurisdiction by or against the Corporation, the grant of any interim,  
24 interlocutory or preservative order of attachment against the Corporation's  
25 funds in any bank is hereby prohibited”.

Amendment of  
Section 34

26           5. Section 34(2) of the Principal Act is amended by the provision of  
27 Subsections 34 (2) (d) and (e) as follows:

28           “34(2)( d) The provision of this section shall be applicable to all  
29 eligible bank assets including but not restricted to the assets acquired by the  
30 Corporation before May 2015.”

1           "34(2)( e) Upon the acquisition of rights by the Corporation in an  
2 eligible bank asset, the Corporation shall acquire all rights applicable to the  
3 assets notwithstanding that only equitable rights are created in the assets and  
4 the Corporation shall be entitled to exercise the powers of a legal estate  
5 holder in a charge or legal mortgage".

6           6. Section 35 of the Principal act is amended by adding  
7 subsections (7) (8) and (9) as follows:

Amendment of  
Section 35

8           "35(7) Upon acquisition of an eligible bank asset, any cause of  
9 action arising in consequence thereof shall not be affected by the statutes of  
10 limitation of any State of the Federation or the Federal Capital Territory or  
11 limitations prescribed in the Practice Directions of Courts in such states or  
12 the Federal Capital Territory."

13           "35(8) No claim filed by the Corporation shall be invalidated by  
14 reason of non- compliance with the provisions of any statute, rules of court  
15 or Practice Directions as to time."

16           "35(9) Where the Corporation acquires an eligible bank asset, the  
17 Corporation shall have and exercise the powers to sell or to concur with any  
18 other person or institution in the sale of such asset either together or in lots,  
19 by public auction or by private contract without recourse to a court order".

20           7. Section 43(3) of the Principal Act is amended as follows:

Amendment of  
Section 43

21           "43(3) If after the expiration of the 30 days notice stated in  
22 subsection (2) of this section, the Corporation has not responded, the party  
23 concerned may issue a writ or other originating process against the  
24 Corporation provided always that action shall not be commenced or  
25 maintained against the Corporation or any of its shareholders, officers and  
26 directors for anything done or intended to be done in good faith whether in  
27 relation to a court action or otherwise, in the execution of duties, powers and  
28 obligations imposed on the Corporation or any of its shareholders, directors  
29 or officers."

Amendment of  
Section 45

1                   8. Section 45 of the Principal Act is amended by creating subsections  
2 1 and 2. The Section is hereby renumbered as Section 45(1) and Section 45(2)  
3 as follows:

4                   "45(2) A certificate of judgment obtained in a proceeding shall  
5 constitute a registrable instrument of title of the interests of the Corporation in  
6 all land registries in the Federation of Nigeria."

Amendment of  
Section 55

7                   9. Section 55 of the Principal Act is hereby deleted and replaced as  
8 follows:

9                   "55 The Corporation shall have full powers to appoint legal  
10 practitioners to prosecute offences under this Act in the name and on behalf of  
11 the Corporation".

Amendment of  
Section 60

12                  10. Section 60(1) of the Principal Act is amended by the inclusion of  
13 Section 60 (1)(d) as follows:

14                  "(d) all fees, penalties, charges, levies and taxes which are payable to  
15 any institution, agency, department or other authority of the Federal, state or  
16 Local Government save Income tax, Value Added Tax, Withholding Tax which  
17 are payable by the staff of the Corporation or the Corporation's obligors."

Amendment of  
Section 61

18                  11. Section 61 of the Principal Act is amended by defining  
19 "information" after the word "hours" as follows:

20 "Information" includes statements oral, documentary, or representations given  
21 by a customer of an eligible financial institution that are false, forged or  
22 fraudulent and intended to prevent recovery of debts in loans advance or  
23 guarantee."

Citation

24                  12. This Bill may be cited as the Asset Management Corporation of  
25 Nigeria (Amendment) Bill, 2019.

#### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Asset Management Corporation Act.