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 implementation of
 Assam Local Self-Government
 Act, 2011
 relates to
 fiscal responsibility
 of
 the
 Government
 of
 Assam

**THE ASSAM LOCAL SELF-GOVERNMENT
 FISCAL RESPONSIBILITY ACT, 2011.**

(Received the assent of Governor on 4th September, 2011)

ASSAM ACT NO. XX OF 2011

No. L.G.L. 58/2009/60 :- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

The 6th September, 2011

NOTIFICATION

GOVERNMENT OF ASSAM
 ORDERS BY THE GOVERNOR
 LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

নং ২৯৭ বিস্মৃ, শকাব্দা, ৬ চেত্বা, ২০১১, ১৫ জা, ১৯৩৩ (স.ক)
 No. 297 Dispur, Tuesday, 6th September, 2011, 15th Bhadra, 1933 (S.E.)

EXTRAORDINARY
 PUBLISHED BY THE AUTHORITY
 OF THE GOVERNOR

THE ASSAM GAZETTE



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to provide for the responsibility of Local Self-Governments to ensure best practice of prudent and financial management of their funds, in order to enhance the scope for improving social and physical infrastructure and human development, facilitate citizen's participation and transparency, adopt appropriate systems for fostering greater transparency in fiscal operations with the use of a medium term fiscal framework, and for matters connected therewith or incidental thereto;

Preamble

Whereas it is expedient to provide for the responsibility of Local Self-Governments to ensure best practice of prudent and financial management of their funds, in order to enhance the scope for improving social and physical infrastructure and human development, facilitate citizen's participation and transparency, adopt appropriate systems for fostering greater transparency in fiscal operations with the use of a medium term fiscal framework, and for matters connected therewith or incidental thereto;

It is hereby enacted in the Sixty-second Year of the Republic of the India as follows: -

**Short title,
extent and
commencement**

1. (1) This Act may be called the Assam Local Self-Government Fiscal Responsibility Act, 2011.
- (2) It extends to the Local Self-Governments constituted under Part IX and IX-A of the Constitution of India as may be notified by the State Government from time to time.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, -
 - (a) "Local Self-Government Fund" means the revenue administered by Panchayati Raj Institutions and Urban Local Bodies constituted under Part IX and IX-A of the Constitution of India and created by the State Government for Panchayats at the District, Intermediate and Village levels in terms of Article 243H (d) of the Constitution and for Municipalities in terms of Article 243X (d) of the Constitution;
 - (b) "Local Self-Government" means the Panchayati Raj Institutions and Urban Local Bodies constituted under Part IX and IX-A of the Constitution of India;
 - (c) "accounting standard" means such accounting standards in respect of Local Self-Governments, as may be prescribed;
 - (d) "annual budget" means the budget placed before the Local Self-Government concerned as per the relevant Acts or the rules made thereunder;
 - (e) "budget variance" means the difference between the budgeted amount and the actuals for the financial year;
 - (f) "Controlling Authority" means any officer appointed as controlling authority by the State Government for the purpose of this Act and different controlling authorities may be appointed in respect of different Local Self-Governments;
 - (g) "current year" means the year preceding the year for which budget and Medium Term Fiscal Plan (MTFP) being presented;
 - (h) "fiscal indicators" means such measures as may be prescribed, for evaluation of fiscal position of Local Self-Governments;

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Medium Term Fiscal Plan

- (i) "previous year" means the year preceding the current year;
- (j) "State Government" means the State Government of Assam in the Finance Department.
3. (1) There shall be prepared in each financial year a Medium Term Fiscal Plan along with the annual budget in respect of every Local Self-Government and shall be submitted for approval of the concerned authority of the Local Self-Government.
- (2) The Medium Term Fiscal Plan shall set forth a five-year rolling target for the fiscal indicators with specification of underlying assumptions.
- (3) In particular and without prejudice to the provisions contained in subsection (2), the Medium Term Fiscal Plan shall include an assessment of sustainability relating to, -
- (a) the balance between revenue receipts and revenue expenditures; and
 - (b) the use of capital receipts including borrowings for generating productive assets.
- (4) The Medium Term Fiscal Plan shall, *inter alia*, contain, -
- (a) the medium term fiscal objectives of the Local Self-Government;
 - (b) the mission, objectives and goals of the Local Self-Government;
 - (c) an evaluation of the performance of the fiscal indicators in the previous year vis-a-vis the targets set out earlier, and the likely performance in the current year as per revised estimates;
 - (d) a statement on recent trends and future prospects for growth and development affecting fiscal position of the Local Self-Government;
 - (e) the strategic priorities of the Local Self-Government in the fiscal area for the ensuing financial year;
 - (f) the policies of the Local Self-Government for the ensuing financial year relating to expenditure, borrowings and other liabilities, lending and investments and all such activities which have potential budgetary implications and the key fiscal measures and targets pertaining to each of these;
 - (g) an evaluation as to how the current policies of the Local Self-Government are in conformity with the financial management principles set out in section 4 and the fiscal objectives set out in the Medium Term Fiscal Plan;
 - (h) a clear linkage of the physical and financial targets;
 - (i) the key performance areas and corresponding performance indicators in as much quantitative detail as possible.
- (5) The Medium Term Fiscal Plan shall be the source document for the preparation of the annual budget and shall address the prime needs of the citizens as relevant to the specific Local Self-Government such as water supply, construction of road, education, public health, solid waste management and the like.
- (6) The Medium Term Fiscal Plan shall have a functional focus and provide for backend modalities such as fund based accounting system (FBAS), computerization and a realistic and transparent budgeting process.
- (7) The Medium Term Fiscal Plan shall be in the form as prescribed in Schedule-I.
4. Every Local Self-Government shall be guided by the following financial management principles, namely:-
- (a) ensuring transparency at all stages of policy making and implementation;
 - (b) introducing performance linked budget policies;
 - (c) providing for effective and sustained fiscal monitoring systems;
 - (d) introducing robust financial management principles;
 - (e) maintaining Local Self-Government's debt at prudent levels;
 - (f) managing guarantees and other contingent liabilities prudently, with particular reference to the quality and level of such liabilities;
 - (g) ensuring that policy decisions of the Local Self-Government have due regard to their current financial position and the financial implications on future generations;

Financial Management Principles

- As per
Finance
Dept*
- (h) adopting the accounting framework for Local Self-Governments prescribed by Comptroller and Auditor General of India;
 - (i) ensuring that borrowings are used for productive purposes and accumulation of capital assets, and are not applied to finance current expenditure;
 - (j) pursuing tax policies with due regard to economic efficiency and compliance costs;
 - (k) pursuing fiscal policies with due regard to cost recovery and equity;
 - (l) pursuing expenditure policies that would provide impetus for economic growth, poverty reduction and improvement in human welfare;
 - (m) ensuring that physical assets of the Local Self-Government are properly maintained;
 - (n) disclosing sufficient information to allow the public to scrutinize the conduct of fiscal policy and the state of Local Self-Government finances;
 - (o) ensuring that the Local Self-Government uses resources in ways that give best value for money, and also ensure that public assets are put to best possible use;
 - (p) managing expenditure consistent with the level of revenue generated;
 - (q) formulating budget in a realistic and objective manner with due regard to the general economic outlook and revenue prospects, and minimize deviations during the course of the year;
 - (r) ensuring collection of dues and taxes in an expeditious manner;
 - (s) ensuring discharge of current liabilities in a timely manner;
 - (t) adopting appropriate techniques for measuring the cost of the services provided by the Local Self-Government.

**Measures for
fiscal
transparency**

5. (1) The Local Self-Government shall take suitable measures to ensure greater transparency in its fiscal operation and in the preparation of the annual budget. For this purpose every Local Self-Government shall ensure preparation and finalization of annual budget for each financial year commencing from 1st April and ending on 31st March.
- (2) Provision shall be made for meetings at such intervals and with citizen forums as may be prescribed to review the operations and finances of the Local Self-Government.
- (3) In particular, and without prejudice to the generality of the foregoing provisions, Local Self-Government shall, at the time of presentation of the annual budget, disclose in a statement in such form as may be prescribed, -
- (a) significant changes in the accounting standards, policies and practices affecting or likely to affect the computation of fiscal indicators;
 - (b) as far as practicable and consistent with protection of public interest, the contingent liabilities created by way of guarantees and the actual liabilities arising out of execution of works by external agencies where liability for repayment is on the Local Self-Government;
- (4) The State Government shall ensure that such contingent liabilities are communicated to the concerned Local Self-Government so that it shall make sufficient provision in its budget.

**Measures to
enforce Fiscal
Discipline**

6. With a view to ensuring timely discharge of current liabilities specially payment of salaries to the employees, -
- (i) the Local Self-Government shall give appointment only against posts sanctioned by the State Government and is vacant and also with laid down rules, procedures and orders;
 - (ii) No new post shall be created without the prior concurrence of the State Government;
 - (iii) the Local Self-Government shall not make more than one appointment against one vacant post and shall not make appointment on leave vacancy and vacancy against suspended employee;
 - (iv) the letter of appointment against any vacant post shall contain the identity of the post in the manner as may be prescribed;

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- (v) the select list prepared for fresh appointment against vacant post or posts shall contain names of persons equal to the number of vacant posts notified at the time of calling for applications for filling up the posts;
 - (vi) the Local Self-Government shall not regularize or upgrade any person against vacant post without the sanction of the State Government;
 - (vii) before awarding for execution of any work and rendering any supply of materials and services which create liability on the Local Self-Government, the authorities of the Local Self-Government exercising delegated financial power shall first issue administrative approval or financial sanction for the work or the order of supply as the case may be, in compliance with the existing rules, procedures and guidelines and further rules, procedures and guidelines that may be prescribed from time to time;
 - (viii) before awarding the settlement of Hats, Markets, Fisheries, Ghats or any other facility of the Local Self-Government for revenue earning the laid down rules, procedures and guidelines and further rules, procedures and guidelines that may be prescribed from time to time, shall be followed;
 - (ix) the Local Self-Government shall maintain a register of assets and liabilities and all documents year wise, as prescribed under the concerned Acts and the rules framed thereunder.
7. (1) The State Government Audit (Local Fund) shall enforce compliance with the provisions of this Act and the rules made thereunder.
- (2) The State Government Audit (Local Fund) may oversee the compliance and a suitable mechanism may be notified by the State Government regarding the submission of periodical review reports.
- (3) The State Government shall ensure that the Local Self-Government shall comply with the provisions of the relevant Act and the rules relating to budget and the budget prepared is in accordance with the Medium Term Fiscal Plan already approved and variations, if any, are explained.
- (4) The Local Self-Government shall prepare a budget variance report and submit it to the Controlling Authority within such time and in such form as may be prescribed.
- (5) The Local Self-Government shall prepare receipts and payments account, income and expenditure account and a balance sheet as may be prescribed.
- (6) Audit of accounts of the Local Self-Government shall be conducted by the auditor appointed under the relevant Acts and the Rules and orders issued thereunder by the concerned authority and the report shall be submitted to the concerned authorities within the time stipulated.
- (7) The Controlling Authorities shall be responsible to ensure strict follow up action on the audit reports by the Local Self-Government and slackness, if any, noticed in this behalf shall be reported to the State Government for appropriate action against the Local Self-Government in default.
- (8) The State Government may, by notification, constitute a Local Self-Government Fund Audit Overseeing Authority comprising of such officers and having such powers as may be specified in the notification. The Local Self-Government Fund Audit Overseeing Authority shall submit to the State Government periodical report on compliance to audit reports by the Local Self-Government authority, as may be prescribed.
- (9) The Assam Legislative Assembly may by notification, constitute a Local Self-Government Fund Accounts Committee with similar powers and functions as that of Public Accounts Committee of the Assam Legislative Assembly to oversee the outstanding audit paras relating to non-compliance of this Act.
- (10) The State Government may withhold release of funds to any local self-government authority which fails to furnish accounts to the concerned authority within six months from the end of the financial year.

Measure to enforce compliance to this Act

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- (11) The Local Self-Government shall introduce and strengthen appropriate internal audit measures and sustainable computerization programmes using appropriate technology.
- Publication of financial document and annual report** 8. (1) Every Local Self-Government shall publish the Medium Term Fiscal Plan (MIFP), the annual budget, annual accounts and the annual report together with the certified annual accounts in such manner as may be prescribed.
- (2) Every Local Self-Government shall, within six months from the end of the financial year submit a copy of its annual report together with the certified annual accounts to the State Government and the State Government shall cause the annual report together with the certified annual accounts to be laid, as soon as may be they are received, before the House of the State Legislative Assembly.
- Offences and Penalties** 9. (1) Whoever violates any one or more of the provisions of section 6 shall commit an offence which shall be punishable with rigorous imprisonment for a term which may extend to three years.
- (2) Whoever causes financial loss to the authority willfully and with malafide intention, by under assessment or under realizations of revenue due to the Local Self-Government or by incurring unauthorized expenditure shall commit an offence which shall be punishable with rigorous imprisonment for a term which may extend to three years and / or recovery of the amount of financial loss with interest.
- (3) A person who abets any of the offences as aforesaid shall be liable for the same punishment as provided for the offence.
- (4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Assam Act, No.2 of 1974), the offences committed under this Act shall be treated as cognizable offences to be triable by a Magistrate not lower in the rank than a Judicial Magistrate of First Class.
- Power to make rules** 10. (1) The State Government may, by notification in the Official Gazette and after previous publication, make rules for carrying out all or any of the purposes of this Act.
- (2) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before Assam Legislative Assembly, while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Assam Legislative Assembly may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.
- Protection of action taken in good faith** 11. No suit, prosecution or other legal proceedings shall lie against the State Government, any Local Self-Government or any officer or servant or any person acting under the direction of the State Government or Local Self-Government in respect of anything done or intended to be done in good faith under this Act or any rule or order made thereunder:
- Provided that before declaring any such action to have been done in good faith as aforesaid, the approval of State Government shall be obtained.
- Application of other laws** 12. The provisions of this Act shall be applicable in addition to the provisions of any other law for the time being in force, to the extent they are not inconsistent with the provisions of this Act and the provisions of this Act shall have effect notwithstanding anything contrary contained in any other law for the time being in force.

Removal of difficulties

13.

If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order, published in the Official Gazette, as the occasion may require, do anything, which appears to it to be necessary to remove the difficulty :

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Provided that no order shall be made after the expiry of a period of two years from the date of commencement of this Act.

Schedule - I [See Section 3 (7)]

(FORM FOR PREPARATION AND SUBMISSION OF MEDIUM TERM FISCAL PLAN UNDER SECTION 3)

FISCAL INDICATORS	FY	FY	FY	FY	FY
A. Revenue Account					
1. Tax Revenues (Details to be indicated)					
(i)					
(ii)					
2. Non-Tax Revenues (Details to be indicated)					
(i)					
(ii)					
3. Plan Grants from the State Govt. (Details to be indicated)					
4. Non-Plan Grants from the State Govt. (Details to be indicated)					
5. Plan Grants from the Centre. (Details to be indicated)					
6. Non-Plan Grants from the Centre (Details to be indicated)					
7. Total Revenue Receipts (1 to 6)					
8. Revenue Expenditure (9+10)					
9. Plan Expenditure					
10. Non-Plan Expenditure (11 to 16)					
11. Salary					
12. Wages					
13. Interest Payment					
14. Pension					
15. Maintenance					
16. Others					
17. Year-End Debt Outstanding (a+b)					
(a) Loan from the State Govt.					
(i) Principal Amount Outstanding					
(ii) Interest Overdue					
(b) Loan Outside the State Govt.					
(i) Principal Amount Outstanding					
(ii) Interest Overdue					
18. Year-end Govt. Guaranteed Debt Outstanding (i+ii)					
(i) Principal Amount Outstanding					
(ii) Interest Overdue					

B. Capital Account					
1. Capital Outlay					
2. Disbursement of loans and advances					
3. Recovery of loans and advances					
4. Other Capital Receipts					
C. Revenue Deficit (-)/ Surplus (+)					
D. Fiscal Deficit (-)/ Surplus (+)					
E. Revenue Deficit as % of Revenue Receipt					
F. Revenue Deficit as % of GSDP					
G. Fiscal Deficit as % of GSDP					
H. Debt Stock as % of GSDP					

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department, Dispur.

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