



THE SENATE
FEDERAL REPUBLIC OF NIGERIA

TERTIARY HOSPITALS DEVELOPMENT FUND BILL, 2021
(SB. 371 AND SB. 136)

A BILL
FOR

AN ACT TO ESTABLISH THE TERTIARY HOSPITALS DEVELOPMENT FUND FOR THE
REHABILITATION, RESTORATION, AND IMPROVEMENT OF TERTIARY HEALTHCARE
DELIVERY IN NIGERIA; AND FOR RELATED MATTERS

FIRST READING

WEDNESDAY, 6TH NOVEMBER, 2019

SECOND READING

TUESDAY, 19TH MAY, 2020

THIRD READING AND PASSAGE

TUESDAY, 28TH SEPTEMBER, 2021

TERTIARY HOSPITALS DEVELOPMENT FUND BILL, 2021



Arrangement of Clauses

Clauses

1. Establishment of Tertiary Healthcare Development Fund.
2. Establishment of Governing Board.
3. Tenure of members.
4. Cessation of membership.
5. Allowances of members.
6. Functions of the Fund.
7. Powers of the Board.
8. Management and administration of the Fund.
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A BILL
FOR

AN ACT TO ESTABLISH THE TERTIARY HOSPITALS DEVELOPMENT FUND FOR THE REHABILITATION, RESTORATION, AND IMPROVEMENT OF TERTIARY HEALTHCARE DELIVERY IN NIGERIA; AND FOR RELATED MATTERS (SB. 371 AND SB. 136).

{ } Commencement

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

PART I - ESTABLISHMENT OF THE TERTIARY HOSPITALS DEVELOPMENT FUND BILL, 2021

1. (1) There is established the Tertiary Hospitals Development Fund (in this Bill referred to as "the Fund) for the rehabilitation, restoration and consolidation of Tertiary Healthcare in Nigeria. 1. Establishment of Tertiary Healthcare Development Fund.
(2) The Fund –
 - (a) is a body corporate with perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name; and
 - (c) hold and dispose its property, whether movable or immovable.

2. (1) There is established for the Fund the Governing Board (in this Bill referred to as "the Board"). 2. Establishment of Governing Board.
(2) The Board shall consist of –
 - (a) a chairman who shall –
 - (i) be a person with good knowledge in healthcare administration and management matters,
 - (ii) have qualifications and experiences as are required to perform the functions of that office under this Bill;
 - (b) one representative each, not below the rank of a Director, of the –
 - (i) Federal Ministry of Health,
 - (ii) Federal Ministry of Finance,
 - (iii) Federal Ministry of Education,
 - (iv) Federal Inland Revenue Service, and
 - (v) Pharmaceutical Society of Nigeria.
 - (c) one representative each from the –
 - (i) six geopolitical zones,
 - (d) three representatives of Committee of Medical Directors of Tertiary Hospitals and Federal Medical Centres (including Teaching Hospitals, and Specialist Hospitals), and
 - (e) Executive Secretary of the Fund who shall be the Secretary of the Board.

(3) The President shall, on the recommendation of the Minister, appoint the Chairman and members of the Board.

(4) The members shall be persons with considerable experience relating to the functions of the Board.

(5) The performance of the functions or exercise of the powers of the Board is not affected by reason of a vacancy in the membership of the Board.

(6) The supplementary provisions set out in the Schedule to this Bill shall have effect with respect to the proceedings of the Board and other matters contained therein.

3. (1) A member other than ex-officio –

3. Tenure of members.

(a) shall hold office for a term of four years that may be renewable for another term of four years and no more; and

(b) may hold office on terms and conditions as may be specified in his letter of appointment.

(2) A member may at any time be removed from office by the President –

(a) for inability to perform the functions of his office (whether arising from infirmity of mind or body); or

(b) if the President considers that it is not in the interest of the Fund or public for such member to continue in office.

4. (1) A member ceases to hold office if he-

4. Cessation of membership.

(a) is, without permission of the Board, absent –

(i) for more than three consecutive meetings for the Board without such permission, or

(ii) from the Country for a period exceeding one year;

(b) in case of a professional, is disqualified or suspended (other than at his own request) from practising his profession in any part of Nigeria by the order of any competent authority;

(c) becomes bankrupt or makes a compromise with his creditors;

(d) becomes bankrupt;

(e) is guilty of –

(i) serious misconduct in relation to his duties, or

(ii) an immorality or corrupt conduct;

(f) is convicted of a felony or any offence involving dishonesty.

(f) is convicted of a felony or any offence involving dishonesty.

(2) A member may at any time resign his membership -

(a) by giving notice in writing through the Minister to the President and the resignation becomes effective from the date specified in the notice; and

(b) if no date is specified, from the date of the receipt of the notice by the president.

(3) Where a member ceases to hold office for any reason whatsoever before the expiration of his term of office, the President, after consulting the Minister, may appoint another person for the unexpired term.

5. Members shall be paid such allowances as the Revenue Mobilization, Allocation and Fiscal Commission may direct.

5. Allowances of members.

PART II — FUNCTIONS OF THE FUND AND POWERS OF THE BOARD

6. The Fund shall -

6. Functions of the Fund.

(a) provide and maintain-

- (i) infrastructure essential for tertiary healthcare service delivery,
- (ii) health research and publications, and
- (iii) clinical staff training and development; and

(b) monitor and ensure collection of the tax by the Service and ensure transfer of same to the Fund;

(c) manage and disburse the tax imposed by this Bill;

(d) liaise with the appropriate ministries or bodies responsible for collection or safe keeping of the tax;

(e) receive requests and approve appropriate projects after due consideration;

(f) ensure disbursement of funds to various Tertiary Teaching Hospitals in Nigeria;

(g) monitor and evaluate execution of the projects in relation to funds releases;

(h) invest funds in appropriate and safe securities;

(i) update the Federal Government on its activities and progress through annual and audited reports not later than six month after the preceding year;

(j) review progress and suggest improvements within the provisions of this Bill;

(k) make and issue guidelines, from time to time, to all beneficiaries on disbursement from the Fund on the use of monies received from the Fund;

(l) generally regulate the administration, application and disbursement of monies from the Fund under this Bill.

(m) do such other things as are -

(i) necessary or incidental to the objects of the Fund under this Bill or as may be assigned by the Federal Government, and

(ii) in the opinion of the Board, critical and essential for the improvement of quality and maintenance of standards in the Tertiary Hospitals.

(iii)

7. The Board has powers to —

7. Powers of the

(a) make regulations for the management of the Fund with the approval of the President Board. through the Minister for health on the basis of—

- (i) funding of all Tertiary Hospitals,
- (ii) equality among the States of the Federation, in the case of regular intervention projects, and
- (iii) equality among the six geopolitical zones of the Federation, in the case of special intervention projects;

- (b) approve the annual budget of the Fund;
- (c) approve all grants for healthcare research, training and development;
- (d) approve loan for healthcare investment subject to section 8 (b) of this Bill;
- (e) review and monitor the activities of the Fund;
- (f) approve payment to persons employed by the Fund of such remuneration and allowances;
- (g) give report on all activities of the Fund on quarterly basis through the Minister to the President
- (h) specify the manner in which assets of the Fund are to be held, and regulate payment into and out of the Fund.
- (i) specify the manner for timely disbursement and recovery (where necessary) of loans;
- (j) require the keeping of proper accounts and records for the purposes of the Fund in such form as may be specified in the rules;
- (k) require the accounts of the Fund to be audited periodically by the Auditor-General of the Federation;
- (l) ensure that the copies of the accounts and the auditor's report thereon are submitted to the Federal Executive Council through Minister;
- (m) monitor the execution of projects; and
- (n) carry out such other activities as may be incidental to the performance of its functions under this Bill.

8. (1) The Board shall administer the tax imposed under this Bill and disburse the amount in the Fund to Tertiary Hospitals specifically for the provision or maintenance of —
- (a) essential physical infrastructure for teaching, learning, research and service;
 - (b) instructional , medical and other services equipment;
 - (c) research and publication;
 - (d) staff training and development; and
 - (e) any other need which, in the opinion of the Board of Management, is critical and essential for the improvement of quality and maintenance of standards in the Tertiary hospitals.

8. Management and administration of the Fund.

(2) The Board shall remit in whole or in part a sum added to the unpaid tax under subsection (1) of this section.

(3) The Board may give due consideration to the peculiarities of each geo-political zone in the disbursement and management of the tax imposed under this Bill between the various Tertiary Hospitals.

(3) The Minister shall, on the recommendation of the Board of Management and subject to approval by the President, make guidelines for disbursement of funds under this Bill.

PART III — APPOINTMENT OF THE EXECUTIVE SECRETARY AND OTHER STAFF

9. (1) The President shall, appoint for the Fund an Executive Secretary. 9. Appointment of the Executive.
- (2) The Executive Secretary shall be a person who, has acquired cognate experience of not less than 15 years in —
- (a) medicine; and
 - (b) management and administration.
- (3) The Executive Secretary is —
- (a) the chief executive and accounting officer of the Fund; and
 - (b) responsible for-
 - (i) the day-to-day management and administration of the Fund, subject to the general directions of the Board,
 - (ii) keeping the proper books and records of the proceedings of the Board,
 - (iii) the administration of the Secretariat of the Board of Management, and
 - (iv) the general direction and control of all other employees of the Fund.
- (4) The Executive Secretary shall —
- (a) hold office for a term of five years and no more; or
 - (b) on such terms and conditions as are specified in his letter of appointment.
- (5) Notwithstanding, the provisions of subsections (4) of this section, the Executive Secretary may be removed from office by the President—
- (a) for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct, or
 - (b) if President is satisfied that it is not in the interest of the service or public for him to continue in office.
- (6) The Executive Secretary may resign his appointment by a letter to the President through the Minister.
- (7) The Board may deploy or appoint for the Fund other employees upon such terms and conditions as may be determined by the Board.
- (8) Service in the Fund shall be approved service for the purpose of the Pension Reform Act.

PART IV — FINANCIAL PROVISIONS

10. (1) The Fund shall establish and maintain an account from which shall be defrayed all expenditure incurred by the Fund. 10. Account.

(2) There shall be paid into the account established in subsection (1) of this section-

- (a) take off grant provided by the Federal Government;
- (b) money appropriated by the National Assembly;
- (c) 1% of petroleum companies tax paid on total barrels of crude oil produced yearly;
- (d) 1% of mobile phone service providers tax paid on airtime and data sold yearly;
- (e) 1% of beverages and breweries companies tax paid on profit yearly declared;
- (f) 1% of cement companies on profit yearly declared;
- (g) 1% of paint and chemical manufacturing companies tax paid on profit yearly declared; and
- (h) 1% of tobacco companies tax paid on profit yearly declared.

11. (1) The Federal Inland Revenue Service (in this Bill referred to as "the FIRS") shall –

11. Assessment and collection of tax

- (a) assess and collect the taxes imposed under this Bill; and
- (b) when assessing a company for companies income tax for an accounting period of the company, also assess the company for the tax due under this Bill;

(2) The tax imposed under this Bill shall be due and payable within 90 days.

12. (1) The Federal Inland Revenue Service shall pay the tax collected under this Bill into the Fund and shall, when doing so, submit to the Fund in such form as the Board shall approve, showing –

12. Expenditure.

- (a) the name of the company making the payment;
- (b) the amount collected;
- (c) the assessable profit of the company for the accounting period; and
- (d) such other information as may be required by the Fund for the proper administration of the tax.

(2) The Fund shall, before disbursement of the amount in the Fund, set aside in each year, an amount not exceeding 10% of the total money accruing to the Fund in the preceding year which shall be applied –

- (a)) for the cost of administration and management of the Fund;
- (b) for the development or maintenance of any property acquired by or vested in the Fund and generally to pay for any service rendered to the Fund;
- (c) for project monitoring;
- (d) to meet all the needs of the Fund necessary for the due administration and implementation of the purpose of this Bill;
- (e) for the payment of allowances and benefits of members and for reimbursing members of any committee set up by the Board for such expenses as may be expressly authorised by the Board; and
- (f) for the payment of salaries, remuneration or allowances, pensions and other benefits payable to the officers and other employees of the Fund.

(3) No payment of any kind under subsection (2) (f) (except such as may be expressly authorised by the Board) shall be made to any person who is in receipt of emolument from the Federal or State Government.

13. (1) The Fund shall keep accounts in respect of each year and proper records in relation to those

13. Annual

accounts and shall cause to be prepared in each year a statement —

Accounts and
Estimates.

- (a) showing the income and expenditure of the Fund for the preceding year; and
- (b) of all assets and liabilities of the Fund as at the last day of the preceding year.

(2) The Fund shall cause every statement prepared under this section to be audited within six months after the end of the year to which the statement relates by auditors from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

(3) The Fund shall submit to the Minister, not later than 31st August in each year, as estimate of its expenditure and income during the next succeeding year.

14. (1) The fund shall —

14. Annual report,
audited accounts
and auditor's
report.

- (a) prepare and submit to the Minister, not later than six months after the end of the year, a report, in such form as the Minister may direct, on the activities of the Fund during the immediate preceding year; and
- (b) include in the report a copy of the audited accounts of the Fund for that year and auditor's report thereon.

(2) The Minister shall submit a copy of each report made to him under this section to the Federal Executive Council.

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

15. Power to
accept gifts.

(2) The Fund shall not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the functions and objectives of the Fund.

16. (1) The Fund may, from time to time, borrow, by way of overdraft or otherwise, such sums as it may require for the performance of its functions under this Bill.

16. Power to
borrow.

(2) The Fund shall not, without the approval of the Minister, borrow money which exceeds, at any time, the amount set by the Government as the limit of the authority of the Fund.

(3) Where the sum to be borrowed is in foreign currency, the Fund shall seek and obtain the approval of the Minister through the Board.

PART V – OFFENCES AND PENALTIES

17. (1) A person who contravenes or fails to comply with the provisions of this Bill commits an offence and is liable on conviction to a fine not exceeding N2,000,000 or imprisonment for a term of two years or both.

17. Offences and
penalties

(2) Where an offence under this Bill is committed by a body corporate or firm or other association of individuals, every —

- (a) director, manager, secretary or other similar officer of the body corporate,

- (b) partner or officer of the firm,
- (c) person concerned in the management of the affairs of the association, or
- (d) person who was purporting to act in that capacity,

is severally guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

PART VI — LEGAL PROCEEDINGS

18. (1) No suit shall be instituted in any court against the Fund or its employee unless it is commenced —
18. Limitation against suit.
- (a) within three months next after the act, neglect or default complained of; and
 - (b) in the case of continuation of damage or injury, within three months next after the ceasing thereof.

(2) No suit shall commence against the Fund before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Fund by the intending plaintiff or his agent and the notice shall clearly state —

- (a) cause of action;
- (b) particulars of claim;
- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief which he claims.

19. A notice, summons or other documents required or authorised to be served upon the Fund under the provisions of this Bill or any other law or enactment may be served by —
19. Service of Documents.
- (a) delivering it to the office of the Executive Secretary; or
 - (b) sending it by registered post addressed to the Executive Secretary or the principal office of the Fund.

20. (1) In any action or suit against the Fund, no execution or attachment of process in any nature thereof shall be issued against the Fund unless at least three months' notice of the intention to execute or attach has been given to the Fund.
20. Restriction on Execution.
- (2) Any sum of money which may, by the judgment of any court awarded against the Fund ought to subject to any direction given by the court where no notice of appeal against the judgment has been given, be paid from the account of the Fund.

21. A member, the Executive Secretary or any employee of the Fund shall be indemnified out of the asset of the Fund against any liability incurred by him in defending any proceeding, whether civil or criminal, if any such proceeding is brought against him in his capacity as a member, Executive Secretary or employee of the Fund.
21. Indemnity.

PART VII — MISCELLANEOUS PROVISIONS

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| 22. | Subject to the provisions of this Bill, the President may give to the Fund directives of a general nature or relating generally to matters of policy with regard to the performance by the Fund of its functions and it is the duty of the Fund to comply. | 22 Directives. |
| 23. | Subject to the provision of this Bill, the Minister may give to the Board directions of general nature relating to matters of policy with regard to the exercise by the Board of its powers and the Board shall comply with such directions. | 23. Direction by the Minister. |
| 24. | The Minister may make regulations generally for the purpose of giving full effect to this Bill. | 24. Power to make regulations. |
| 25. | The fixing of the seal of the Fund shall be authenticated by the signature of the Executive Secretary. | 25. Fixing of seal. |
| 26. | <p>In this Bill —</p> <p>"Board" means the Governing Board of the Fund established by section 2 of this Act;</p> <p>"Chairman" means the Chairman of the Board;</p> <p>"Functions" includes power and duty;</p> <p>"Fund" means the Fund established by section 1 (1);</p> <p>"Executive Secretary" is the Chief Executive of the Fund and Chairman of the Management committee;</p> <p>"Member" means an individual representing an organisation or institution in (the Board and includes the Chairman and Executive Secretary);</p> <p>"Minister" means the Minister charged with the responsibility for matters relating to healthcare.</p> | 26. Interpretation. |
| 27. | 27.- This Bill may be cited as the Tertiary Hospitals Development Fund Bill, 2021. | 27. Short Title. |

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE PROCEEDINGS OF THE BOARD

1. Before appointing a person as a member, the Minister shall satisfy himself that, that person will have no such interest or owe such allegiance as likely to affect prejudicially the performance by him of his functions as a member and that he has no such interest; and any person who is or whom the Minister proposes to nominate as a member shall, whenever requested by the Minister considers necessary for the performance by the Minister of his duties under this Bill.
- 2.(1) Subject to this Bill and Section 27 of the Interpretation Act (which provides for the decisions of a statutory body to be taken by a majority of the members of the body and for the persons presiding to have a second or casting vote), the Board may make standing orders regulating its proceedings or of any committee thereof.
- (2) The quorum at a meeting shall be a third of the members of the meeting
- 3.(1) The Board shall meet not less than three times in each year and subject thereto, the Board shall meet whenever it is summoned by the Chairman, and if the Chairman is required to do so, by notice to him by not less than seven members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.
- (2) At any meeting of the Board, the Chairman shall preside but if he is absent, the members present at the meeting shall elect one of their members to preside provided there is a quorum.
4. Where the Board wishes to obtain the advice of any person on any particular matter, the Board may invite any person as it thinks fit, but any person who is invited by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the

Board and shall not count towards a quorum.

5.(1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.

(2) Every Committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board and not more than one third of those persons may be persons who are not members of the Board,

(3) A decision of a committee of the Board shall be of no effect until it is ratified by the Board.

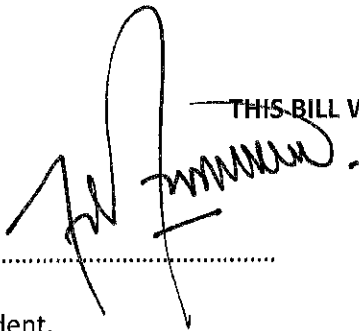
6.(1) Where member has an interest in any application for loan for any project made or proposed by any beneficiary shall disclose his interest at a meeting of the Board.

(2) Such disclosure shall be recorded in the minute of the meeting and the member shall not take part after such disclosure in any deliberation or decision of the Board with regard to that particular subject matter in respect of which his interest was disclosed.


EXPLANATORY MEMORANDUM

This Bill seeks to establish the Tertiary Hospitals Development Fund for the Rehabilitation, Restoration, Improvement and Consolidation of Tertiary Health Care Delivery in Nigeria; and for Related Matters.

THIS BILL WAS PASSED BY THE SENATE ON TUESDAY, 5TH OCTOBER, 2021



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President,
Senate of the Federal Republic of Nigeria



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Clerk,
Senate of the Federal Republic of Nigeria