



KOGI STATE OF NIGERIA

A LAW

TO REPEAL

**THE KOGI STATE PUBLIC PRIVATE
PARTNERSHIPS LAW, 2014 AND TO
ENACT A LAW ESTABLISHING THE
KOGI STATE INVESTMENT
PROMOTION AND PUBLIC PRIVATE
PARTNERSHIP AGENCY AND OTHER
MATTERS CONNECTED THEREWITH,**

2022

**KOGI STATE INVESTMENT PROMOTION AND PUBLIC PRIVATE
PARTNERSHIP AGENCY LAW, 2022**

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A LAW TO REPEAL THE KOGI STATE PUBLIC PRIVATE PARTNERSHIPS LAW, 2014 AND TO ENACT A LAW ESTABLISHING THE KOGI STATE INVESTMENT PROMOTION AND PUBLIC PRIVATE PARTNERSHIP AGENCY AND OTHER MATTERS CONNECTED THEREWITH, 2022

BE IT ENACTED by the Kogi State House of Assembly and by the authority of the same as follows:

Enactment

PART I

Preliminary

1. This Law may be cited as the Kogi State Investment Promotion and Public Private Partnership Agency Law, 2022.

Citation

2. The Law shall come into force on the 25th day of March, 2022.

Commencement

3. In this Law, unless the context otherwise provides: -

Interpretation.

“**Agency**” means the Kogi State Investment Promotion Agency established under Section 4 (1) of this Law;

“**Board**” means Board Members of the Agency;

“**Chairman**” means the Chairman of the Board of the Agency;

“**Chief Executive Officer**” means the accounting officer of the Kogi State Investment Promotion Agency;

“**Committee**” means any committee established by the Board;

“CSO” means Civil Society Organisations;

“Ex-Officio” means Public Officers on the Board of the Agency;

“Government” means the Government of Kogi State of Nigeria;

“Governor” means the Governor of Kogi State, Nigeria;

“MDAs” means Ministries, Departments and Agencies of Government;

“PPP” means Public Private Partnership;

“State” means Kogi State of Nigeria; and

“State House of Assembly” means the Kogi State House of Assembly.

PART II

Establishment, Purpose and Composition of the Kogi State Investment Promotion Agency

4. (1) There is hereby established for the State a body to be known as the Kogi State Investment Promotion Agency (in this Law referred to as the “Agency”).
- (2) The Agency shall be a body corporate, with perpetual succession and a common seal.
- (3) It shall have power to sue and be sued in its corporate name.

Establishment of the Agency

(4) It shall have power to acquire and dispose of property (whether movable or immovable) for the purpose of its functions under this Law.

5. (1) The primary purpose of the Agency is to initiate, promote, facilitate, and coordinate investment in Kogi State through Greenfield, Public Private Partnerships, privatisation, commercialisation of the state owned assets.

Purpose of the Agency

(2) The Agency is to develop and implement a comprehensive strategy and action plan to attract and facilitate new investments in the State.

(3) The Agency shall foster sustainable economic growth and create job opportunities in the State and for the residents of the State.

6. (1) There is established for the Agency a Board which shall consist of the following members:

Composition of the Board of the Agency

(a) a Chairman who shall be the Governor;

(b) a Vice Chairman who, appointed by the Governor from the Private Sector, shall:

(i) be a well-respected person of good character;

(ii) have a sound knowledge of the Nigerian business and investment environment,

- (iii) have to his credit, a proven and track record of successes in business and investment enterprises; and
 - (iv) sit in the Board as the Chairman in the absence of the Chairman;
- (c) the Commissioners responsible for:
- (i) Agriculture;
 - (ii) Commerce, Industry and Tourism;
 - (iii) Finance, Budget and Planning; and
 - (iv) Justice and Attorney General;
- (d) the Head, Multilateral and Donor Agencies;
- (e) the Head, Land and Housing
- (f) the Director-General of the Kogi Chambers of Commerce;
- (g) three (3) other persons, one each representing the academia, the organised Private Sector (OPS) and Civil Society Organisations (CSOs), preferred from different professional backgrounds; and
- (h) the Chief Executive Officer of the Agency.
- (2) All members of the Board shall be appointed by the Governor.

7. (1) The Board shall:

- (a) promote policies and transparent procedures that enable State Government to work with potential investors and business partners to exploit the natural resource base and assets of the State;
 - (b) develop appropriate institutional and regulatory frameworks for public private partnerships and investment promotion and facilitation in the State; and
 - (c) articulate clear growth strategies for providing needed support and appropriate incentives to grow the local private sector and enlarge the economic base of the State in line with the priorities of the State.
- (2) The Board shall prioritize sectors for Public Private Partnerships and take decisions generally on issues pertaining the Public Private Partnerships in the State.
8. (1) The Board shall meet at least once in every month to review the progress of the various programmes and projects on the roadmap and to consider any special issue as may be directed by the Governor.
- (2) The Vice Chairman, supported by the Chief Executive Officer of the Agency, shall convey the decisions of the Board to the Governor.
- (3) Where the Chairman and the Vice-Chairman are unable to attend any board meeting, members present shall vote

Meetings of the Board

to appoint a chairman for the meeting from the members present at the meeting except the Secretary of the Board.

- (4) The vote to nominate an alternative chairman shall be conducted by the Secretary of the Board.
- (5) At every board meeting, a quorum shall be formed when a simple majority of the members are in attendance.
- (6) In the event of a stalemate on any vote relating to on any matter, the Chairman of the meeting shall have the deciding vote.
- (7) Where any board member has any direct or indirect interest on any matter before the Board, the member shall declare his or her interest to the Board following which the member shall be excused from participating in discussions or voting on the particular matter under consideration.

PART III

Functions and Powers

9. The Agency shall:
 - (a) conduct risk and benefit assessment that assist the government on the implementation of all projects and programmes in the Kogi State Investment Promotion Strategy and advice accordingly;

*Functions of
the Agency*

- (b) advise and assist the government in creating an attractive and competitive climate for business that will lead to robust economic activities in the State;
- (c) source on behalf of the government, finance for investment from multilateral and bilateral development partners as well as private investors – both domestic and foreign – through public private partnerships and other financial arrangements as well as where appropriate acting as lead negotiator in deals with private investors that ensure the needs of the State and those of its citizens are well represented;
- (d) monitor the implementation, execution and delivery of projects as contained in agreements between the State Government and respective investors;
- (e) assist the State in building capacity for investment, project identification, evaluation, planning, execution and management;
- (f) advise and assist in the establishment of a framework for monitoring and evaluating the progress of the State's strategic economic investment programmes and projects for effective implementation;
- (g) establish a framework for identifying and proactively engaging the Federal Government and its Agencies in the investment promotion drive of the State Government;

- (h) articulate clear growth and development strategies for providing needed support and appropriate incentives to grow the local private sector and enlarge the economic base of the State in line with the priorities of the State;
- (i) advise and assist the government in developing and maintaining a comprehensive and reliable database on investment opportunities for effective planning especially in areas where the State has demonstrable comparative and competitive advantages;
- (j) publish and periodically revise data and information on the investment status of the State in order to assist prospective investors – both domestic and foreign – to evaluate the State’s potentials as an investment destination;
- (k) develop a database of reputable, prospective and potential investors both in Nigeria and abroad with a view to reaching out to them when opportunities arise;
- (l) plan and organize targeted and well-researched investment promotion activities including tours and road shows aimed at promoting specific investment projects in areas where the State has demonstrable comparative and competitive advantages;
- (m) based on State’s resources and the focus of the approved Agency’s strategy, identify and document available land for agriculture, housing, mining, industrial and other uses

- (d) regulate its own proceedings;
- (e) insure its properties against all forms of risks; and
- (f) do such other things as are reasonably incidental, supplemental or conducive to its functions under this Law.

PART IV

Tenure of Office and Remuneration of the Board Members

11. (1) A member of the Board other than the Chairman, Secretary or an ex-officio member shall hold office for a term of four years and may be reappointed for one further term of four years and no more.
- (2) The Vice Chairman and members of the Board who are not ex-officio members shall be paid such remuneration and allowances as may be approved by the Governor.

*Tenure of
Office and
Remuneration
of Members of
the Board of
the Agency*

12. The office of a member of the Board shall become vacant when:

*Vacation of
Membership*

- (1) His/her term of appointment expired.
- (2) He/she resigns his/her appointment by giving one-month notice in writing under his/her hand addressed to the Governor.
- (3) He/she dies while in office as a member of the Board.

13. (1) The Governor may revoke the appointment of a member who is an ex-officio member where he is satisfied that such member:
- (a) is incapacitated or unable to discharge his duties diligently by reasons of mental or bodily infirmity;
 - (b) has been adjudged bankrupt;
 - (c) has become unfit for membership of the Board by reasons of conviction for a criminal offence or frequent abstention from meetings without the leave of the Board or reasonable excuse; or
 - (d) is incompetent.
- (2) Where a member of the Board has been removed from office pursuant to sub-section (1) (a) of this Section and such a member consider such removal as unjust, he may, within seven days of such removal, appeal in writing to the Governor for his reinstatement.

Removal From Office

PART V

Establishment of Committees

14. (1) The Board may, subject to such conditions as may decide, appoint standing or ad-hoc committees to perform any of its functions and shall have power to terminate any of such committees at any time it deems fit.

Establishment and Composition of Committees

- (2) The Board may refer any matter within its competence to a committee and such committee constituted under sub-section (1) of this Section shall regulate its own proceedings.
- (3) The Board shall determine amongst other things the membership and terms of reference of a committee constituted under sub-section (1) of this Section and such committee shall submit to the Board for consideration a report.
- (4) Any committee appointed under the sub-section (1) of this Section may include persons that are not members of the Board provided that at least two thirds of the committee shall be made up of members of the Board.
- (5) Nothing in the foregoing provisions of this Section shall be construed as transferring the powers and statutory functions of the Board to the committee.

PART VI

Secretariat and Staff of the Agency

15. (1) The Secretariat of the Agency shall be located under the Office of the Governor and shall be designated as the Office of the Kogi State Investment Promotion Agency.
- (2) The Agency shall be a one-stop resource and co-ordination centre for all investment promotion activities in the State.

*Location and
Designation of
the Agency's
Secretariat*

16. (1) There shall be for the Agency a Chief Executive Officer who shall be appointed by the Governor subject to the approval of the State House of Assembly.

*Appointment of
the Chief
Executive Officer
of the Agency*

(2) The Chief Executive Officer shall submit a quarterly and updated report on the activities of the Agency to the Governor, detailing:

(a) Progress Report on active investment proposals;

(b) mileages of successes recorded by the Agency since the last reporting period;

(c) challenges of the Agency and recommended solutions; and

(d) such other briefing as may be expedient for the effective and efficient management of the Agency.

(3) The Chief Executive Officer shall also be the accounting officer of the Agency.

17. (1) The Chief Executive Officer of the Agency may be appointed from the public or private sector.

*Qualifications of the
Chief Executive
Officer*

(2) The Chief Executive Officer of the Agency shall:

(a) possess such cognate and working experience of not less than 15 years in investment promotion, finance and economic planning or other related activities, 5 of which must have been in a managerial capacity;

- (b) prepare a three year rolling strategy and a 12-month action plan and budget based on the functions of the Agency for review and approval by the Board;
- (c) monitor regularly the progress of the Kogi State Investment Promotion Strategy and prepare quarterly reports for the Board to review;
- (c) liaise with all Ministries, Departments and Agencies of Government for the purpose of continually collecting, compiling and collecting information with a view to developing an economic database and investment information repository for the State;
- (d) provide information and technical input to the board for the purpose of defining appropriate policy directions and high-level reform priorities;
- (e) develop a prioritized comprehensive reform strategy, which identifies role and responsibilities for reform, time bound targeted action plans, output and supporting budgets for effective economic management and investment promotion;
- (f) prepare policy and strategy papers on key investment issues as may be directed by the Board;
- (g) carry out activities aimed at building the institutional capabilities of Ministries, Departments and Agencies of Government and other relevant stakeholders in thye areas of investment promotion;

- (h) work with relevant government agencies to review periodically broad sector policies to ensure consistency with economic management and investment promotion initiatives in the State;
 - (i) coordinate the implementation of the various recommendations of the State Executive Council on investment matters;
 - (j) provide support in the development of feasibility studies on investable projects in Medium and Small Enterprises supported sectors;
 - (k) coordinate all activities of the Agency including the execution of the Work Plan and Annual Budget and ensure the maintenance of accurate accounting records; and
 - (l) undertake any other tasks relating to investment promotion as may be directed by the Board or Governor from time to time.
20. (1) There shall be a Secretary and Legal Adviser, who shall be a legal practitioner with cognate experience in procurement matters, for the Agency.
- (2) The Secretary shall:
- (a) be responsible to the Chief Executive Officer of the Agency;

*The Secretary to
the Agency*

- (b) arrange meetings of the Board and its constituted committees;
- (c) prepare agenda and take minutes and keep records of such meetings; and
- (e) perform, generally, all other duties relating to the Agency as may be assigned to him/her by the Chief Executive Officer of the Agency.

21. (1) The Agency may directly employ such number of employees as it may deem necessary for the efficient discharge of the functions of the Agency under this Law or may request for the secondment of employees from Federal or State Public Service where such employees meet the Agency's professional and technical standards.
- (2) The Board shall determine the remuneration and tenure of office of such employees.
- (3) The Agency shall have power to make, with approval of the Governor, Staff regulations governing the conditions of service of the employees of the Agency and until such regulations are made, the regulations and conditions of service applicable to employees of the State Public Service shall apply subject to such modifications as the Board may, in its discretion, make.
- (4) An employee seconded under sub-section (1) of this Section may choose to transfer his service to the Agency subject to the approval of the Head of Service of the State

*Staff of the
Agency*

and ratification by the Board, and where such transfer is approved, any previous service such employee may have rendered in the Federal or State Service shall be counted as service to the Agency for the purpose of computing his/her pension benefits.

22. (1) It is hereby declared that service in the Agency shall be approved service for the purpose of the State Pension Law and accordingly, the staff of the Agency shall be entitle to pensions, gratuity and other retirement benefits as prescribed under the State Pension Law.
- (2) Nothing to this Law shall prevent the appointment of a person to any office on contract basis or on terms that preclude the grant of a pension or gratuity in respect of the office.

*Pensions a
Gratuity*

*The State
Pension La*

PART VII

Financial Provisions

23. (1) The Agency shall establish and maintain a fund that shall be applied towards the discharge of its functions under this Law.
- (2) There shall be paid and credited into the fund established pursuant to sub-section (1) of this Section:
- (a) all subventions and budgetary allocations from the State government;

*Fund of the
Agency*

- (b) gifts, loans, endowments, grants or aid from any agency, institution, bilateral and multi-lateral organisations or any government, and such entitlement from privatisation proceeds;
- (c) such monies as may be payable to the Agency or services rendered in the course of any incidental to the discharge of its functions under the Law; and
- (d) monies raised in any other manner as permitted under this Law.

24. The funds of the Agency shall be utilised for the following processes:

*Application
Funds*

- (a) for the payment of:
 - (i) the allowances of the board members;
 - (ii) the cost of organizing or attending workshops, seminars and exhibitions as may be expedient for the realization of the mandate of the Agency; and
 - (iii) remuneration and fees of agents and consultants to the Agency;
- (b) for the development and maintenance of any property vested in or owned by the Agency; and
- (c) for all other expenses incurred by the Agency in the discharge of its functions under this Law or any other enactment.

25. (1) The Agency shall keep proper accounts of its income and expenditure for each financial year and shall cause the accounts to be properly audited annually.
- (2) The Agency shall have an Internal Auditor who shall be seconded from the Auditor-General's Office.
- (3) The Agency shall also appoint reputable external auditors from a list of approved auditors provided by the Auditor-General of the State who shall audit the accounts of the Agency at the end of each financial year.
- (4) The Agency shall forward a report of the external audit to the Office of the Auditor-General of the State not later than two weeks after the submission of the report by the external auditor.

26. (1) The Agency shall seek and obtain the approval of the Governor on the followings:
- (a) annual budget estimates of the Agency;
- (b) recruitment of personnel, staff and consultants of the Agency; and
- (c) execution of Public Private Partnership Agreements requiring the commitment of State's physical assets, finance, natural resources, policy adjustment, prohibitive undertakings or refrains.
- (2) The Agency shall present every of its Legal Agreements through the Office of the Secretary to the State

Government to the Office of the Attorney – General for vetting.

- (3) The Agency shall also cause to be prepared and submitted to the Governor not later than three months before the end of each financial year, estimates of the Agency's income and expenditure for the next financial year.

PART VII

Miscellaneous Provisions

27. (1) The Governor may give to the Agency directives of a general nature as are necessary to make the Agency comply with the general policies of the Government, and the Agency shall give effect to such directives.
- (2) The Ministry of Finance shall perform supervisory role over the Agency to ensure performance, accountability and due diligence.
28. (1) The Agency shall, as soon as possible after its establishment, provide itself with a common seal.
- (2) The fixing of the common seal of the Agency shall be authenticated by the signature of the Chairman/Vice Chairman or Secretary or any member so authorized generally or specifically by the Board.
- (3) Any document purporting to be a document duly executed under the seal of the Agency shall be received

Governor's
General
Directives
and
Guidelines

Authentication
of Documents

in evidence and shall be deemed to be properly executed unless the contrary is proved.

29. (1) Subject to the provisions of this Law, no suit shall be commenced against the Agency before the expiration of thirty (30) days after written notice of intention to commence such suit has been served upon the Agency by the intending claimant or his/her agent, and the notice shall clearly state:
- (a) the cause of action;
 - (b) the particulars of claim; and
 - (c) the relief sought.
- (2) No member of the Agency shall be sued in his/her personal capacity for any act done or omitted to be done in the lawful performance of his/her duties under this Law.
- (3) In any suit instituted by or against the Agency, the Agency shall be represented in court by a Counsel duly delegated by Attorney General of the State or where expedient, by any legal practitioner duly engaged by the Agency.
- (4) For the purpose of this Section, 'suit' includes actions of any civil proceedings commenced by way of writ of summons or in such other manner as may be prescribed by the Rules of Court but does not include criminal proceedings.

30. (1) The Kogi State Public Private Partnerships Law of 2014 is by this Law repealed.
- (2) Any action lawfully carried out under the provisions of the Kogi State Public Private Partnerships Law, 2014 or by the Public Private Partnership Bureau or any other officer delegated by the Bureau shall be deemed to have been validly carried out under the provisions of this Law.
- (3) By virtue of this Law, there shall, on the commencement of this Law, be vested in the Agency all assets, funds, resources and other movable or immovable property which immediately before the commencement of this Law were vested in the Public Private Partnership Bureau (in this Law referred to as "the dissolved Bureau").
- (4) Subject to the provisions of sub-section (3) of this Section:
- (a) the rights, interests, obligations and liabilities of the dissolved Bureau existing immediately before the commencement of this Law under any contract or instrument, or at law or in equity apart from any contract or instrument, shall by virtue of this Law be deemed to have been assigned to and vested in the Agency;
- (b) any such contract or instrument as is mentioned in paragraph (a) of this sub-section, shall be of the same force and effect against or in favour of the

Agency, and shall be enforceable as fully and effectively as if, instead of the dissolved Bureau, the Agency had been named therein or had been a party thereto; and

- (c) the Agency shall be subject to all the obligations and liabilities to which the dissolved Bureau was subject immediately before the commencement of this Law and all persons shall, as from the commencement of this Law have the same rights, powers and remedies against the Agency as they had against the dissolved Bureau immediately before the commencement.
- (6) Any proceeding pending or cause of action existing immediately before the commencement of this Law by or against the dissolved Bureau in respect of any rights, interest, obligation or liability, of the dissolved Bureau may be continued, or as the case may require, commenced and the determination of a court of law, tribunal or other authority or person may be enforced, by or against the Agency to the same extent that such cause of action or determination might have been continued or commenced or enforced by or against the dissolved Bureau if this Law has not been made.
- (7) Notwithstanding the dissolution of the Kogi State Public Private Partnership Bureau, any person who immediately before the commencement of this Law held office under

the dissolved Bureau shall, on the commencement of this Law be deemed to have been transferred to the Agency on terms and conditions not less favourable than those obtaining immediately before the commencement of this Law and service under the dissolved Bureau shall be deemed to be service under the Agency for pensions purposes.

- (8) For the purposes of sub-section (7) of this Section, the terms and conditions comprised in any transferred appointment shall not be construed as being less favourable merely because they are not in all respects identical or superior to the terms and conditions enjoyed by any person concerned immediately before the commencement of this Law if the first-mentioned terms and conditions taken as a whole offer substantially equivalent or greater benefits.
- (9) Within the next twelve weeks or as early as possible after the commencement of this Law, the Agency, if it thinks fit, may choose to retain or cause to be transferred such staff of the dissolved Bureau to enable the Agency give effect to Section 21 or any other provisions of this Law.

EXPLANATORY NOTE.

(This does not form part of the law and it has no legal effect.)

The purpose of this Law is to enact the Kogi State Investment Promotion Agency while repealing the Kogi State Public Private Partnerships Law of 2014. The Law is to provide regulatory framework for investment promotion and public partnership in the State.

This printed impression has been carefully compared by me with the Bill which passed through the State House of Assembly and same found by me to be a true and correctly printed copy of the said Bill

Chogudo 15/02/2022

ALH. CHOGUDO SULE AHMED
CLERK OF THE HOUSE


RT. HON. (PRINCE) MATTHEW KOLAWOLE
SPEAKER

I assent this 25th day of March 2022.


ALHAJI YAHAYA BELLO
GOVERNOR OF KOGI STATE.

Date: 25th March, 2022

SCHEDULE TO THE BILL PROVIDING FOR THE KOGI STATE INVESTMENT PROMOTION AND PUBLIC PRIVATE PARTNERSHIP AGENCY (REPEAL AND ENACTMENT) LAW, 2022

(1) <i>Short Title of the Bill</i>	(2) <i>Long Title of the Bill</i>	(3) <i>Summary of Contents of the Bill</i>	(4) <i>Date passed by the House</i>
The Kogi State Investment Promotion and Public Private Partnership Agency Bill, 2022	A Bill for a Law to make Provisions for the Establishment of the Kogi State Investment Promotion and Public Private Partnership Agency and other Matters Connected Therewith, 2022	The Bill seeksto enact the Kogi State Investment Promotion Agency while repealing the Kogi State Public Private Partnerships Law of 2014. The Law is to provide regulatory framework for investment promotion and public partnership in the State.	March 8 th , 2022

I certify that this a true copy of the Bill passed by the Kogi State House of Assembly.

Sule Ahmed 15/03/2022

Signature of the Clerk of the House
Alhaji Chogudo Sule Ahmed

Matthew Kolawole 16/03/22

Signature of the Speaker
Rt. Hon. (Prince) Matthew Kolawole

Yahaya Bello 28/03/2022

Signature of Governor of Kogi State,
Alhaji Yahaya Bello