

## LEAD DEBATE ON THE PROCEEDS OF CRIME BILL, 2017.

### SPONSOR: SENATOR MOHAMMED HASSAN

Mr. President, distinguished colleagues, it gives me great pleasure to be leading the debate on the bill to make provisions for the confiscation, forfeiture and management of properties derived from unlawful activities.

Distinguished colleagues this Bill was read for the first time in this chamber on the 10<sup>th</sup> of November 2016.

The bill sees to provide the legal and institutional framework for the recovery and management of proceeds of crime in such a manner that is more organised, coordinated and allows the country to benefit from rather than lose the value of the property obtained from these illegal activities.

What we have now creates a very consuming system that have left both the victim, the state as losers as the values recovered by agencies of government end up decrepit and decaying with little or no accountability or ultimate responsibility.

This Bill is aimed at providing the necessary consolidation of the existing provisions on the recovery of proceeds of assets across our law enforcement agencies and create the institutional structures that will eliminate corruption in the handling of proceeds of crime while allowing law enforcement to focus on their key role of arrest, investigation and prosecution of cases.

Mr. President, Distinguished colleagues, though there are assets forfeiture provisions in the extant laws we have like the EFCC Act, NDLEA Act, Recovery of Public Property (Special Provisions) Act, the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act and other penal laws in the country. These provisions basically cover forfeiture after conviction and considering the gestation of most criminal prosecutions in Nigeria, many suspects in corruption cases always manage to hold on to the property or where such property is ceased, they are left to the elements to decay and wear out.

The absence of a civil forfeiture law in the country makes a mockery of the anti-corruption fight. It has continued to remain a case of double jeopardy. Criminals in the country are not deterred because of the liberalization that they will not be denied the benefit of their loot, whether they are caught or not. To put it sarcastically, it is

only in Nigeria that a suspect arraigned for corruption, stealing or embezzlement grin from ear to ear into the dock knowing that with the loot gained they can circumvent justice. This is a sad commentary for the nation.

The Nigerian people have demanded and the present government has made the anti-corruption fight the main stay of this administration but the absence of this law has made the implication of the fight a value loss proposition for the economy. Today we have choice properties, cars, jewelries and valuables seized rot and abandoned. By the time the Bill is passed, it is expected that the agency set up under this law will be professionally manage and deal with forfeited properties for the benefit of the Nigerian people.

The objectives of the bill therefore are to:

Provide for an effective legal and institutional framework for the recovery and management of proceeds of crime or benefits derived from unlawful activities;  
Deprives a person of the proceeds of an unlawful activity and other benefits derived from an offence committed within or outside Nigeria;  
Prevent the reinvestment of proceeds of unlawful activities in the furtherance of criminal enterprise;  
Harmonize and consolidate existing legislative provisions on the recovery of proceeds of crime and related matters in Nigeria; and  
Make comprehensive provisions for the restraint, seizure, confiscation and forfeiture of property derived from unlawful activities and any instrumentalities used or intended to be used in the commission of such unlawful activities.

The bill has 164 clauses into 12 parts namely;

|          |                                                              |
|----------|--------------------------------------------------------------|
| Part 1-  | This part sets out the objectives and application of the law |
| Part 2-  | Civil Forfeiture                                             |
| Part 3-  | Additional Investigation Powers in Civil Recovery            |
| Part 4-  | Recovery of Cash Being Imported or Exported                  |
| Part 5-  | Criminal Forfeiture and Confiscation                         |
| Part 6-  | Proceeds of Crime Recovery and Management Agency             |
| Part 7-  | Investigation, Search and Seizure                            |
| Part 8-  | Administration                                               |
| Part 9-  | Confiscated and Forfeiture Properties Account                |
| Part 10- | Jurisdiction                                                 |
| Part 11- | General Provisions Relating to Legal Proceedings             |

The benefits of the Bill are enormous:

Forfeiture is an essential tool in the fight against corruption to deprive offenders of the proceeds of their criminal conduct; to deter the commission of further offences; and to reduce the profits available to fund further corrupt or criminal enterprises.

- The bill amends provisions in other laws dealing with forfeitures of proceeds of crime that may run in conflict with its provisions to ensure harmonization, effectiveness and operational and institutional streamlining.
- This bill will enable government Prioritize the recovery of assets from serious economic crimes
- It would enable the enforcement and pursuit of the assets of all who profit from crime, when it is in the best interest of the society to do so;
- It will assist other law enforcement agencies across the world to collaborate and enforce assets on our behalf and where necessary assist us in developing our asset recovery capacity and capability; and

By taking away the profits that fund crime, by recovering the benefits of corruption, by the sheer knowledge that this is the implication of the proposed crime, we are better equipped to disrupt the cycle that sustains corruption and encourage criminal behaviours in our system.

The bill will enable a prosecuting agency to identify properties which are proceeds of crime and commence forfeiture proceedings against the properties in situations where the defendant cannot be prosecuted either because he is dead or out of jurisdiction.

Mr. President, Distinguished colleagues, I dare say that the Assets forfeiture law is today one of the key missing links to our fight against corruption. Therefore, the proceeds of crime Bill we have here today has the potential to radically swing the pendulum of the anti-corruption war firmly in the favour of the country. We are today struggling to recover or confiscate the proceeds of corruption that we have identified and even moved against both home and abroad. With this law we will be better equipped to deal with the proceeds of this kind of activities and make it easier for our anti-graft agencies to not only prosecute and jail economic criminals but also to effectively recover for the country the value that may have been taken and more.

The assets recovery and forfeiture agency set up under this law will be empowered to administer the proceeds of crime and as well as establish special account for the recovery and safe keeping of monies recovered from as proceeds of crime.

Mr. president, distinguished colleagues, this bill is part of the action plan of the government to prosecute criminal activities within and outside the nation's border as well as fulfil its commitment to the international community especially the Financial Action Task Force and the International Government Action Group against Money Laundering in West Africa (GIABA) to enact some identified critical laws to tackle criminal activities globally. Countries like India, USA, UK, Australia, Trinidad and Tobago, Jamaica and Kenya have all enacted this legislation in compliance with the FATF requirement.

The fight against corruption, money laundering, economic and financial crimes calls for global collaboration. Considering, our peculiar circumstances and inadequacies, the country stands to benefit more from the collaborative effort of the global community if the bill is passed into law.

The issue of anti-corruption must be fought on the basis of value. It does not make much sense that in the name of fighting corruption, the properties derived after is less than 50% the market value worth of the property recovered. Placed in between the cost of prosecution, investigation and time, the society lose so much. Therefore, value must proceed from not only changing behaviours but also enabling both the accused and the state not to become losers at the end of the trial due to failed recovery and management of the crime property.

There is no gainsaying that the nation is in dire need for the enactment of this legislation if we are to make the war against corruption meaningful purposeful and effective.

I therefore urge you to support this Bill for to pass through second reading and subsequently pass into law.

The compendium of the financial implication of establishing the agency under the bill is attached in line with Order 77(3) of the Standing Orders of the Senate for our consideration.

Thank you.

## COMPENDIUM

### DISPLAYING A SYNOPSIS OF BACKGROUND INFORMATION AND FINANCIAL IMPLICATIONS OF PROCEEDS OF CRIME RECOVERY AND MANAGEMENT AGENCY BILL (SB. 376)

Sponsored by Senator Mohammed Hassan (*Yobe South*)

#### TOTAL PROJECTIONS/ESTIMATES FOR THE RECURRENT AND CAPITAL EXPENDITURE IN THE FIRST TWELVE MONTHS IMMEDIATELY FOLLOWING COMMENCEMENT

|                                                                                                                                                 | N                |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 1. Projected Recurrent Expenditure<br>(Salaries and allowances of personnel)                                                                    | 61, 294,176.16   |
| 2. Projected Recurrent Expenditure<br>(Social security benefits, maintenance of vehicles, management costs<br>of offices and other contingency) | 802, 176,000. 00 |
| 3. Estimated Capital Expenditure<br>(Office accommodation, furniture, etc.                                                                      | 50, 000,000.00   |
| 4. Estimated Capital Expenditure<br>(Purchase of vehicles)                                                                                      | 42, 000,000.00   |
| Total Projected/Estimated Costs for First Year of<br>Commencement.                                                                              | N955, 470,176.16 |

#### SURMISES

The forgoing compilation proffers a fair approximation of the financial implications for the establishment in Nigeria. To all intents and purposes, the financial outlay estimated and projected for, is modest and appropriate for the effective discharge of the provisions of this Bill.