

APLUC

ISSN: 0331 - 1899



ANAMBRA STATE OF NIGERIA

2011, NO. ANHA/LAW/2011/15

A Law to make for the consolidation of all property and land based rates and charges payable in Anambra State into a new land based charge, to be called Property and Land Use Charge, to make provision for the levying and collection of the charge and for connected purposes.

BE IT ENACTED by the Anambra State House of Assembly as follows:

*Citation and
Commencement.*

1. This Law may be cited as the Property and Land Use Charge Law 2011, and shall be deemed to have come into force on the 29th day of November, 2011.

Interpretation.

2. In this Law-
"assessment appeal tribunal" means the Assessment Appeal Tribunal established under section 12 of this Law;
"building" includes anything constructed or placed on, in, over or under land but does not include a highway or road or a bridge that forms part of a highway or road;
"charge" means an assessed amount on property payable under this Law;
"chargeable person" means a person liable to pay Property and Land Use Charge on a chargeable property or his appointed successors-in-title, assigns, executors and administrators;
"chargeable property" means any property in respect of which Property and Land Use Charge is payable;
"commissioner" means the Commissioner of the Government of the State responsible for matters relating to finance;
"designated bank" means a company carrying on banking activities as provided for under the Law and listed as a bank that may collect on behalf of the Government any Property and Land Use Charge payable under this Law;
"exempt property" means any property of a class described under Section 7;
"financial year" means any period of twelve (12) months beginning from January 1 and ending on the subsequent December 31;
"governor" means the Governor of Anambra State;
"improvement to a property" means a building, structure, fixture or fence erected on or affixed to land, or a movable structure that is designed to be occupied for residential business purposes whether or not affixed to the land;
"net property and land use charge" means the actual amount of Property and Land Use Charge collected and deposited in the designated banks, less the cost of collecting that charge and less fees payable to designated banks for the deposit or withdrawal of Property and Land Use Charge payments;
"occupier" in relation to a property, shall include not only the person in actual occupation of the whole or part of such property



Mr Joseph

A.2
A.S. N.
Law No. of 2011

Property and Land Use Charge Law, 2011



but any person in beneficial occupation, although this does not mean it must be of pecuniary benefit and it does not include a lodger;

"owner" in relation to any property shall include the person for the time being receiving the property in connection with which the word is used, whether on his own account or as agent or trustee for any other person who would receive the sum if such property were let to a tenant, and the holder of a property direct from the State whether under lease, license or otherwise;

"receiver" means any person or company appointed by the Commissioner to recover the outstanding charges, taxes, penalties and administrative charges under this Law;

"real property" includes-

- (i) a parcel of land;
- (ii) an improvement;
- (iii) a parcel of land and improvement; or
- (iv) a port, wharf or pier;

"state" means Anambra State of Nigeria;

"structure" means a building or other thing erected or placed in, on, over or under land whether or not its affixed to the land.

Property and Land
Use Charge.

3.

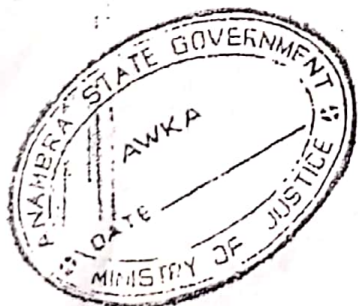
(1) Subject to the provisions of this Law, there is imposed a land based charge, to be called Property and Land Use Charge which shall be payable on all real property situate in the State.

(2) For the purpose of this Law, Property and Land Use Charge includes:-

- (i) property rate;
- (ii) tenement rate;
- (iii) ground rent; and
- (iv) infrastructural development and maintenance levy.

(3) Each Local Government Council in the State shall subject to the provision of Section 5 of this Law be the assessment and collecting authority in respect of Property and Tenement Rate payable for privately owned houses in its area of jurisdiction.

(4) Each collecting authority may delegate to the State in writing, its functions with respect to the collection of rates and assessment of privately-owned houses or tenement for the purpose of levying such rate as may be prescribed under this Law.



Property Liable to
Charge.

4.

Property and Land Use Charge shall be payable in respect of any property that is not exempt under Section 9 of this Law.

Property
Assessment.

5.

(1) The Commissioner shall undertake or caused to be undertaken an assessment of chargeable properties in the State for the purpose of prescribing the formula to be used to determine the annual amount of the Property and Land Use Charge collectable by each collecting authority.



(2) For the purpose of subsection (1) of this section, the Commissioner may appoint such property identification officers, qualified assessors and other persons or consultants as he considers necessary to undertake the assessment on his behalf.

(3) For the purpose of carrying out the identification or assessment of property, the identification officers or assessors or other persons or consultants or their authorized assistants may, on any working day between the hours of 7.00a.m. and 5.00p.m.-

- (a) enter, inspect, survey and assess the property;
- (b) request documents or other information to be produced to the identification officer or assessor,
- (c) take photographs; and
- (d) make copies of documents necessary for the inspection.

Person liable To pay Charge. 6. The owner of the property is liable to pay Property and Land Use Charge in respect of any taxable property in the State.

Valuation of Annual Charge Rate. 7. (1) The Commissioner shall by order under his hand prescribe the formula to be used to determine the annual amount of the Property and Land Use Charge payable for any property under this Law, the value of the annual charge rate for each financial year as well as any discount allowed and shall cause same to be published in the State Official Gazette and in the one or more newspapers circulating within the State.

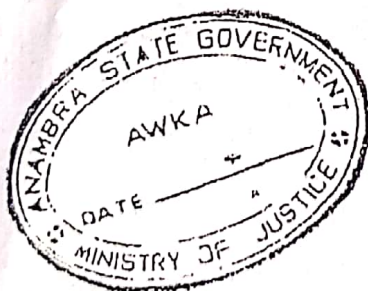
Payment of the charge. 8. A person liable to pay Property and Land Use Charge shall pay at any bank so designated in the Property and Land Use Charge Demand Notice.

Exemption from Property and Land Use Charge. 9. (1) The following properties shall be exempted from payment of Property and Land Use Charge-

- (a) a property owned and occupied by a religious body and used exclusively for public worship or religious education;
- (b) cemeteries and burial grounds, excluding privately-owned, profit-making cemeteries and burial grounds;
- (c) a recognized and registered health or other institution or educational institution certified by the Commissioner to be non-profit making;
- (d) property used as public library;
- (e) any property specifically exempted by the Governor by notice published in the State government official gazette; and
- (f) all palaces of recognized traditional rulers in the State.

(2) The Governor may, by notice published in the State Government Official Gazette grant relief for a property that is:-

- (a) occupied by a non-profit making organization and used solely for community games, sports, athletics or recreation for the benefit of the general public;

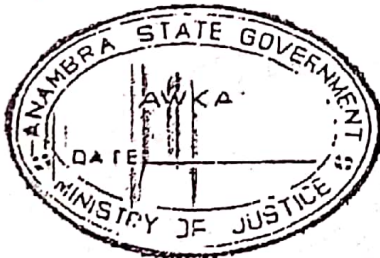


- (b) used for a charitable or benevolent purpose for the benefit of the general public and owned wholly or partially by the State Government, Local Government, Federal Government or a non-profit making organization.

Loss of Exemption

10.

- (1) An exempt property or part of exempt property shall become liable to Property and Land Use Charge if-
- (a) the use of the property changes to one that does not qualify for the exemption; or
- (b) the occupier of the property changes to one who does not qualify for the exemption.
- (2) If the Property and Land Use Charge status of a property changes, Property and Land Use Charge imposed in respect of that property shall be pro-rated so that the Property and Land Use Charge is payable only for that part of the year in which the property or part of it is not exempt.



Property and Land Use Charge Demand Notice.

11.

- (1) The Commissioner shall cause to be issued in each financial year a Property and Land Use Charge Demand Notice with respect to every chargeable property that has been assessed in accordance with this Law.
- (2) The Property and Land Use Charge Demand Notice shall be delivered to the owner or occupier of the chargeable property.
- (3) If there is no owner or occupier or agent available to take delivery, the Property and Land Use Charge Demand Notice shall be posted on the property and such posting shall be deemed sufficient delivery of the notice.
- (4) The person liable to pay the amount of Property and Land Use Charge on the demand notice shall within the time specified in the Property and Land Use Charge Demand Notice pay that amount at one of the designated banks specified in the demand notice.
- (5) Upon an application in writing made by the owner, the Commissioner may further reduce the Property and Land Use Charge by such discount as the Commissioner may allow, if the owner pays within fifteen (15) days of receiving the demand notice.



Power to Appoint Agent.

12.

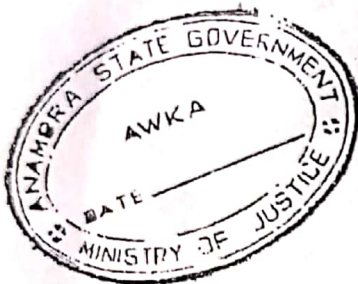
- The Collecting Authority or its delegate appointed pursuant to section 3(4) of this Law may by notice in writing appoint any person including any occupier of chargeable property to be an agent of the owner and the person declared agent of the owner for the purposes of this Law may be required to pay the Property and Land Use Charge which is or will be payable by the owner from any moneys which may be held by him for or due by or to become due by him to the owner whose agent he has been declared to be and in default of such payment the charge shall be recoverable from him.

Indemnification
of Agent.

13. Every person liable under this Law for the payment of Property and Land Use Charge on behalf of an owner may retain out of any money coming into his hands on behalf of an owner or becoming due from him to the owner as may be sufficient to pay the charge, and shall be indemnified against any person for all payments made by him under this Law.

Assessment Appeal
Tribunal.

14. (1) The Governor shall establish an Assessment Appeal Tribunal which shall consist of not less than six members.
(2) The Governor shall appoint one of the members of the Tribunal as its Chairman.
(3) A minimum of three members shall constitute a panel of the Tribunal.
(4) Members of the Tribunal shall hold office for such period as may be prescribed in their letters of appointment and shall be paid such allowances as the Governor may, from time to time, determine.



Power of Assessment
Appeal Tribunal.

15. The Assessment Appeal Tribunal may-
(a) by summons, require the attendance of any person, examine him and may require answers to any question which it may deem fit to put concerning an appeal before it;
(b) require and enforce the production of all books, and documents which it may consider necessary;
(c) administer oaths and affirmations;
(d) levy fines against appellants if the members of the Tribunal consider that the appeal before it is of a frivolous nature and such fine shall not exceed 25% of payable charge.

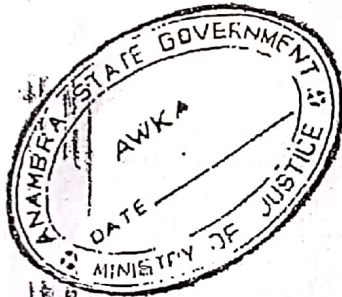
Appeal against
Assessment.

16. (1) A person may appeal to the Tribunal if he is aggrieved by-
(a) a decision that a property which he owns is a chargeable property, or that he is liable to pay Property and Land Use Charge in respect of such property; or
(b) any calculation of an amount which he is liable to as Property and Land Use Charge, and the Tribunal shall make such decision as it deems fit.



- (2) The time allowed for an appeal to the Tribunal shall be (30) days after the date of delivery of the Property and Land Use Charge Demand Notice.
(3) The onus of proving an excessive assessment of a property shall lie on the owner.
(4) A person giving evidence before the Tribunal shall respect of any evidence given by him or any document required to produce, be entitled to all the privileges to which a witness in a trial before a Magistrate Court is entitled.
(5) In respect of the compulsion of witnesses, the Assessment Appeal Tribunal shall have same powers as that Magistrate Court.

Conditions of
Appeal



Property and Land
Charge Use Collection
Fund.



Recovery
of Charge.

- (6) The Assessment Appeal Tribunal may confirm, reduce increase or annul the assessed value.
 - (7) An appeal from a decision of the Assessment Appeal Tribunal may be made to the High Court.
17. An Appeal shall not lie unless-
- (a) notice is given in the prescribed manner to the Commissioner;
 - (b) the prescribed fee is paid to the Assessment Appeal Tribunal;
 - (c) in the case of a person aggrieved with his property assessment-
 - (i) 50% of the amount of the assessed Property and Land Use Charge being disputed is deposited directly into the State Government Assessment Appeal Account which shall be maintained by the Commissioner at a designated bank;
 - (ii) the appellant has produced to the Tribunal the receipt for the payment of the amount from the bank and such receipt has been confirmed by the Commissioner as valid.
18. (1) The Commissioner shall establish and maintain a fund, to be Known as the Property and Land Use Charge Collection Fund, consisting of all Property and Land Use Charge payments deposited in each designated bank in accordance with this Law.
- (2) At the beginning of each month, the Commissioner shall determine the total amount of Property and Land Use Charge payments on deposit in the designated banks.
- (3) The Commissioner shall, not later than fourteen (14) days after the beginning of each month, pay to each Local Government in the State a share of the Land Use Charge collected and standing on deposit in the designated banks.
- (4) The share to be paid by the Commissioner shall be such percentage of the net Property and Land Use Charge on deposit at the end of each month as agreed between the State and all the Local Governments.
- (5) The share due to the Local Governments shall be paid to the State Joint Local Government Account Distribution Committee to be distributed to all the Local Governments in the State in accordance with the formula prescribed in the State Joint Local Government Account Distribution Committee Law.
19. The Commissioner may apply to a Court to-
- (a) recover sums payable under this Law;
 - (b) recover any Property and Land Use Charge or penalty incurred under this Law by a deceased person at any time before his death;
 - (c) attach a person's earnings, and/or a person's goods where a court has made a liability order against that person.

Non-compliance with the Law, obstruction of officials and damage to Property Identification Mark.

20.

Any person who-

- (a) refuses or neglects to comply with any provision of this Law when required to do so by the property identification officer or an assessor; or
- (b) prevents, hinders or obstructs any property identification officer or an assessor in the course of his lawful duty; or
- (c) removes from or damages or destroys a property identification mark on any property or building;

commits an offence and shall be liable on summary conviction to a maximum fine of fifty thousand naira only (N50,000.00) or to a term of imprisonment for a period of three (3) months or both:

Penalty for inciting a person to refuse pay charge.

21.

Any person who-

- (a) incites another person to refuse to pay any charge under this Law on or before the day on which it is payable; or
- (b) incites or assists any person to misrepresent in any way his chargeable capacity;

commits an offence and shall be liable on conviction to a maximum fine of one hundred thousand naira only (N100,000.00) or to an imprisonment for a period of six (6) months or both.

Penalties

22.

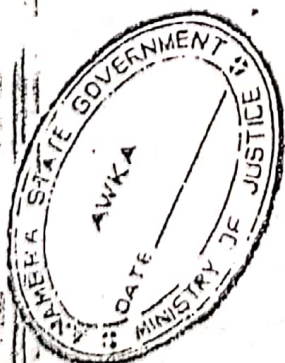
- (1) Where a person who has received a Property and Land Use Charge Demand Notice fails or delays to pay the amount within the period specified in the notice, the charge payable shall be increased by 2.5% monthly for the first three months after the period specified in the notice.

- (2) If payment is not made after the expiration of three months from the period specified on the demand notice, the property on which the Property and Land Use Charge is payable shall be liable to receivership by the State or its appointed agent until all outstanding charges, taxes, penalties and administrative charges are paid.

- (3) The owner is however entitled at any time to apply to the Commissioner for a release of the property and other moneys accruing to him upon payment of the outstanding charges, taxes, penalties and administrative charges,

Provided that where rights and/or liabilities have been created under the receivership directly related to generating income necessary to effect the payment of the outstanding taxes, penalties and administrative charges before repayment by the owner, the owner shall assume all such rights and/or liabilities.

- (4) Whenever property comes under receivership as provided in subsection (2), such property shall be advertised as being under receivership in at least two newspapers.



A.8
A.S. N.
Law No. of 2011

Property and Land Use Charge Law, 2011

*Regulations
prescribing procedure.*

23. Subject to the approval of the Governor, the Commissioner may make regulations generally for carrying into effect the purposes of this Law.

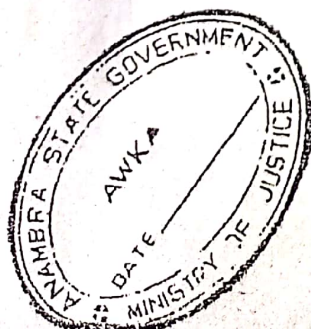
*Application of
other Laws.*

24. On and from that date when Property and Land Use Charge is levied on a property in accordance with this Law, the provisions of the Assessment Law Cap.11 RLAN 1991 and Property Rates Law Cap.108 RLAN 1991 and any amendments made pursuant thereto shall cease to apply to that property.



PROPERTY AND LAND USE CHARGE LAW EXPLANATORY NOTE

1. This Law seeks to harmonize and bring into one comprehensive charge for effective collection (in order to improve the State's Internally Generated Revenue) all land based rates and charges payable in Anambra State into a new land-based charge, to be called the Anambra State Property and Land Use Charge (APLUC).
2. Property and Land Use Charge under the Law includes:
 - (a) Property Rate;
 - (b) Tenement Rate;
 - (c) Ground Rent; and
 - (d) Infrastructural Development and Maintenance Levy.
3. It is recognized that item 1(j) of the Fourth Schedule to the 1999 Constitution of the Federal Republic of Nigeria (as amended), makes assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a State a function of a local government council. However, the other land charges, namely, ground rent and infrastructural development and maintenance levy, are collected by the State.
4. The Law in section 3(3) preserves the above constitutional function of Local Government councils by providing that each Local Government Council in the State shall be the assessment and collecting authority in respect of property and tenement rate payable for privately owned houses in its area of jurisdiction.
5. Under item 1(j) of the Fourth Schedule to the 1999 Constitution referred to above, the rates to be levied by Local Government Councils for privately owned houses shall be as may be prescribed by the State House of Assembly.
6. This is provided for in Section 5 of the Law and that is why Section 3(3) is made subject to Section 5, which gives the State Commissioner for Finance the power to undertake, directly or through consultants, assessment of chargeable properties for the purpose of prescribing a formula to be used to determine the annual rate.
7. The use of consultants is to ensure a professional valuation/assessment of the chargeable properties, in contradistinction to the arbitrary low assessment currently done by the Local Government Councils.



A.9

A.S. N.

Law No. of 2011

Property and Land Use Charge Law, 2011

8. To further ensure openness, the formula prescribed by the Commissioner is made known to the public by publication in the Gazette and in newspapers and to plug leakage; APLUC is paid through designated banks.
9. Some properties are exempt, including churches/mosques, cemeteries and burial grounds, non-profit making health and educational institutions, public libraries and palaces of traditional rulers.
10. A Demand Notice is first given, which allows the owner of the property to protest the charge, if he deems fit, or to apply to the Commissioner for further discount, or to pay.
11. The Law provides for the establishment of an Assessment Appeal Tribunal to which property owners can appeal their assessments or that their property is chargeable under the Law.
12. The revenue realized is placed in a fund established under the Law, out of which, at the beginning of each month, the Commissioner shall pay the Local Government Councils their share, through the State Joint Local Government Account Distribution Committee which already performs such functions.



A.10

A.S.N.

Law No. of 2011

Property and Land Use Charge Law, 2011

FIRST SCHEDULE
(Section 3)

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

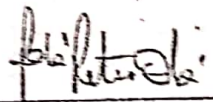


PIUS O UDOH
Ag. Clerk of the Legislature



SECOND SCHEDULE
(Section 4 (1))

I assent/~~Do not assent~~



MR. PETER OBI
Governor

Dated the 19th day of DECEMBER, 2011

THIRD SCHEDULE
(Section 8 (2))

Assented to on the 19th day of DECEMBER, 2011.