



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Tuesday, 4th April, 2006

1. The Senate met at 10:10 a. m. The Senate President read Prayers. *
2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Thursday, 30th March, 2006 and approved same.

By unanimous consent, the Votes and Proceedings were adopted.
3. **Message from the President:**
The Senate President announced that he had received a letter from the President, Commander-in-Chief which he read as follows:



PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA

PRES/134

23 March, 2006

*The Senate President,
Senate of the Federal Republic of Nigeria,
National Assembly Complex,
Three-Arms Zone,
Abuja.*

Dear President of the Senate,

PRESENTATION OF SAME SEX MARRIAGE (PROHIBITION) ACT 2006

I forward herewith, for consideration and passage into law by the Senate, the attached Bill for an Act which shall prohibit in the Federal Republic of Nigeria the relationship between persons of the same sex, celebration of marriage by them and other matters connected therewith.

While I hope that the Bill will receive prompt attention of Distinguished Members of the Senate, please accept the assurances of my highest consideration.

Yours Sincerely,

*Signed: OLUSEGUN
OBASANJO*

4. Announcement:

National Assembly Journal:

The Senate President informed Senators that the National Assembly has started the production of its journal which will facilitate the publication of Bills being presented to the Senate. He stated that the maiden edition would be distributed to Senators.

5. Conference Committee on National Boundary Commission Bill 2006 (SB. 96):

The following were named as Conferees:

- | | | | |
|-------|---------------------------|---|----------|
| (i) | Senator Iyabode Anisulowo | — | Chairman |
| (ii) | Senator Cosmas Niagwan | — | Member |
| (iii) | Senator Usman K. Umar | — | Member |
| (iv) | Senator Bala Adamu | — | Member |
| (v) | Senator Eze D. Ajoku | — | Member |
| (vi) | Senator Patrick Osakwe | — | Member |

6. Conference Committee on Border Communities Development Agency Act (Amendment) Bill 2006 (SB. 147):

The following were named as Conferees:

- | | | | |
|------|---------------------------|---|----------|
| (i) | Senator Iyabode Anisulowo | — | Chairman |
| (ii) | Senator Cosmas Niagwan | — | Member |
| (in) | Senator Usman K. Umar | — | Member |
| (iv) | Senator Bala Adamu | — | Member |
| (v) | Senator Eze D. Ajoku | — | Member |
| (vi) | Senator Patrick Osakwe | — | Member |

7. Presentation of Bills:

- (i) Insurance Act (Amendment) Bill 2006 (SB. 286) — *Read the First Time.*
- (ii) Mortgage Institutions Act (Repeal and Re-Enactment) Bill 2006 (SB. 287) — *Read the First Time.*

8. Committee on Drugs, Narcotics and Financial Crimes:

Report on Money Laundering (Prohibition) Act (Amendment) Bill 2006 (SB. Ill):

Motion made and Question Proposed: That the Senate do receive the Report of the Committee on Drugs, Narcotics and Financial Crimes on the Money Laundering (Prohibition) Act (Amendment) Bill 2006 (*Senator Rufai S. Hanga*).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate **do** resolve into the Committee of the Whole **to** consider the Bill (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN COMMITTEE OF WHOLE)

(Mr Chairman in the Chair)

A BILL FOR AN ACT TO AMEND THE MONEY LAUNDERING (PROHIBITION) ACT AND FOR MATTERS CONNECTED THEREWITH.**PART 1 — PROHIBITION OF MONEY LAUNDERING.**

Clause 1: The Money Laundering Prohibition Act, 2004, in this Act referred to as ("the Principal Act") is amended as set out in this Bill.

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 1 do stand part of the Bill, put and agreed to.

Clause 2:

Limitation to make or Accept Cash Payment:

No person or body corporate shall, except in a transaction through a financial institution, make or accept cash payment of a sum exceeding:

(a) N500,000 or its equivalent, in the case of an individual; or

(b) 142,000,000 or its equivalent in the case of a body corporate.

Committee's Recommendation:

Leave out the provisions in sub-clauses 2(a) and (b) and *insert* a new Sub-clauses 2(a) and (b) as follows:

"(a) 141,000,000.00 or its equivalent in the case of an individual; or

Amendment Proposed:

Leave out the figure "N1,000,000.00" in sub-clause 2(a) and *insert* the figure "N3,000,000.00" (*Senator David Mark*).

Question, that the amendment be made, put and agreed to.

(b) N2,000,000.00 or its equivalent in the case of a body corporate" (*Senator Rufai S. Hanga*).

Amendment Proposed:

Leave out the figure "N2,000,000.00" in sub-clause 2(b) and *insert* the figure "N5,000,000.00" (*Senator Dalhatu S. Tafida*).

Question, that the amendment be made, put and agreed to. Question, that

Clause 2 as amended do stand part of the Bill, put and agreed to.

Clause 3:

Citation:

This Bill may be cited as the Money Laundering (Prohibition) (amendment) Bill, 2006.

Committee's Recommendation:

That the provision in Clause 3 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 3 do stand part of the Bill, put and agreed to. Chairman to report Bill.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Drugs, Narcotics and Financial Crimes on the Money Laundering (Prohibition) Act (Amendment) Bill 2006 and approved as follows:

Clause 1	—	As Recommended
Clause 2	—	Amended
Clause 3	—	As Recommended
Title	—	As Recommended

Question; That the Senate do approve the Report of the Committee of the Whole — resolved in the Affirmative.

Motion made and Question Proposed: That the Bill be read the Third Time (Senate Majority Leader).

Question put and agreed to.

Bill accordingly read the Third Time and passed.

9. Committee on Drugs, Narcotics and Financial Crimes:

Report on Advance Fee Fraud and Other Related Offences Act (Amendment) Bill 2006 (SB. 253): Motion made and Question Proposed: That the Senate do receive and consider the Report of the Committee on Drugs, Narcotics and Financial Crimes on the Advance Fee Fraud and Other Related Offences Act (Amendment) Bill 2006 (Senator Rufai S. Hanga).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report (Senate Majority Leader).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

(Mr Chairman in the Chair)

A Bill for an Act to Prohibit and Punish Certain Offences Pertaining to Advance Fee Fraud and Other Fraud Related Offences and to Repeal Other Acts Related Therewith.

PART I - Offences

Clause 1: Obtaining Property by False Pretence, etc:

- (1) Notwithstanding anything contained in any other enactment or law, any person who by any false pretence, and with intent to defraud:-
 - (a) obtains, from any other person, in Nigeria or in any other country, for himself or any other person;
 - (b) induces any other person, in Nigeria or in any other country, to deliver to any person; or
 - (c) obtains any property, whether or not the property is obtained or its delivery is induced through the medium of a contract induced by the false pretence, is guilty of an offence under this Bill.
- (2) A person who by false pretence, and with the intent to defraud, induces any other person, in Nigeria or in any other country, to confer a benefit on him or on any other person by doing or permitting a thing to be done on the understanding that the benefit has been or will be paid for is guilty of an offence under this Bill.
- (3) A person who is guilty of an offence under subsection (1) or (2) of this section is liable on conviction to imprisonment for a term of not more than 20 years and not less than seven years without the option of a fine.

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 1 do stand part of the Bill, put and agreed to.

Clause 2: Other Fraud Related Offences:

A person who-

- (a) with intent to defraud, represents himself as capable of producing, from a piece of paper or from any other material, any currency note by washing, dipping or otherwise treating the paper or material with or in a chemical substance or any other substance; or
- (b) with intent to defraud, represents himself as possessing the power or as capable of doubling or otherwise increasing any sum of money through scientific or any other medium of invocation of any juju or other invisible entity or of any thing whatsoever; or
- (c) not being the Central Bank of Nigeria, prints, makes or issues, or represents himself as capable of printing, making or issuing any currency note, is guilty of an offence and liable on conviction to imprisonment for a term not more than 15 years and not less than five years without the option of a fine.

Committee's Recommendation:

That the provision in Clause 2 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 2 do stand part of the Bill, put and agreed to.

Clause 3: Use of Premises:

A person who, being the occupier or is concerned in the management of any premises, causes or knowingly permits the premises to be used for any purpose which constitutes an offence under this Bill is guilty of an offence and liable on conviction to imprisonment for a term of not more than 15 years and not less than five years without the option of a fine.

Committee's Recommendation:

That the provision in Clause 3 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 3 do stand part of the Bill, put and agreed to.

Clause 4: Fraudulent Invitation:

A person who by false pretence, and with the intent to defraud any other person, invites or otherwise induces that person or any other person to visit Nigeria for any purpose connected with the commission of an offence under this Bill is guilty of an offence and liable on conviction to imprisonment for a term not more than 20 years and not less than seven years without the option of a fine.

Committee's Recommendation:

That the provision in Clause 4 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 4 do stand part of the Bill, put and agreed to.

Clause 5: Receipt of Fraudulent Document by Victim to Constitute Attempt:

- (1) Where a false pretence which constitutes an offence under this Bill is contained in a document, it shall be sufficient in a charge of an attempt to commit an offence under this Bill to prove that the document was received by the person to whom the false pretence was directed.
- (2) Notwithstanding anything to the contrary in any other law, every act or thing done or omitted to be done by a person to facilitate the commission by him of an offence under this Bill shall constitute an attempt to commit the offence.

Committee's Recommendation: That the provision in Clause 5 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 5 do stand part of the Bill, put and agreed to.

Clause 6: Possession of Fraudulent Document to Constitute Attempt:

A person who is in possession of a document containing a false pretence which constitutes an offence under this Bill is guilty of an attempt to commit an offence under this Bill if he knows or ought to know, having regard to the circumstances of the case, that the document contains the false pretence.

Committee's Recommendation:

That the provision in Clause 6 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 6 do stand part of the Bill, put and agreed to.

Clause 7: Laundering of Fund Obtained Through Unlawful Activity, etc:

- (1) A person who conducts or attempts to conduct a financial transaction which in fact involves the proceeds of a specified unlawful activity—
 - (a) with the intent to promote the carrying on of a specified unlawful activity; or
 - (b) where the transaction is designed in whole or in part:-
 - (i) to conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of a specified unlawful activity; or
 - (ii) to avoid a lawful transaction under Nigerian law, is guilty of an offence under this Bill if he knows or ought to know, having regard to the circumstances of the case, that the property involved in the financial transaction represents the proceeds of some form of unlawful activity.
- (2) A person who is guilty of an offence under subsection (1) of this section, is liable on conviction:-
 - (a) in the case of a financial institution or corporate body, to a fine of N1 million and where the financial institution or corporate body is unable to pay fine, its assets to the value of the fine shall be confiscated and forfeited to the Federal Government; or
 - (b) in the case of a director, secretary or other officer of the financial institution or corporate body or any other person, to imprisonment for a term not more than 10 years and not less than five years.
- (2A) When as a result of negligence, or regulation in the internal control procedures, a financial institution fails to exercise due diligence as specified in the Banks and Other Financial Institutions Act, 1991 as amended or the Money Laundering (Prohibition) Act, 2004 in relation to the conduct of financial transactions which in fact involve the proceeds of unlawful activity-
 - (a) the financial institution commits an offence and is liable on conviction to refund the total amount involved in the financial transaction and not less than N100,000 sanction by the appropriate financial regulatory authority;
 - (b) a director, secretary, employee or other staff of the financial institution who facilitates, contributes or otherwise is involved in the failure to exercise due diligence as stipulated under this section, commits an offence and is liable on conviction to imprisonment for a term not less than three years and may also be liable to be banned for a period of three years from exercising the profession which provided the opportunity for the offence to be committed.

- (3) A person who transports or attempts to transport a monetary instrument or funds from a place in Nigeria to or through a place outside Nigeria or to a place in Nigeria from or through a place outside Nigeria:-
- (a) with the intent to promote the carrying on of specified unlawful activity; or
 - (b) where the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and the transportation is designed in whole or in part:-
 - (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of a specified unlawful activity; or
 - (ii) to avoid a lawful transaction under Nigerian law, is guilty of an offence under this Bill, if he knows or ought to know, having regard to the circumstances of the case, that the monetary instrument or funds involved in the transportation are the proceeds of some form of unlawful activity and the intent of the transaction.
- (4) A person who is guilty of an offence under subsection (3) of this section is liable on conviction to a fine of N500,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is higher, or imprisonment for a term of not less than 10 years or to both such fine and imprisonment.
- (5) In this section:-
- (a) "conducts" includes initiating, being involved, connected with, concluding, or participating in initiating or concluding a transaction;
 - (b) "financial institution" means banks, body association or group of persons, whether
 - (c) corporate or incorporate which carries on the business of investment and securities, a
 - (d) discount house, insurance institutions, debt factorization and conversion firms, bureau de
 - (e) change, finance company, money brokerage firm whose principal business includes
 - (f) factoring, project financing, equipment leasing, debt administration, fund management, private
 - (g) ledger services, investment management, local purchase order financing, export finance,
 - (h) project consultancy, financial consultancy, pension funds management and such other
 - (i) businesses as the Central Bank of Nigeria or other appropriate regulatory authorities may
 - (j) from time to time designate,
 - (k) "financial transaction" means:-
 - (i) a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects foreign monetary instruments; or

- (ii) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, foreign commerce in any way or degree;
- (l) " knows or ought to know that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew or ought to have known that the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes an offence under this Bill;
- (m) "monetary instrument" means coin or currency of Nigeria or of any other country, traveler's cheque, personal cheque, bank cheque, money order, investment security in bearer form or otherwise in such form that title thereto passes upon delivery;
- (n) "proceeds" means any property derived or obtained, directly or indirectly through the commission of an offence under this Bill;
- (o) "property" includes assets, monetary instruments and instrumentalities used in the commission of an offence under this Bill;
- (p) "specified unlawful activity" means:-
 - (i) any act or activity constituting an offence under this Bill;
 - (ii) with respect to a financial transaction occurring in whole or in part in Nigeria, an offence against the laws of a foreign nation involving obtaining property by fraud by whatever name called;
- (q) "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution; by whatever means effected.

Committee's Recommendation:

That the provision in Clause 7 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 7 do stand part of the Bill, put and agreed to.

Clause 8:

Conspiracy, Aiding, etc:

A person who:-

- (a) conspires with, aids, abets, or counsels any other person to commit an offence;
or
- (b) attempts to commit or is an accessory to an act or offence; or
- (c) incites, procures or induces any other person by any means whatsoever to commit an offence, under this Bill, is guilty of the offence and liable on conviction to the same punishment as is prescribed for that offence under this Bill,

Committee's Recommendation:

That the provision in Clause 8 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 8 do stand part of the Bill, put and agreed to.

- Clause 9: Conviction for Alternative Offence:
- (1) Where a person is charged with an offence under this Bill and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit that offence although the attempt is not separately charged and such a person shall be punished as is prescribed for that offence under this Bill.
 - (2) Where a person is charged with an attempt to commit an offence under this Bill, but the evidence establishes the commission of the full offence, the offender shall not be entitled to acquittal but shall be convicted of the offence and punished as provided under this Act

Committee's Recommendation:

That the provision in Clause 9 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 9 do stand part of the Bill, put and agreed to.

- Clause 10: Offences by Bodies Corporate:
- (1) Where an offence under this Bill which has been committed by a body corporate is proved to have been committed on the instigation or with the connivance of or attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, where practicable, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
 - (2) Where a body corporate is convicted of an offence under this Bill, the High Court may order that the body corporate shall thereupon and without any further assurance, but for such order, be wound up and all its assets and properties forfeited to the Federal Government.

Committee's Recommendation: That the provision in Clause 10 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 10 do stand part of the Bill, put and agreed to.

- Clause 11: Restitution:
- (1) In addition to any other penalty prescribed under this Bill, the High Court shall order a person convicted of an offence under this Bill to make restitution to the victim of the false pretence or fraud by directing that person:-
 - (a) where the property involved is money, to pay to the victim an amount equivalent to the loss sustained by the victim;;
 - (b) in any other case:-
 - (i) to return the property to the victim or to a person designated by him; or
 - (ii) to pay an amount equal to the value of the property, where the return of the property is impossible or impracticable.
 - (2) An order of restitution may be enforced by the victim or by the prosecutor on behalf of the Victim in the same manner as a judgment in a civil action.

Committee's Recommendation:

That the provision in Clause 11 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 11 do stand part of the Bill, put and agreed to.

PART II — Electronic Telecommunication Offences, etc.

- Clause 12: Duty to Obtain Subscriber Name and Address:
- (1) Any person or entity providing an electronic communication service or remote computing service either by e-mail or any other form shall be required to obtain from the customer or subscriber :-
 - (a) full names;
 - (b) residential address, in the case of an individual
 - (c) corporate address, in the case of corporate bodies
 - (2) Any customer or subscriber who:-
 - (a) fails to furnish the information specified in subsection (1) of this section; or
 - (b) with the intent to deceive, supplies false information or conceals or disguises the information required under this section commits an offence and is liable on conviction to imprisonment for a term of not less than three years or a fine of N100,000.
 - (3) Any person or entity providing the electronic communication service or remote computing service either by e-mail or any other form, who fails to comply with the provisions of subsection (1) of this section, commits an offence and is liable on conviction to a fine of N100,000 and forfeiture of the equipment or facility used in providing the service.

Committee's Recommendation:

That the provision in Clause 12 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 12 do stand part of the Bill, put and agreed to.

- Clause 13: Duties Telecommunication Internet Service Providers and Internet Cafes:
- (1) Notwithstanding the provisions of the Nigerian Communications Commission Act 2003 or the provisions of any other law or enactment, any person or entity who in the normal course of business provides telecommunications or internet services or is the owner or person in the management of any premises being used as a telephone or internet cafe or by whatever name called shall:-
 - (a) be registered with the Economic and Financial Crimes Commission (in this Act referred to as "the Commission");
 - (b) maintain a register of all fixed line customers which shall be liable to inspection by any authorized officer of the Commission; and
 - (c) submit returns to the Commission on demand on the use of its facilities.
 - (2) Any person whose normal course of business involves the provision of non-fixed line or Global System of Mobile Communications (GSM) or is in the management of any such services, shall submit on demand to the Commission such data and information as are necessary or expedient for giving full effect to the performance of the functions of the Commission under this Bill.
 - (3) Any person specified under subsection (1) and (2) of this section shall exercise the duty of care to ensure that his services and facilities are not utilized for unlawful activities.
 - (4) It shall be a valid defence for any provider of wire or electronic communication service, its officers, employees or agents or other specified persons for providing information or facilities to the Commission in any cause matter or suit that the said provider, its officers, employees or agents or any other specified persons acted in compliance with the obligations imposed under this Bill.

- (5) Any person or entity who by virtue of subsection (1) and (2) of this section knows or ought to know that he should:-
- (a) be registered with the Commission; or
 - (b) furnish the Commission on demand, **with** the returns on the use of his service and facilities; or
 - (c) facilitate access to data and information by authorized employees or staff of the Commission, and fail to do so with intent to conceal or disguise the nature of his activities or the use of his services and facilities, commits an offence and is liable on conviction to imprisonment for a term of not less than 3 years without an option of fine and in the case of a continuing offence, to a fine of N50.000 for each day the offence persists.
- (6) Any person or entity convicted more than once under **this** Bill shall have his operational licence revoked or cancelled.

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 13 do stand part of the Bill, put and agreed to.

PART III — Jurisdiction, etc.

Clause 14:

Jurisdiction to Try Offences, etc:

The High Court shall have jurisdiction to try offences and impose penalties under this Bill.

Committee's Recommendation:

That the provision in Clause 14 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 14 do stand part of the Bill, put and agreed to.

Clause 15:

Possession of Pecuniary Resources not Accounted for:

In a trial for an offence under this Bill, the fact that a person: -

- (a) is in possession of pecuniary resources or property for which he cannot satisfactorily account and which is disproportionate to his known sources of income; or
- (b) that he had at or about the time of the alleged offence obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the High Court as corroborating the testimony of a witness in the trial

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Rufai S. Hanga*) *Agreed to.*

Question, that Clause 16 do stand part of the Bill, put and agreed to.

Clause 16:

Power to Control Property of an Accused Person:

- (1) Where at any stage of a trial, the High Court is satisfied that a prima facie case has been made out against a person, the High Court may by an order and for such time as it may direct or require:-
 - (a) prohibit any disposition of property, movable or immovable, by or on behalf of that person, whether or not the property is owned or held by that person or by any other person on his behalf, except to such extent and in such manner as may be specified in the order;

addressed to the manager of the bank or to the head office of the bank where the person has an account or is believed to have account, direct the manager or the bank:-

- (i) to stop all outward payments, operations or transactions (including any bill of exchange) for the time being specified in the order;
 - (ii) to supply any information and produce books and documents, in respect of the account of that person: and
 - (b) where necessary or expedient, vest in the High Court or otherwise acquire the custody of, any property, movable or immovable, of the person, for the preservation of the property, pending the determination of the proceedings.
- (2) An order under subsection (1) of this section shall have effect as specified therein, but the order may at any time thereafter be varied or annulled by the High Court.
- (2) Failure to comply with the requirement of an order under this section shall be an offence punishable on conviction:-
- (a) in the case of an individual, by imprisonment for a term of not less than two years or more than five years without the option of a fine;
 - (b) in the case of any group of persons not being a body corporate, by the like punishment of each of such persons as is prescribed in paragraph (a) of this subsection;
 - (c) in the case of a body corporate, by a fine of an amount equal to two times the estimated value of the property affected by the non-compliance or N500.000, whichever is higher.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 16 do stand part of the Bill, put and agreed to.

Clause 17:

Power to make Order of Forfeiture Without Conviction for an Offence:

- (1) Where any property has come into the possession of any officer of the Commission as unclaimed property or any unclaimed property is found by any officer of the Commission to be in the possession of any other person, body corporate or financial institution or any property in the possession of any person, body corporate or financial institution is reasonably suspected to be proceeds of some unlawful activity under this Bill, the Money Laundering Act of 2004, the Economic and Financial Crimes Commission Act of 2004 or any other law enforceable under the Economic and Financial Crime Commission Act of 2004, the High Court shall upon application made by the Commission, its officers, or any other person authorized by it and upon being reasonably satisfied that such property is an unclaimed property or proceeds of unlawful activity under the Acts stated in this subsection make an order that the property or the proceeds from the sale of such property be forfeited to the Federal Government of Nigeria.
- (2) Notwithstanding the provision of subsection (1) of this section the High Court shall not make an order of forfeiture of the property or the proceeds from the sale of such property to the Federal Government of Nigeria until such notice or publication as the High Court may direct has been given or made for any person, body corporate or financial institution in whose possession the property is found or who may have interest in the property or claim ownership of the property to show cause why the property should not be forfeited to the Federal Government of Nigeria.
- (3) Application under subsection (1) above shall first be made by a motion ex parte for interim forfeiture order of the property concerned and the giving of the requisite notice or publication as required in subsection (2) of this section.

- (4) At the expiration of 14 days or such order period as the High Court may reasonably stipulate from the date of the giving of the notice or making of the publication stated in subsection (2) and (3) of this section an application shall be made by a motion on notice for the final forfeiture of the property concerned to the Federal Government of Nigeria.
- (5) In this section :
- "financial institution" shall have the same meaning as in section 7 of this Bill.
- "property" includes assets whether moveable or immovable, money, monetary instruments, negotiable instruments, securities, shares, insurance policies, and any investments.
- (6) An order of forfeiture under this section shall not be based on a conviction for an offence under this Bill or any other law.

Committee's Recommendation:

That the provision in Clause 17 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 17 do stand part of the Bill, put and agreed to.

Clause 18:

Power of Arrest:

The power of arrest in respect of an offence under this Bill shall be in accordance with the provisions of the Criminal Procedure Act or the Criminal Procedure Code, as the case may be.

Committee's Recommendation:

That the provision in Clause 18 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 18 do stand part of the Bill, put and agreed to.

Clause 19:

Power to Grant Bail:

- (1) The High Court shall have power to grant bail to an accused person charged with an offence under this Bill or any other law triable by the High Court upon such terms and conditions as the High Court may deem fit including:-
- (a) the payment of deposit of one-quarter of the amount of money involved in the offence;
 - (b) the provision of a surety or such number of sureties who shall deposit adequate security for the balance of the amount involved in the offence; and
 - (c) the handing over of his passport to the High Court of the State concerned for the duration of the bail.
- (2) Notwithstanding the provisions of subsection (1) of this section, the police shall, before any person is charged before the High Court for an offence under this Bill, have power to grant bail to any person who is arrested or detained upon such terms and conditions as are reasonably necessary to ensure compliance with the provisions of subsection (1) (a)-(c) of this section.

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 19 do stand part of the Bill, put and agreed to.

PART IV — Miscellaneous

Clause 20:

Interpretation: In this Act, unless the context otherwise requires:-

" false pretence" means a representation, whether deliberate or reckless,, made by word, in writing or by conduct, of a matter of fact or law, either past or present, which representation is false in fact or law, and which the person making it knows to be false or does not believe to be true;

Question, That the meaning of the words "False pretence" be as defined in the Interpretation to this Act, put and agreed to.

" High Court" means the Federal High Court or the High Court of the State concerned and shall for the purpose **of** this Act include the High Court of the Federal Capital Territory, Abuja.

Question, That the meaning of the words "High Court" be as defined in the Interpretation to this Act, put and agreed to.

" Document" in this Act includes letters, maps, plans, drawings, photographs and also includes any matter expressed or described upon any substance by means of letter, figures or marks or by more than one of these means, intended to be used or which may be used for the purpose of recording that matter and further includes a document transmitted through fax or telex machine or any other electronic or electrical device, a telegram and a computer printout.

Question, That the meaning of the word "Document" be as defined in the Interpretation to this Act, put and agreed to.

Question, that Clause 17 do stand part of the Bill, put and agreed to.

Clause 21: Repeal of the Advance Fee Fraud and Other Related Offences Act No. 13 of 1995 and the Advance Fee Fraud and Other Fraud Related Offences (Amendment) Act, 2005:

(1) The Advance Fee Fraud and Other Fraud Related Offences Act No. 13 of 1995, and the Advance Fee Fraud and Other Fraud Related Offences (Amendment) Act, 2005 are hereby repealed.

(2) The repeal of the Acts specified in subsection (1) of this section shall not affect anything done or purported to be done under or pursuant to the Acts and section 6 of the interpretation Act (Cap. 192) Law of the Federation of Nigeria (LFN), 1990, applies *Committee's Recommendation:*

That the provision in Clause 21 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 21 do stand part of the Bill, put and agreed to.

Clause 22: Citation:

This Bill may be cited as the Advance Fee Fraud and Other Fraud Related Offences Bill, 2006.

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator Rufai S. Hanga*) — *Agreed to.*

Question, that Clause 22 do stand part of the Bill, put and agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the report of the Committee on Drugs, Narcotics and Financial Crimes on the Advance Fee Fraud and Other Related Offences Bill 2006 and approved as follows:

As Recommended As Recommended

Clause 10-11	As Recommended
Clause 12 - 14	As Recommended
Clause 15 - 16	As Recommended
Clause 17 - 19	As Recommended
Title	As Recommended

Question; That the Senate do approve the Report of the Committee of the Whole — resolved in the Affirmative.

Motion made and Question Proposed: That the Bill be read the Third Time (Senate Majority Leader).

Question put and agreed to.

Bill accordingly read the Third Time and passed.

10. Adjournment:

Motion made and Question Proposed: That the Senate do adjourn till Wednesday, 5th April, 2006 at 10.00 a.m. (Senate Majority Leader).

Adjourned accordingly at 12: 45 p.m.

Ken Nnamani
President of the Senate