

**LAW**

**ON PUBLIC DEBT MANAGEMENT**

**(No. 29/2009/QH12)**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10; The National Assembly promulgates the Law on Public Debt Management.

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Law provides for the management of public debts, which covers the borrowing, use of loans and debt payment and public debt management operations.

2. Public debts under this Law comprise: a/ Government debts;  
b/ Government-guaranteed debts; c/ Debts of local administrations.

**Article 2. Subjects of application**

This Law applies to organizations and individuals involved in the borrowing, use of loans, debt payment and public debt management.

**Article 3. Interpretation of terms**

In this Law, the terms below are construed as follows:

1. Debt means a loan to be repaid, including the principal, interests, charges and other related expenses at a point of time, which arises from the borrowing by a borrower that is permitted to take loans under the law of Vietnam.
2. Government debt means a debt arising from a domestic or foreign loan which is signed or issued in the name of the State or the Government or a loan signed or issued by or under the authorization of the Ministry of Finance under law. Government debts do not include debts issued by the State Bank of Vietnam to implement monetary policies in each period.

3. Government-guaranteed debt means a domestic or foreign loan borrowed by an enterprise or financial or credit institution under the Government's guarantee.
4. Debt of local administration means a debt signed or issued by or under the authorization of the People's Committee of a province or centrally run city (below referred to as provincial-level People's Committee).
5. National foreign debts means the total of foreign debts of the Government, government-guaranteed debts and debts borrowed and paid by enterprises and other organizations themselves under the law of Vietnam.
6. Borrowing means the process of creating the debt payment liability through the conclusion and performance of a loan treaty, contract or agreement (below referred to as loan agreement) or issuance of debt instruments.
7. Borrower means the borrowing party in a loan agreement or the issuer of a debt instrument that is liable for repaying the principal to the lender according to the conditions and terms of the loan agreement or the issuance.
8. Borrower of government loan (below referred to as sub-borrower) means an enterprise, financial or credit institution, or provincial-level People's Committee which signs an onlending agreement and acknowledges debts with the onlending agency to use the Government's loan under the onlending mechanism.
9. Guaranteed borrower means a borrower who is guaranteed by the Government. Guaranteed borrowers include those receiving the lawful transfer from borrowers under the guarantor's approval.
10. Short-term loan means a loan with a term of less than one year.
- 11 Medium- or long-term loan means a loan with a term of one year or more.
- 12 Foreign loan means a short, medium or long-term loan with or without interest borrowed by the State or Government or an enterprise or organization of Vietnam from a foreign government, territory, organization or individual or an international financial organization.
13. Official Development Assistance (ODA) loan means a loan borrowed in the name of the Vietnamese State or Government from a donor being a foreign government, bilateral donor organization, transnational organization or intergovernmental organization with non-refundable funds (preferential component) accounting for at least 35% for a binding loan, and 25% for a non-binding loan.
14. Concessional loan means a loan which is provided under conditions more preferential than those for a commercial loan, but its preferential component does not reach the level set for ODA loans.

15. Commercial loan means a loan provided under market conditions.
16. Debt instrument means a bill, draft, bond, public bond or other instrument which gives rise to a debt payment liability.
17. Government bond means a bond issued by the Ministry of Finance to raise funds for the state budget or a specific work or investment project.
18. Government-guaranteed bond means a bond with a term of one year or more which is issued by an enterprise to raise funds for an investment project under the Prime Minister's designation and guaranteed by the Government.
19. Bond of local administration means a bond with a term of one year or more, which is issued by or under the authorization of a provincial-level People's Committee to raise funds for local works and investment projects.
20. Debt payment means the payment of a due debt, including the principal, interests, charges and other related expenses arising from the borrowing.
21. Debt refinancing means new borrowing to pay one or many existing debts.
22. Debt restructuring means the performance of operations in order to change the conditions and terms of an existing debt without creating a new debt payment liability.
23. Debt portfolio restructuring means the performance of operations in order to restructure each debt in a debt portfolio, including debt refinancing, debt transfer and sale, currency swap, interest rate and other operations to mitigate debt payment liabilities and restrict risks.
24. Debt settlement means taking measures to handle a debt in case of insufficient solvency or insolvency.
25. Onlending agency means the Ministry of Finance or a financial or credit institution authorized by the Ministry of Finance to re-lend the Government's foreign loans.
26. Government guarantee means the Government's commitment with the lender to fulfill the debt payment liability in case a borrower fails to fulfill or fully fulfill the debt payment liability for a debt due.
27. Projected debt liability means a debt obligation which has not arisen but is likely to arise when occurs at least one of specified conditions.
28. Borrowing limit means the maximum net annual loan (actually received after subtracting principal payments).
29. Debt limit against the gross domestic product (GDP) means the maximum ratio of

outstanding debts to GDP in each period.

#### **Article 4. Contents of state management of public debts**

1. To elaborate, promulgate and implement legal documents on public debt management.
2. To set and promulgate debt safety norms, objectives and orientations for loan raising and use and public debt management in each period: a system of indicators to control government debts, public debts and national foreign debts and detailed annual plans on borrowing and debt payment.
3. To raise, allocate and use loans and manage public debts properly and efficiently and assure the fulfillment of the debt payment liability.
4. To supervise the raising, allocation and use of loans and debt payment, to manage public debts and fiscal risks, to ensure debt safety and national financial security.
5. To evaluate the effectiveness of loan use and public debt management.
6. To sum up report and publicize information on public debts.
7. To propagate and disseminate policies and laws on public debt management.
8. To inspect and examine the observance of the law on public debt management.
9. To handle violations and settle complaints and denunciations in the implementation of the law on public debt management.
10. To train personnel in public debt management operations.
11. To carry out international cooperation in public debt management.

#### **Article 5. Principles for public debt management**

1. The State uniformly and comprehensively manages public debts, from raising, allocation and use of loans to debt payment.
2. To ensure debt safety within the limit approved by competent authorities, national financial security and macro-economic balance.
3. To ensure effective borrowing and use of loans; not to borrow short-term loans for long-term investment. To use foreign commercial loans only for programs and projects capable of direct capital recovery and assuring solvency.
4. Borrowers shall take responsibility for fully fulfilling their debt payment liability.

5. To ensure publicity and transparency in the raising, allocation and use of loans, debt payment and public debt management. Programs and projects using loans of the Government or local administrations are subject to audit by the State Audit or an independent audit institution.

6. All debt liabilities of the Government are treated equally.

#### **Article 6. Prohibited acts in public debt management**

1. Raising funds ultra vires or for improper purposes.

2. Deciding on the lending and onlending or grant government guarantee ultra vires, for improper purposes or to improper persons.

3. Using loans unlawfully, wastefully or improperly.

4. Taking advantage of one's position and powers to appropriate, misuse or cause loss of, loans.

5. Colluding with others or being irresponsible in evaluation work.

6. Obstructing the control, inspection, examination and handling of violations of the law on public debt management.

7. Failing to supply or fully, promptly and accurately supply information on public debts under law.

## **Chapter II**

### **TASKS AND POWERS OF THE NATIONAL ASSEMBLY, THE GOVERNMENT AND OTHER STATE AGENCIES AND RESPONSIBILITIES OF ORGANIZATIONS AND INDIVIDUALS IN PUBLIC DEBT MANAGEMENT**

#### **Article 7. Tasks and powers of the National Assembly**

1. To decide on debt safety norms in five-year socio-economic development plans, including:

a/ Public debts against GDP;

b/ National foreign debts against GDP;

c/ Payment of government debts against total state budget revenues;

d/ Payment of national foreign debts against total export value.

2. To decide on objectives and orientations for loan raising and use and public debt management for each five-year period to assure debt safety norms.

3. To decide on total annual loan and borrowing structure and debt payment of the Government in connection with state budget estimates.
4. To decide on in-principle approval of investment in key national projects and works funded by the Government's loans.
5. To supervise the raising, allocation and use of loans, debt payment and public debt management.

#### **Article 8. Tasks and powers of the Government**

1. To perform unified state management of public debts, to define responsibilities of each agency and coordination responsibilities of line management agencies and local administrations in public debt management.
2. To submit to the National Assembly debt safety norms; objectives and orientations for loan raising and use and public debt management in each five-year period; and annual total loan and borrowing structure and debt payment of the Government in connection with state budget estimates.
3. To decide on specific policies and solutions to ensure debt safety norms under Clause 1, Article 7 of this Law.
4. To approve on schemes on issuance of the Government's international bonds; to decide on the negotiation and conclusion of agreements on foreign borrowing by the Government.
5. To inspect and examine the raising, allocation and use of loans, debt payment and public debt management; to report to the National Assembly and the National Assembly Standing Committee on loan use and public debt management and the implementation of key national projects and works and other important socio-economic development programs using the Government's loans.

#### **Article 9. Tasks and powers of the Prime Minister**

1. To approve detailed annual borrowing and debt payment plans on the basis of the Government's annual total loan limit, borrowing structure and debt payment decided by the National Assembly under Clause 3, Article 7 of this Law, covering the following major contents:
  - a/ The Government's plans on borrowing from domestic and foreign sources and use objectives, excluding short-term loans to offset temporary state budget deficits;
  - b/ The Government's debt payment plans, excluding the payment of short-term loans to offset temporary state budget deficits;
  - c/ The Government's annual foreign commercial loan limits and guarantee of foreign loans.

2. To approve medium-term debt management programs for three subsequent consecutive years to materialize objectives and orientations for loan raising and use and public debt management decided by the National Assembly under Clause 2. Article 7 of this Law, covering the following major contents:

a/ Balance of needs for domestic and foreign loans;

b/ Forecast on annual public debt ratio to the GDP;

c/ Forecast on annual national foreign debt ratio to the GDP;

d/ Forecast on the Government's annual foreign commercial loan limits and guarantee for foreign loans;

e/ Fund-raising solutions and methods;

f/ Debt payment sources and methods;

g/ Solutions to handling debts and restructuring debts and debt portfolios;

h/ Policies and legal documents to be promulgated to raise the effectiveness of public debt management.

3. To approve lists of ODA fund requests.

4. To decide on contents of treaties on the Government's foreign borrowing.

5. To approve schemes on issuance of government bonds to raise funds for domestic works and investment projects and fund raising schemes and plans on use of foreign commercial loans.

6. To approve schemes to handle debts and restructure debts and debt portfolios.

7. To decide on allocation or onlending of the Government's foreign loans to programs and projects.

8. To decide on provision of government guarantee.

9. To direct inspection and examination of the observance of the law on public debt management.

#### **Article 10. Tasks and powers of the Ministry of Finance**

1. To assist the Government in performing the unified state management of public debts.

2. To assume the prime responsibility for setting objectives and orientations for loan raising and

use and public debt management in each five-year period; formulating medium-term debt management programs; and establishing systems of indicators to monitor government debts, public debts, national foreign debts and the Government's detailed annual borrowing and debt payment plans and submit them to competent authorities for approval.

3. To implement public debt limits, foreign commercial loan limits and government guarantee.

4. To negotiate and sign foreign loan agreements as assigned by the Government.

5. To act as the official representative of borrowers for foreign loans taken in the name of the State and the Government, except loans which the State Bank of Vietnam is authorized to negotiate and sign; to conduct government debt-related transactions.

6. To negotiate and sign government guarantee agreements; to act as the official representative of the guarantor for government-guaranteed loans.

7. To assume the prime responsibility for formulating schemes to issue the Government's international bonds and submit them to the Government for approval.

8. To assume the prime responsibility for formulating schemes on issuance of government bonds to raise funds for domestic works and investment projects and schemes to raise and plans to use foreign commercial loans and submit them to the Prime Minister for approval.

9. To issue domestic and international government bonds under approved plans or schemes.

10. To borrow loans from lawful domestic financial sources to offset temporary deficits of the central budget.

11. To manage the Government's loans, covering:

a/ To formulate and promulgate regulations on financial management of loans;

b/ To allocate the Government's loans to investment programs and projects and other targets already approved by competent authorities; to guide and organize the onlending of the Government's foreign loans.

12. To evaluate dossiers of request for government guarantee, schemes to issue government-guaranteed domestic and international bonds of enterprises and financial and credit institutions and submit them to the Prime Minister for decision on provision and management of government guarantee.

13. To fulfill the Government's debt payment liability and the guarantor's obligations for government-guaranteed loans.

14. To manage public debts portfolios, to analyze sustainable debts and control risks; to propose or submit to the Prime Minister for approval and implement schemes to handle debts and



restructure debts and debt portfolios.

15. To manage the accumulation fund for debt payment.

16. To establish and manage a database on public debts; to sum up, report and publicize information on public debts.

17. To assume the prime responsibility for, and coordinate with onlending agencies and other concerned agencies in, setting specific onlending conditions for programs and projects using foreign loans under law.

18. To authorize financial and credit institutions to provide onlending for or sign onlending agreements with sub-borrowers when the Ministry of Finance is the direct onlending provider.

19. To monitor, inspect, examine and evaluate the use of loans of or guaranteed by the Government; to borrow loans for and pay debts of local administrations; to manage and recover onlending loans under regulations on authorization of onlending and onlending agreements.

20. To coordinate with the State Bank of Vietnam in raising domestic funds, ensuring effective administration of monetary-credit policies.

21. To coordinate with the Ministry of Planning and Investment in formulating and submitting to the Prime Minister for approval a list of ODA fund requests before a framework agreement on ODA loans or project list agreement is signed.

22. To report on the use of loans and management of public debts to competent authorities annually or at request.

#### **Article 11. Tasks and powers of the Ministry of Planning and Investment**

1. To assume the prime responsibility for making ODA fund request lists as assigned by the Government.

2. To raise and coordinate ODA funds and assume the prime responsibility for negotiating and signing framework treaties on ODA loans as assigned or authorized by the Prime Minister.

3. To monitor and conduct post-evaluation of the Government's ODA-funded programs and projects.

4. To coordinate with the Ministry of Finance in:

a/ Setting objectives and orientations for loan raising and use and public debt management in each five-year period; and formulating medium-term debt management programs and detailed annual borrowing and debt payment plans of the Government;

b/ Establishing a system of indicators to oversee government debts, public debts and national

foreign debts;

c/ Formulating schemes to issue international bonds of the Government;

d/ Formulating schemes to issue domestic central work bonds and schemes to raise and use foreign commercial loans;

e/ Balancing ODA funds in annual state budget estimates for programs and projects.

### **Article 12. Tasks and powers of the State Bank of Vietnam**

1. To assume the prime responsibility for, and coordinate with the Ministry of Finance and other concerned agencies in, preparing contents of, negotiating and signing treaties with international financial and monetary institutions which the State Bank of Vietnam represents and acts as the official representative of borrowers in these treaties under the assignment or authorization of the President or the Government.

2. To evaluate schemes to borrow the Government's foreign commercial loans under credit programs and limits and government-guaranteed commercial loans of financial and credit institutions.

3. To guide and organize the registration of government-guaranteed foreign loans of enterprises and financial and credit institutions.

4. To coordinate with the Ministry of Finance in:

a/ Setting objectives and orientations for loan raising and use and public debt management in each five-year period; and formulating medium-term debt management programs and detailed annual borrowing and debt payment plans of the Government;

b/ Establishing a system of indicators to oversee government debts, public debts and national foreign debts;

c/ Formulating the Government's schemes to raise domestic and foreign funds associated with administration of monetary-credit policies.

### **Article 13. Tasks and powers of ministries and ministerial-level agencies**

1. Within the ambit of their tasks and powers, to perform the state management of public debts as assigned by the Government.

2. To approve schemes on borrowing and issuance of bonds guaranteed by the Government; and schemes to borrow the Government's loans according to their competence before sending them to the Ministry of Finance for evaluation.

3. To monitor, inspect and examine the use of loans and bond issuance of their attached units and

report and supply information on public debts.

#### **Article 14. Tasks and powers of provincial-level People's Councils**

1. To approve detailed annual borrowing and debt payment plans of provincial-level People's Committees, including:
  - a/ Provincial-level People's Committees' plans on borrowing from domestic sources and the Government's foreign loans and use purposes;
  - b/ Plans on debt payment from provincial-level budgets and recovery of capital of local investment projects.
2. To decide on lists of provincially invested projects funded by the Government's foreign loans or domestic loans under the State Budget Law.
3. To decide on borrowing loans for investment under the State Budget Law and schemes on borrowing, bond issuance and debt payment submitted by provincial-level People's Committees.
4. To oversee the borrowing, sub-borrowing, bond issuance, loan use and debt payment of provincial-level People's Committees.

#### **Article 15. Tasks and powers of provincial-level People's Committees**

1. To elaborate detailed annual borrowing and debt payment plans of provincial-level People's Committees and submit them to provincial-level People's Councils for approval.
2. To make lists of provincially invested projects funded by the Government's foreign loans and domestic loans under the State Budget Law and submit them to provincial-level People's Councils for decision.
3. To elaborate plans on borrowing loans for investment under the State Budget Law, and schemes on borrowing, bond issuance and debt payment, submit them to provincial-level People's Councils for decision and send them to the Ministry of Finance and the Ministry of Planning and Investment for monitoring and sum-up. For cases of bond issuance, bond issuance schemes are subject to prior written approval of the Ministry of Finance.
4. To issue bonds of local administrations, to borrow loans from other lawful financial sources and the Government's foreign loans under Article 40 of this Law.
5. To examine and urge the use of loans taken from the Government's borrowing, and issuance of bonds of local administrations and capital recovery; to report and supply information on public debts.
6. To allocate funds from provincial-level budget balances and recovery of local investment projects to guarantee full payment of due debts.

**Article 16. Tasks and powers of agencies and organizations receiving and using loans or guaranteed to borrow loans**

Agencies and organizations receiving and using loans or guaranteed to borrow loans shall ensure the efficient and proper use of loans and fully fulfill related liabilities arising from loan or guarantee agreements.

**Article 17. Responsibilities of organizations and individuals deciding on lending, onlending, guarantee and evaluation, and other concerned organizations and individuals**

1. Organizations and individuals that decide on the lending, onlending, guarantee and evaluation and other concerned organizations and individuals shall, within the ambit of their tasks and powers, take responsibility before law for their performance of assigned tasks and vested powers under the law on public debt management.

2. Organizations and individuals that take advantage of their assigned tasks and vested powers to commit prohibited acts in state management of public debts shall, depending on the nature and severity of their violation, be handled under law.

**Chapter III**

**MANAGEMENT OF GOVERNMENT DEBTS**

**Article 18. Purposes of the Government's borrowing**

1. To invest in socio-economic development within the central budget spending task under the State Budget Law.

2. To offset temporary state budget deficits with short-term loans.

3. To restructure government debts and debt portfolios and government-guaranteed debts.

4. To provide onlending to enterprises, financial and credit institutions and local administrations under law.

5. Other purposes to assure national financial security.

**Article 19. Forms of government borrowing**

1. The Government may borrow through the issuance of debt instruments and signing of loan agreements within the Government's annual borrowing limits and structure and debt payment already decided by the National Assembly.

2. The Government may borrow in local and foreign currencies, gold or goods of local or foreign currency equivalence.

## **Article 20. Domestic borrowing**

1. The Government may borrow domestic loans through the issuance of debt instruments and signing of borrowing agreements.
2. The Ministry of Finance is the agency to issue debt instruments of the Government under Clause 1 of this Article.
3. The Ministry of Finance shall sign agreements to borrow domestic loan from lawful financial sources under the State Budget Law within the Government's detailed annual borrowing and debt payment plans.
4. The Government shall detail the issue of the Government's debt instruments and management of domestic borrowing.

## **Article 21. Foreign borrowing**

1. The Government may borrow foreign loans through the issuance of international government bonds and loan agreements.
2. The Ministry of Finance is the agency to issue the Government's international bonds. Such bonds may be issued only when the following conditions are satisfied:
  - a/ Programs and projects using funds from the issuance of international bonds are determined as key national projects; and effective investment programs and projects having completed investment procedures under the investment law and other relevant laws;
  - b/ The conditions specified in the Government's resolution on issuance of international bonds are satisfied;
  - c/ Legal dossiers of international bond issuance have been completed according to Vietnam's law and international practice;
  - d/ International market conditions are favorable, guaranteeing success at reasonable expenses.
3. Borrowing under loan agreements is conducted as follows:
  - a/ For ODA loans, the Ministry of Planning and Investment shall assume the prime responsibility for raising and making lists of request for ODA funds, negotiating and signing framework ODA loan treaties, allocating ODA funds to programs and projects and managing the funding source. The Ministry of Finance shall assume the prime responsibility for negotiating and signing specific loan agreements. When the State Bank of Vietnam is assigned by the Government to negotiate and sign loan agreements, it shall forward such signed agreements to the Ministry of Finance for implementation;

b/ For borrowing not under ODA conditions, the Ministry of Finance shall assume the prime responsibility for negotiating and signing loan agreements under the Government's decisions. When the State Bank of Vietnam is assigned by the Government to negotiate and sign loan agreements, it shall forward such signed agreements to the Ministry of Finance for implementation;

c/ Specific loan agreements shall be signed when investment programs and projects which are permitted by the National Assembly, the Government or the Prime Minister to use foreign loans and have completed investment procedures under the investment law and other relevant laws or schemes on use of loans for other targets have been approved by competent authorities and contents of loan agreements have been approved.

4. The signing and approval of framework ODA loan agreements and specific loan agreements in the name of the State comply with the law on conclusion, accession to and implementation of treaties; other specific loan agreements comply with the following:

a/ Based on detailed annual borrowing and debt payment plans and framework ODA loan agreement already approved by competent authorities, the agency in charge of negotiation shall negotiate contents of loan agreements with foreign lenders;

b/ The agency in charge of negotiation shall concurrently consult concerned agencies, including examination of the Ministry of Foreign Affairs and evaluation of the Ministry of Justice, and propose the Prime Minister to decide on the conclusion of loan agreements.

The Government shall specify the order and procedures for signing and approving specific loan agreements.

5. The Government shall detail the management of the Government's foreign borrowing and management and use of ODA funds.

**Article 22. Use of the Government's loans 1. The Government's loans shall be used as follows:**

a/ Allocating domestic loans and foreign concessional loans to investment programs and projects on infrastructure and social welfare and programs and projects in other domains within the state budget spending task under the State Budget Law which are incapable of directly recovering capital;

b/ Providing onlending of part of or all foreign loans for investment programs and projects capable of recovering part of or all the loans, including projects to build infrastructure in conformity with approved national socioeconomic development guidelines. The Government shall detail the onlending of the Government's foreign loans;

c/ Restructuring debts and debt portfolios under the Government's detailed annual borrowing and debt payment plans and approved schemes on debt restructuring.

2. Onlending conditions for specific programs and projects in terms of loan value, currency of debts, interest rates, debt payment duration and charges comply with the Government's regulations.

3. Based on the purpose of each loan, the Ministry of Finance shall propose the Prime Minister to decide on allocation or onlending of funds to each program or project.

### **Article 23. Onlending agencies and onlending beneficiaries**

1. The Ministry of Finance shall directly provide or authorize a financial or credit institution to provide onlending.

2. Onlending beneficiaries include:

a/ Financial and credit institutions borrowing loans for further lending to users under credit programs or credit components of programs and projects using foreign loans;

b/ Enterprises borrowing loans for investment in programs and projects capable of recovering part of or all the loans;

c/ Provincial-level People's Committees borrowing loans for investment in socioeconomic development within the local budget spending task.

### **Article 24. Conditions on eligibility for onlending**

1. Conditions of financial and credit institutions:

a/ Having programs or projects permitted by competent authorities to use loans and such use is approved by foreign lenders;

b/ Guaranteeing solvency under evaluated financial schemes under law;

c/ Reaching the capital safety ratio under government regulations, except for policy banks of the State, for cases of borrowing the Government's foreign commercial loans.

2. Conditions of enterprises:

a/ Having programs or projects in line with national socio-economic development orientations, being permitted by competent authorities to use loans, having completed investment procedures under the investment law and other relevant laws and being approved by foreign lenders;

b/ Being capable of implementing projects, guaranteeing solvency under evaluated financial schemes under law;

c/ Ensuring that project owners possess at least 20% of the total investment capital, for cases of

borrowing the Government's foreign commercial loans. For important national projects and works of urgency and particular significance to national socio-economic development for which enterprises fail to meet the condition on owner capital, the Prime Minister may consider and decide to waive this condition on a case-by-case basis;

d/ Having a healthy financial status, making no losses over the last three years, except losses incurred from the policy implementation; at the time of request for onlending, owing no overdue debts to financial and credit institutions; having no overdue debts related to loans borrowed from the Government's foreign loans and the state budget. For an enterprise which has operated for less than three years, commitment on payment of borrowed funds by the owner or parent company is required;

e/ Providing security for borrowed loans under law.

### 3. Conditions of provincial-level People's Committees:

a/ Being permitted by competent authorities to borrow the Government's foreign loans;

b/ Having socio-economic development investment projects within the local budget spending task which have completed investment procedures under the investment law and other relevant laws;

c/ Local budgets capable of paying debts.

## **Article 25. Evaluation of programs and projects eligible for onlending**

### 1. For ODA loans sub-borrowed for investment programs and projects:

a/ The onlending agency that bears credit risks shall evaluate financial schemes of programs and projects eligible for onlending and the sub-borrower's financial capacity and report on evaluation results to the Ministry of Finance before signing onlending agreements;

b/ When the onlending agency does not bear credit risks, the Ministry of Finance shall provide onlending through the onlending agency based on the approved list of projects eligible for the Government's foreign loans and results of evaluation of financial schemes by the investment project-approving agency.

### 2. For ODA loans under credit programs and limits:

a/ The Ministry of Finance shall evaluate schemes on loan use and debt payment of program-participating financial and credit institutions before signing onlending agreements;

b/ Financial and credit institutions lending to end users of capital shall evaluate projects and select eligible borrowers under the credit program agreed with the donor or lender and concurrently bear all risks arising from the onlending.



3. For the Government's commercial loans lent to enterprises, the onlending agency shall re-evaluate financial schemes of projects eligible for onlending, the financial capacity of sub-borrowers and report on evaluation results to the Ministry of Finance before signing onlending agreements.

4. For commercial loans under credit programs and limits:

a/ The State Bank of Vietnam shall evaluate schemes on loan use and debt payment of program-participating credit institutions and report on evaluation results to the Ministry of Finance before the Ministry of Finance signs onlending agreements;

b/ Credit institutions lending to end users of capital shall evaluate projects and select eligible borrowers under the credit program agreed with the donor or lender and concurrently bear all risks arising from the onlending.

5. For the Government's loans lent to provincial-level People's Committees, the Ministry of Finance shall evaluate the solvency of provincial-level budgets under the law on budget decentralization before signing onlending agreements.

6. Evaluating agencies and organizations shall take responsibility for evaluation results under law.

#### **Article 26. Responsibilities of onlending agencies**

1. To monitor and examine the use of loans by sub-borrowers. To record and account loans lent to each sub-borrower.

2. To complete legal dossiers, manage and handle mortgaged assets and other assets used by sub-borrowers as loan security.

3. To apply necessary methods and remedies under law to fully and promptly recover borrowed funds, including principals, interests, charges and other related expenses, from sub-borrowers under the conditions specified in onlending agreements or onlending authorization contracts, and to transfer them to the accumulation fund for debt payment.

4. To provide information and reports on the implementation of programs and projects eligible for loans to the Ministry of Finance and competent agencies regularly or at request and take responsibility for the accuracy and truthfulness of these information and reports.

5. When a sub-borrower fails to pay part of or all the debt after necessary methods and remedies are applied, the onlending agency shall:

a/ Pay the debt for the sub-borrower, if the onlending agency is authorized by the Ministry of Finance to provide onlending by the mode of bearing credit risks;

b/ Report such to the Ministry of Finance and the program- or project-evaluating agency for handling, if the onlending agency is authorized by the Ministry of Finance to provide onlending by the mode of not bearing credit risks.

#### **Article 27. Responsibilities of sub-borrowers**

1. To manage and use borrowed funds for the purpose approved in investment reports or project feasibility study reports approved by competent authorities.
2. To pay debts fully and on time under the conditions specified in onlending agreements. When failing to fully fulfill the debt payment liability, to observe methods and remedies applied by the onlending agency to recover debts and to take responsibility under law when failing to pay debts.
3. To comply with the law on mortgage and loan security methods.
4. To supply information and reports on the implementation of programs and projects eligible for loans to the Ministry of Finance, the onlending agency and competent agencies regularly or at request and take responsibility for the accuracy and truthfulness of these information and reports.

#### **Article 28. Borrowing for debt portfolio restructuring**

1. Borrowing for debt portfolio restructuring must satisfy the following conditions:
  - a/ The value of the new loan does not exceed that of the debt to be restructured;
  - b/ To reduce the debt payment liability or risk as compared with before the debt portfolio restructuring;
  - c/ Not to borrow foreign currencies to restructure loans in Vietnam dong.
2. The Ministry of Finance shall conduct operations on debt portfolio restructuring under the Government's detailed annual borrowing and debt payment plans or approved schemes.

#### **Article 29. Accumulation fund for debt payment**

1. The accumulation fund for debt payment is under the state budget, established by the Government and assigned to the Ministry of Finance for management in order to secure the solvency for loans for subsequent onlending or projected debt liability of the state budget arising from government-guaranteed loans.
2. Revenues of the accumulation fund for debt payment comprise:
  - a/ Debts recovered from the onlending of the Government's loans;
  - b/ Government guarantee charges;

c/ Advanced funds recovered from the accumulation fund for debt payment under government regulations;

d/ Interests from advanced funds and restructuring of government debts and debt portfolios;

e/ Savings interests or revenues from entrusted capital management by the accumulation fund for debt payment;

f/ Other lawful revenues.

3. Spending of the accumulation fund for debt payment covers:

a/ Payment of debts borrowed from the Government's foreign loans to the state budget;

b/ Advance of funds for guaranteed borrowers when they fail to pay debts;

c/ Advance of funds for restructuring government debts and debt portfolios and government-guaranteed debts to reduce loan expenses;

d/ Advance of other funds to increase the operation efficiency of the accumulation fund for debt payment under government regulations;

e/ Payment of expenses for management of the accumulation fund for debt payment under government regulations.

4. Temporarily idle capital of the accumulation fund for debt payment shall be preserved and developed through savings deposit and asset management services of prestigious domestic financial and credit institutions.

5. The Government shall detail the management of the accumulation fund for debt payment.

### **Article 30. Payment of government debts**

The Government shall allocate state budget to fully fulfill its direct debt payment liability.

Principals, interests, charges and other related expenses arising from the borrowing shall be paid by the Ministry of Finance from the state budget under the Government's approved detailed annual borrowing and debt payment plans.

3. Onlending agencies shall pay loans borrowed from the Government's foreign loans to the accumulation fund for debt payment under the Ministry of Finance's guidance.

## **Chapter IV**

### **MANAGEMENT OF GOVERNMENT GUARANTEE**

### **Article 31. Agency granting and managing government guarantee**

1. The Ministry of Finance is the agency providing and managing government guarantee for loans or issuance of domestic and international bonds.
2. The Ministry of Finance shall assume the prime responsibility for elaborating and submitting to the Government for promulgation regulations on provision and management of government guarantee.

### **Article 32. Beneficiaries of government guarantee**

1. Enterprises implementing programs and projects under Article 33 of this Law.
2. Policy banks of the State and financial and credit institutions implementing the State's target credit programs.

### **Article 33. Programs and projects to be considered for government guarantee**

1. Investment programs and projects in which investment is decided by the National Assembly or the Prime Minister.
2. Programs and projects applying high technologies and projects in energy, mineral exploitation and processing, or export production or provision of export services in conformity with national socio-economic development orientations.
3. Programs and projects in the domains or localities eligible for state investment incentives under the investment law and other relevant laws.
4. Programs and projects funded with commercial loans associated with ODA funds in the form of syndicated credit.

### **Article 34. Conditions for obtaining government guarantee**

1. Conditions for programs and projects to obtain government guarantee:
  - a/ Having completed investment procedures under the investment law and other relevant laws;
  - b/ Having a borrowing or bond issuance scheme and a scheme on use of loans and debt payment evaluated by the Ministry of Finance and approved by the Prime Minister.
2. Conditions for borrowers and bond issuers to obtain government guarantee:
  - a/ Ensuring that at least 20% of the total investment capital is own capital, for enterprises implementing investment projects. Reaching the capital safety ratio under government regulations, for financial and credit institutions other than policy banks of the State;

b/ Having a healthy financial status, making no losses in the last three years, except losses incurred from the policy implementation; at the time of requesting guarantee, owing no overdue debts to financial and credit institutions; and having no overdue debts related to guaranteed loans, loans borrowed from the Government's foreign loans and the state budget. For an enterprise or financial or credit institution which has operated for less than full three years, commitment on payment of guaranteed loans by the owner or parent company is required;

c/ Observing remedies applied by the guarantee grantor;

d/ Having a credit rating accepted by the international market which must not be one level lower than the national credit rating, for cases of international bond issuance;

e/ Committing no violations of regulations on public debt management in the last three years counting from the time of requesting guarantee;

f/ For key projects and works and major projects of urgency and particular importance to national socio-economic development, if enterprises fail to meet the condition on owner capital, the Prime Minister may consider and decide to waive this condition on a case-by-case basis.

3. Conditions for foreign loans and issue of international bonds to obtain government guarantee:

a/ The foreign loan under a loan agreement is valued at USD 50 million equivalent or higher, the value of issued international bonds is USD 100 million equivalent or higher and within the Government's annual commercial loan limits and foreign borrowing guarantee, except loans specified in Clause 4. Article 33 of this Law; the debt payment time is at least 10 years and borrowing or issuance conditions conform with market conditions and international practice;

b/ The domestic loan or domestic bonds in a foreign currency is/are valued at USD 30 million equivalent or higher, the debt payment time is at least 5 years; the loan or bonds in local currency is/are valued at VND 500 billion or higher, the debt payment time is minimum 1 year.

### **Article 35. Management of government guarantee**

A government-guaranteed loan or issuance of international bonds must be registered with the State Bank of Vietnam.

The management, control and examination of use of loans and issuance of bonds guaranteed by the Government are conducted as for other loans of the Government.

3. The debt liability arising from the loan or issuance of bonds guaranteed by the Government is the Government's projected debt liability.

### **Article 36. Responsibilities of the guarantor and guaranteed borrowers**

1. The Ministry of Finance as the guarantor shall:

- a/ Evaluate financial schemes and conditions for obtaining guarantee according to dossiers of request for guarantee for specific programs and projects, submit them to the Prime Minister for decision and take responsibility for evaluation results;
- b/ Participate in negotiations on borrowing conditions and loan agreements and assume the prime responsibility for negotiating details of letters of guarantee;
- c/ Examine business results and use of foreign loans to evaluate the solvency of guaranteed borrowers; propose measures and remedies when guaranteed borrowers lack solvency and submit them to the Prime Minister for decision;
- d/ Fulfill the guarantor's payment liability arising from the guarantee agreement from the accumulation fund for debt payment when guaranteed borrowers fail to pay debts;
- e/ Collect government guarantee charges under law;
- f/ Apply necessary measures and remedies under law to recover debts and expenses arising from the debt payment for guaranteed borrowers;
- g/ Sum up and report on guaranteed loans to competent authorities.

## 2. Responsibilities of guaranteed borrowers:

- a/ To supply related documents for evaluation to the guarantor;
- b/ To fully fulfill guaranteed borrowers' obligations toward the guarantor. When failing to pay debts fully and on time, to abide by measures and remedies applied by the guarantor: to take responsibility under law when failing to pay debts;
- c/ To provide, at the guarantor's request, information on the implementation of programs and projects and capacity to fulfill the payment liability under the loan agreement;
- d/ To promptly report on threats of breaching guarantee commitments;
- e/ To pay guarantee charges fully and on time under law.

## **Chapter V**

### **MANAGEMENT OF DEBTS OF LOCAL ADMINISTRATIONS**

#### **Article 37. Borrowing purposes of local administrations**

1. To invest in socio-economic development within the local budget spending task under the State Budget Law.

2. To invest in local projects capable of recovering capital.

### **Article 38. Forms of borrowing by local administrations**

1. For domestic borrowing, provincial-level People's Committees may only borrow loans for investment under Article 37 of this Law by issuing or authorizing the issuance of bonds of local administrations or borrowing loans from other lawful financial sources under law.

2. For foreign borrowing, provincial-level People's Committees may not directly take foreign loans, but only borrow the Government's foreign loans for investment in socio-economic development within the local budget spending task under Point c, Clause 2, Article 23 of this Law.

### **Article 39. Domestic borrowing conditions of provincial-level People's Committees**

1. For borrowing for investment in socio-economic development within the local budget spending task under the State Budget Law, the following conditions must be satisfied:

a/ Project have completed investment procedures under the investment law and other relevant laws and are on the investment list under the five-year plan already decided by provincial-level People's Councils;

b/ Bond issuance schemes and plans on use of loans and debt payment have been adopted by provincial-level People's Councils and approved in writing by the Ministry of Finance;

c/ The value of loans or domestic bonds is within the local budget's borrowing limits under the State Budget Law;

d/ For cases of borrowing the Government's foreign loans, the conditions specified in Clause 3. Article 24 and Clause 5, Article 25 of this Law are satisfied.

2. For borrowing for investment in local projects capable of recovering capital, the following conditions must be satisfied:

a/ Projects have completed investment procedures under the investment law and relevant laws and are determined by competent agencies as capable of recovering capital;

b/ Schemes on issuance of bonds for project investment have been evaluated and approved in writing by the Ministry of Finance.

3. The Government shall detail the issuance of bonds of local administrations.

### **Article 40. Organization of borrowing**

1. Provincial-level People's Committees shall issue bonds of local administrations for domestic

borrowing through the State Treasury or authorize financial or credit institutions in their localities to issue such bonds under government regulations and sign agreements on borrowing from other lawful financial sources under law.

2. For borrowing the Government's foreign loans, provincial-level People's Committees shall comply with Articles 23, 24 and 25 of this Law.

#### **Article 41. Use of loans of local administrations**

1. Domestic loans of provincial-level People's Committees for investment in socio-economic development within the local budget spending task shall be managed and used under the State Budget Law.

2. Loans for investment in projects capable of recovering capital and borrowed Government's foreign loans shall be managed and used under law.

#### **Article 42. Debt payment**

1. Provincial-level People's Committees shall make full and timely payment of principals, interests, charges and other related expenses arising from their borrowing.

2. The repayment of borrowed Government's foreign loans complies with government regulations.

3. Sources for debt payment are guaranteed by provincial-level budgets and funds recovered from local investment projects.

### **Chapter VI**

#### **COMMUNICATION ON PUBLIC DEBTS**

#### **Article 43. Establishment of a database on public debts**

1. The Ministry of Finance shall act as the key agency in establishing and uniformly managing a database on public debts.

2. The Government shall detail the supply of information on public debts and mechanisms to provide, report on and publicize information on public debts.

#### **Article 44. Reporting on public debts**

1. Annually or at the request of the National Assembly and agencies of the National Assembly, the Ministry of Finance shall review and submit to the Government for further reporting to the National Assembly and its agencies on public debt information, including:

a/ Implementation of borrowing plans, guarantee and annual debt payment, including borrowed



amounts under agreements, withdrawn capital amounts, values of issue and guarantee, debt payment amounts, debit balance and ratio of debts to the GDP;

b/ Implementation of programs and projects using the Government's loans and government-guaranteed loans;

c/ Borrowing and debt payment by provincial-level People's Committees;

d/ Other related information.

2. Annually, provincial-level People's Committees shall report to provincial-level People's Councils, the Ministry of Finance and competent agencies on public debts information, covering:

a/ Borrowing and debt payment by localities, including borrowed amounts under agreements, actually received loans, debt payment amounts and outstanding debts;

b/ Implementation of programs and projects eligible for loans;

c/ Other related information.

#### **Article 45. Agencies receiving and providing information on public debts**

1. The Ministry of Finance is the key agency in receiving information on public debts.

2. Agencies and organizations providing public debts information include:

a/ Ministries, ministerial-level agencies;

b/ Provincial-level People's Committees;

c/ Institutions issuing bonds and borrowing loans guaranteed by the Government;

d/ Onlending agencies;

e/ Users of the Government's loans.

#### **Article 46. Coordination in providing public debts information**

1. The State Bank of Vietnam shall regularly provide the Ministry of Finance with general information on foreign borrowing and debt payment and limits of foreign commercial loans for enterprises and financial and credit institutions under government regulations.

2. State enterprises and state financial and credit institutions shall regularly provide the Ministry of Finance with information on domestic and foreign borrowing and debt payment under government regulations.

3. When necessary, the Ministry of Finance may request concerned agencies and organizations to provide information on any loan for public debt management.

**Article 47. Publicity of public debts**

1. The Ministry of Finance shall publicize information on public debts.
2. Information on public debts to be publicized covers total debit balance, structures of the Government's domestic and foreign loans, government-guaranteed debts, debts of local administrations, statistics on actually received loans and annual debt payment and norms to control government debts, public debts and national foreign debts.
3. The Ministry of Finance shall regularly publicize public debt information under law.

**Chapter VII**

**IMPLEMENTATION PROVISIONS**

**Article 48. Effect**

This Law takes effect on January 1, 2010.

**Article 49. Provisions detailing and guiding the implementation of this Law**

The Government shall detail and guide the Law's articles and clauses assigned to it; and guide other necessary contents of this Law to meet state management requirements.

This Law was passed on June 17, 2009, by the 12<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 5<sup>th</sup> session.

**THE NATIONAL  
ASSEMBLY  
CHAIRMAN**  
*(signed)*  
**Nguyen Phu Trong**