

SPECIAL ISSUE

Tana River County Gazette Supplement No. 11 (Bills No. 9)



REPUBLIC OF KENYA

***TANA RIVER COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2016

NAIROBI, 12th April, 2016

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THE TANA RIVER COUNTY RATING BILL, 2016

A Bill for

AN ACT of the County Assembly of Tana River to give effect to Article 209 (3)(a) of the Constitution, to provide for the imposition of property rates on land and buildings in the county and for connected purposes

ENACTED by the County Assembly of Tana River, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Tana River County Rating Act, 2016.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation

“agricultural rental value rate” has the meaning assigned to it in accordance with paragraph 1 of Schedule 2;

“rate” has the meaning assigned to it in accordance with paragraph 1 of Schedule 1;

“County Executive Committee Member” means the County Executive Committee Member responsible for matter of rating;

“county revenue collector” has the meaning given by the Tana River County Revenue Administration Act, 2015;

“financial year” means a period of twelve months starting on 1st July and ending on 30th June;

“improvement rate” has the meaning assigned to it in paragraph 2 of Schedule 3;

“land” includes any improvements on, in or under the land;

“prescribed” means prescribed by the Regulations made under this Act;

“rate” means a rate imposed under this Act; “rateable owner” has the meaning assigned to it by section 7 of the Valuation for Rating Act;

“rateable property” has the same meaning as in the Valuation for Rating Act;

“rating area” means—

- (a) an area for which a form or method of rating is or may be adopted; or
- (b) an area for which a rate is or may be imposed;

“site value rate” has the meaning assigned to it in clause 1 of Schedule 3;

“supplementary valuation rolls” means any supplementary valuation roll prepared under the Valuation for Rating Act; and

“valuation roll” means any valuation roll prepared under the Valuation for Rating Act.

3. (1) This Act applies to all land in the county including public land as defined and provided for in section 25 of the Valuation for Rating Act.

Application of Act.

(2) Without prejudice to subsection (1), rates shall be imposed only on rateable property.

4. This Act binds the Republic of Kenya.

Application to the Government.

5. The object of this Act is—

Purpose of the Act.

- (a) to provide the county government with flexible powers to set, assess and collect rates pursuant to Article 209(3) of the Constitution;
- (b) to ensure that rates imposed by the county government reflect decisions made in a transparent and consultative manner;
- (c) to provide for process and information to ensure rate tax payers can identify and understand their liability for rates; to establish clarity, certainty and sustainability in rating matters; and
- (d) set out mechanism to allow the county to raise revenue.

6. Save as otherwise provided for under this Act or any other written law, all land in the county is rateable.

Rateable land.

7. The County Executive Committee member responsible for Finance may, by notice in the *Gazette*, exempt certain category of land from the application of this Act.

Non-rateable land.

8. The County Executive Committee Member shall cause a valuation to be made of every rateable property and the value shall be entered in the valuation roll.

Valuation roll.

9. For the purposes of this Act, a ratepayer is the person who is named as a ratepayer in the rating information database and the county valuation roll maintained under this Act or the Valuation for Rating Act.

Ratepayer.

10. The name of the following persons shall be entered in the rating information database; sub-county or urban area valuation roll as the ratepayer in respect of a rating —

Entry of ratepayer in rating information database and County valuation roll.

- (a) the owner of the rating; or
- (b) the lessee of the rating under a lease.

11. (1) The ratepayer for a rating area is liable to pay the rates that are due on the area.

Liability to pay rates.

(2) A person other than the ratepayer may become liable to pay the rates, if that person —

- (a) is mortgagee;
- (b) has purchased the property from the owner;
- (c) holds the property in trust;
- (d) or any other circumstances as may be prescribed.

12. (1) The County Assembly may, from time to time, set a general rate for all rateable land within the County.

General rate.

- (2) A general rate may be set—
 - (a) at a uniform rate in the shillings of rateable value for all rateable land; or
 - (b) at different rates in the shillings of rateable value for different categories of rateable land.

13. For the purposes of section 12 (2) (b), categories of rateable land are categories that—

Categories of rateable land.

- (a) are identified in the county funding impact statement as categories for setting the general rate differentially; and

- (b) are defined in terms of one or more of the matters listed in Schedule 2.

14. The County Assembly may set a uniform annual general charge for all rateable land within the County, being—

Uniform annual general charge.

- (a) a fixed amount per rating; or
(b) a fixed amount per separately used or inhabited part of a rating.

(2) A uniform annual general charge is a rate for the purposes of this Act.

15. Two or more ratings shall be treated as one for setting a rate if those ratings are—

Rating in common ownership.

- (a) owned by the same person or persons; and
(b) used jointly as a single; and
(c) contiguous or separated only by a road, railway, drain, water race, river, or stream.

16. (1) For the purpose of imposing rates, the County may adopt one or more of the following forms of rating—

Forms of rating

- (a) rate in accordance with the First Schedule;
(b) agricultural rental value rate in accordance with Second Schedule;
(c) site value rate or improvement rate in accordance with the Third Schedule.

(2) The County Assembly may adopt different forms of rating for different ratings.

17. (1) Rates may be imposed by this Act providing for annual county finances or by such other Act as the county assembly determines.

Imposition of rates.

(2) Without limiting subsection (1), a rate may be imposed using the form of wording set out in Fourth Schedule.

18. (1) The County Assembly may impose rates on rateable property in the county for any calendar year or financial year.

Calendar year or financial year

(2) For the purpose of changing from a calendar

year to a financial year for the imposition of rates, the county assembly may impose rates on rateable property in the county for a period starting on 1st January in a year and ending on 30th June in the same year.

19. (1) If rates are not imposed for a particular calendar year, then the amount of the rates for a particular rateable property for that calendar year are deemed to be the amount of the rates for that rateable property that were imposed for the immediately preceding calendar year.

Deemed amount of rates.

(2) If rates are not imposed for a particular financial year, then the amount of the rates for a particular rateable property for that financial year are deemed to be the amount of the rates for that rateable property that were imposed for the immediately preceding financial year.

20. (1) A rate becomes due—

Default of payment of rate.

- (a) if the rate is imposed for a calendar year, on 1st January of that calendar year; and
- (b) if the rate is imposed for a financial year, on 1st July of that financial year; and
- (c) if the rate is imposed for a six months period under section 7, on 1st January being the first day of that six months period.

(2) The County Executive Committee Member shall by notice in the *Gazette* specify the date on which a rate becomes payable and may publish that date in two newspapers of wide circulation in the county.

(3) For the purposes of this Act, the valuation roll or any supplementary valuation roll in force on the day on which any rate becomes payable is conclusive evidence of all matters included in such roll.

21. (1) The rateable owner of any land at the date when a rate imposed on that land becomes payable is liable for payment of the amount of the rate.

(2) If the owners of the land are joint registered owners or tenants in common, they are jointly and severally liable for the payment of the rate.

(3) If the rateable owner of the land is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for the payment of the rate.

22. (1) Rates shall be paid to the county revenue collector or any other person authorised by the County Executive Committee Member to collect rates.

(2) Rates are payable —

- (a) by electronic transfer of funds or such other ways as are approved by the county revenue collector; or
- (b) at the office of the County Executive Committee Member or at any other place as is determined by county revenue collector.

(3) The county revenue collector shall issue a receipt for the payment of any rates to the person who paid the rates.

23. The County Executive Committee Member may allow a discount as determined by the County Assembly on any rate paid in full on or before the day on which the rate becomes payable.

Discount for early payment of rates.

24. The County Executive Committee Member may charge interest at a rate determined by the County Assembly on any amount of a rate remaining unpaid after the day on which the rate became payable.

Penalty payable on late payment of rates.

25. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case may be, and any interest on any such unpaid rate or part as provided for in section 12, is recoverable in a court of competent jurisdiction as a debt due and owing to the County Executive Committee Member from the person liable for payment of the rate.

Recovery of rates.

(2) The county revenue collector is authorised to sue for and recover the debt for the County Executive Committee Member.

(3) A certificate signed by the county revenue collector and certifying that—

- (a) an amount of rates is or was due and payable on or before a certain date; and
- (b) the amount or a part of the amount has not been paid on or before that date,
- (c) is admissible as evidence against the defendant in proceedings under this section, and is *prima facie* evidence as to the matters certified.

26. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the County Executive Committee Member may serve a written notice under subsection (2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

Recovery of rates from persons paying rent.

(2) The written notice—

- (a) is to state the amount of such arrears, which may include interest calculated in accordance with section 12; and
- (b) is to state that all future payments of rent (whether already accrued due or not) by the person paying the rent are to be made directly to the County Executive Committee Member until such arrears and interest have been paid in full.

(3) The notice operates for all purposes to transfer to the County Executive Committee Member the right to recover, receive and give a discharge for such rent.

27. (1) Any rate due, together with interest calculated in accordance with section 12, is a charge against the land on which the rate was imposed.

Rates chargeable on property.

(2) If the title to such land is registered under any law relating to the registration of title to land, the County Executive Committee Member may deliver a notification of such charge, in the prescribed form, to the registrar who shall register it against the title to that land and the charge takes priority in accordance with such law.

28. The County Executive Committee Member may, upon payment of the prescribed fee by any person, issue to that person a statement of the current status of the payment of rates for that land.

Statement of payment of rates and other charges

29. Documents are to be published, sent or served for the purposes of this Act in accordance with the requirements of section 16 of the County Revenue Administration Act, 2013.

Publication and service of documents.

30. The County Executive Member may appoint one or more county public officers within the meaning of the County Governments Act, 2012 or other persons to value land for the purposes of preparing a draft valuation roll or draft supplementary valuation roll under the Valuation for Rating Act.

Valuer

PART II—RATING INFORMATION DATABASE AND RATES RECORDS

31. (1) The county shall keep and maintain a rating information database.

Rating information
database

(2) The database referred to under subsection (1), may be kept and maintained in written or electronic form, or both.

(3) The purpose of the database is—

- (a) to record all information required for setting and assessing rates;
- (b) to enable the county to communicate to and with ratepayers; and
- (c) to enable members of the public to have reasonable access to the information in the database relating to the calculation of liability for rates.

(4) The rating information database shall be maintained so that it may be searched according to—

- (a) the reference number of the area;
- (b) the address of the area; or
- (c) any other search reference that is set out in any written law.

(5) This section does not prevent the National Government from—

- (a) keeping a rating information database in separate parts for the constituent sub-counties or counties of the region; and
- (b) delegating the function of maintaining those parts to the territorial authorities concerned.

32. (1) The rating information database shall be available for inspection—

Inspection of rating
information database.

- (a) at the county public office and any other place that the County Executive Committee Member considers necessary in order to provide reasonable access to all ratepayers and residents of the county; and
- (b) during ordinary office hours or the hours at which the place is open to the public.

(2) The copy of the rating information database that is made available for inspection shall not include the name of any person, unless it is necessary to identify the rating area or any address other than the street address of the rating area.

(3) No fee is payable for inspecting the rating information database, but a person may be charged a reasonable fee for being supplied with a copy of the particulars.

(4) The County shall, during the month of May, give public notice that the rating information database is available for inspection and of the place and times it may be inspected.

(5) In addition to the notice required under subsection (4), the county shall notify ratepayers at any other time it considers appropriate and by any means it thinks fit.

33. (1) For the purpose of inspecting any information in relation to a particular rating area, a copy of the county's complete rating information database shall be—

Inspection of complete
rating information
database.

(a) available to any person—

(i) at the county principal public office of the urban area; and

(ii) during office hours; and

(b) accessible to the person by the person—

(i) accessing the database by himself or herself; or

(ii) requesting an officer of the urban area to provide the information.

(2) The rating information database made available under subsection (1) shall include, for each rating area in the county, all the information that the county holds in its rating information database in relation to that rating area, including—

(a) the name of the owner of the rating area; and

(b) the postal address of the owner of the rating area.

(3) The county may make the database or any part of it available at any other office of the County, but only in the same manner as it is accessible by people at the county public office.

(4) No fee is payable for inspecting any database made available under this section, but a person may be charged a reasonable fee for being supplied with a copy of the particulars.

(5) For the avoidance of doubt, a person may make, at the same inspection of the database, a series of requests about particular rating areas, as long as the requests are—

- (a) related; and
- (b) for purposes other than for the bulk collection of the names or postal addresses (or both) of people included in the database.

34. The county or an urban area —

- (a) shall, by written notice, inform every owner included in its rating information database, annually, that he or she has the right under the Act to request the urban area to withhold his or her name or postal address (or both) from the database; and
- (b) may give the written notice in conjunction with any other rates information the urban area is required to provide.

County shall inform owners of right to withhold certain information from database.

35. (1) An owner whose particulars are included on the database may request the county to withhold his or her name or postal address (or both) from the database.

Owner entered on database may require County to withhold information from database

(2) An owner who makes a request under subsection (1)—

- (a) shall make the request in writing; but
- (b) is not required to provide reasons for the request.

(3) Upon receipt of a request, the county shall, as soon as practicable—

- (a) remove the relevant particulars from the

database; and

- (b) notify the owner who made the request of the removal of his or her particulars.

(4) An owner whose particulars have been removed from the database may, at any time by written notice, revoke the request.

(5) The county shall then, as soon as practicable, restore those particulars to the database.

36. (1) The owner of a rating area who has made a statutory declaration, or provided a certified copy of the certificate of title shall notify the County Executive Committee Member if—

Notification of surrender or termination of lease or licence.

- (a) the lease or licence in relation to which the declaration has been made, or certificate of title applies, has been surrendered or terminated; or
- (b) an opportunity to renegotiate the rent or other payments has occurred.

(2) A person who is a ratepayer under section 11(2) may notify the County Executive Committee Member, by means of a statutory declaration of the matters set out in subsection (1).

(3) Notice given under subsection (1) or subsection (2) is, unless the contrary is proved, sufficient evidence that the owner of the rating area shall be named as the ratepayer for that area in the rating information database and the county valuation roll.

37. (1) The county shall make available for inspection its first database before 31st December 2015.

Transitional provision.

(2) For the purposes of this section, the county shall inform every owner included in its rating information database of the right of the owner to request the withholding of his or her name or postal address (or both) from the database.

- (3) The notice under subsection (2) shall be—
 - (a) in writing;
 - (b) made before 31st October 2015; and

- (c) made in conjunction with any other rates information the urban area is required to provide.

38. (1) A person who is named in the rating information database as a ratepayer may object to the information contained in the database on one or more of the following grounds:

Objections.

- (a) that a rating area included in the county valuation roll has been omitted from the database;
- (b) that information included in the county valuation roll has been omitted from, or inaccurately entered in, the database;
- (c) that information included in the database, other than information entered from the county valuation roll, is incorrect;
- (d) that there has been a failure to enter a lawful amendment to the county valuation roll into the database.

(2) Objections shall be lodged with the urban area or in such other manner as the County Executive Committee Member may by notice in the *Gazette* direct.

(3) An urban area shall notify the objector in writing of its decision on an objection and, if the objection is upheld—

- (a) correct the entry in the rating information database; and
- (b) advise the ratepayer that the correction has been made.

(4) For the avoidance of doubt, a person may not object under this section to the correctness or otherwise of any information contained in the database that relates to an objection to the valuation of a rating area under the Rating Valuations Act.

39. (1) If an owner of a rating area sells or otherwise transfers the area, or any part of the area, the owner shall notify the relevant urban area of the sale or transfer within one month after the effective date of the

Notification of change of ownership of rating area.

sale or transfer.

(2) Notice under subsection (1) shall include—

- (a) the full name and address of the purchaser or transferee; and
- (b) in the case of a sale, the sale price.

(2) If a person becomes the owner of a rating area by the operation of law (including the creation of a joint family home), the person shall, within one month after the registration of the instrument under which the person became the owner, or one of the owners of the area, notify the relevant urban area of the following matters—

- (a) that he or she is the owner of the rating area;
- (b) his or her full name and address.

(3) If a solicitor or other authorised agent acted on behalf of the owner under subsection (1) or the person registering the instrument under subsection (3), the solicitor or agent shall give the notice concerned.

40. (1) The owner of a rating area who has made a statutory declaration or provided a certified copy of the certificate of title shall notify the county or respective urban area if—

Notification of surrender
or termination of lease or
license

- (a) the lease or license in relation to which the declaration has been made, or certificate of title applies, has been surrendered or terminated; or
- (b) an opportunity to renegotiate the rent or other payments has occurred.

(2) A person who is a ratepayer under this Act may notify the county or the respective urban area, by means of a statutory declaration, of the matters set out in subsection (1).

(3) Notice given under subsection (1) or subsection (2) is, unless the contrary is proved, sufficient evidence that the owner of the rating area shall be named as the ratepayer for that area in the rating information database and the county valuation roll.

41. (1) If any person who is a ratepayer transfers or assigns the lease or license referred to in that section,

Notification of transfer
or assignment of lease or
license.

the person shall notify the relevant urban area of the transfer or assignment within 1 month after the effective date of the transfer or assignment.

(2) An urban area that receives notice under subsection (1) shall update the rating information database accordingly.

42. Notice given under sections 28 to 33 does not release any person from liability for any rates that are due before the notice is given.

Effect of notice on liability for rates.

43. A person whose name is entered in the rating information database as a ratepayer in respect of a rating area shall notify the relevant county authority of change of his or her particulars if—

Notification of change of name.

- (a) the entry relates to a rating area that is entered in the land transfer register; and
- (b) the person has registered his or her change of name in that register.

(2) A person to whom subsection (1) applies shall notify the relevant county authority within one month of the registration of those particulars in the land transfer register, and the rating information database shall be updated accordingly.

PART III—ASSESSMENT, PAYMENT, AND RECOVERY OF RATES AND REMISSION AND POSTPONEMENT

44. (1) Rates shall be assessed in accordance with either—

Rates shall be assessed in accordance with values and factors.

- (a) a rating area and its rateable values that are set out in the rating information database;
- (b) the factors relevant to a rating area that are set out in the rating information database; or
- (c) in the case of a targeted rate under section 19, the quantity of water provided by the urban area to the rating area during the period specified in the resolution setting that rate.

(2) For the purpose of subsection (1) (a) and (b), the relevant rating area, values, or factors are those that have been corrected as at the end of the financial year

immediately before the financial year for which the rates are set.

(3) The rates are not affected by a change in the rateable value or factors of a rating area during the financial year in which the rates are set.

45. (1) An urban area shall deliver a rates assessment to a ratepayer to give notice of the ratepayer's liability for rates on a rating area.

Notice of rates
assessment.

(2) A ratepayer is liable for rates on a rating area when the urban area delivers the rates assessment for that area to the ratepayer.

46. (1) A rates assessment shall clearly identify all of the following—

Contents of rates
assessment.

- (a) the name and address of the county and the relevant urban area;
- (b) the name and address of the ratepayer;
- (c) the number on the county valuation roll of the rating area;
- (d) the legal description and location of the rating area;
- (e) the rateable value of the rating area;
- (f) the amount and a description of each rate;
- (g) the activities or groups of activities of the urban area that will be funded from each rate;
- (h) the relevant matters in Schedule 2 that are required to determine—
- (i) the category (if any) to which the rating area belongs for the purposes of setting general rates—
 - (i) the category (if any) to which the area belongs for the purposes of setting a targeted rate;
 - (ii) information on the factors used to calculate the amount of the liability of a rating area in respect of each targeted rate.

- (j) the financial year for which the rates are payable;
- (k) the total amount of rates payable on the rating area for the financial year;
- (l) the methods by which rates may be paid and the date or, if the rates are payable by installments, the dates by which specified amounts shall be paid;
- (m) if applicable —
 - (i) the penalty regime of the urban area; and
 - (ii) a warning that, if rates are not paid on time, a penalty may be added under that regime;
- (n) if an early payment of rates has been made in accordance with this Act or any other written law;
- (o) the rates paid and any balance remaining to be paid; and the amount of any discount allowed for the early payment of the rates;
- (p) any credit balance remaining after payment of all rates due, adjusted for any discount allowed;
- (q) the right of ratepayers to—
 - (i) inspect the rating information database and rates records; and
 - (ii) object to any of the information included in the rating g information database and rates records.

(2) If the ratepayer has elected to make a lump sum contribution to an urban area area's capital project, the rates assessment shall also identify the targeted rates for the financial year for which, as a result of the election, no liability attaches to the rating area.

(3) A rates assessment may include any other information that the urban area thinks fit.

(4) A rates assessment may be in two or more parts to identify the different treatment, for rating purposes, of different parts of a rating area.

(5) If subsection (4) applies—

- (a) the information required under subsection (1) shall be given for each part of the assessment as if each part were a separate assessment; and
- (b) each part shall state that it is part of the rates assessment for the rating area and identify the number of other parts that are included in the assessment.

47. (1) If a rates payment is due for a particular period, the urban area shall deliver to the ratepayer a rates invoice for the rating area for that period.

Rates invoice.

(2) A rates invoice shall clearly identify all of the following—

- (a) the name and address of the urban area;
- (b) the name and address of the ratepayer;
- (c) the legal description and location of the rating area;
- (d) the total amount of rates payable for the financial year for the rating area;
- (e) the amount of rates that have been paid to date for the financial year;
- (f) the amount payable on the current rates invoice;
- (g) the date on which the payment is due on the current rates invoice;
- (h) where the rates may be paid;
- (i) if the urban area has a penalty regime,—
 - (i) a warning that, if the rates are not paid on time, a penalty may be added; and
 - (ii) if a penalty has been added in the current financial year, the amount of the penalty on any unpaid rates for the rating area;
 - (iii) the amount of any unpaid rates owing from a previous financial year for the rating area.

(3) A rates invoice may include any other information that the urban area thinks fit.

(4) An urban area may deliver a separate rates invoice for any targeted rate in accordance with subsection (1).

(5) A rates invoice delivered under subsection (4) shall—

- (a) set out the matters required by subsection (2); and
- (b) specify the rate covered by the invoice; and
- (c) if the invoice covers a rate set under section 43(1)(c), the invoice shall specify the basis of that assessment and the period for which the assessment applies.

48. (1) Rates are payable at—

Payment of rates.

- (a) any place designated by the County Executive Committee Member as a county designated office or the respective urban area; and
- (b) any other place publicly notified or specified on the rates invoice as a place of payment.

(2) Rates may be paid by any method that is agreed to by the County Executive Committee Member.

49. (1) Except as otherwise provided for in this Act, the County Executive Committee Member may appoint a collector to collect rates for the county.

Appointment of a collector.

(2) The county may partner with a person or one or more county governments or appoint any person or authority to collect the rates they assess.

(3) A collector who acts on behalf of two or more local authorities may, in a single rates assessment, combine all the rates for which a ratepayer is liable to each urban area, but the rates assessment shall—

- (a) clearly distinguish the rates that are payable to each urban area; and
- (b) set out the information required by section 25 as it relates to each urban area.

(4) A collector who acts on behalf of two or more urban areas may combine in a single rates invoice all the rates payments payable by a ratepayer to each urban

area for a particular period, but the rates invoice shall —

- (a) clearly distinguish the rates that are due to each urban area; and
- (b) set out the information required by section 46 as it relates to each urban area.

(5) An urban area and a collector may agree to any other arrangement for the delivery of rates assessments and rates invoices, and for the collection of rates, but only if the rates assessments and rates invoices meet the requirements of subsections (2) and (3) respectively.

50. (1) Despite the other provisions of this Act, if the rates payable on a rating area in a financial year are, in the opinion of the county or respective urban area, uneconomic to collect, it may decide not to collect them.

Power not to collect small amounts.

(2) If an urban area decides, under subsection (1), not to collect the rates —

- (a) the ratepayer of the rating area is not liable to pay the rates; and
- (b) no penalties may be added to the unpaid rates.
- (3) If subsection (1) applies, the urban area —
 - (a) shall notify the ratepayer that the urban area has decided not to collect the rates; and
 - (b) may, if a rates assessment for that rating area has not been delivered —
 - (i) include the notice under paragraph (a) with the rates assessment; or
 - (ii) omit to deliver the rates assessment.

51. (1) The county may adopt a policy for the payment of some or all rates that are identified in the rates assessment before the due date or dates for those rates in the current financial year.

Policy for early payment of rates in current financial year.

- (2) A policy adopted under subsection (1) —
 - (a) shall be adopted using a consultative procedure; and
 - (b) may be included in the long-term plan.
- (3) A policy adopted under this section may

provide for the urban area to discount the amount of the rates if payment is made by a specified date before the due date or dates.

52. (1) The county may adopt a policy for the payment of rates in anticipation of rates for subsequent financial years.

Policy for payment of rates for subsequent financial year.

(2) A policy of the kind referred to in subsection (1) may provide for either or both of the following circumstances—

- (a) any sum may be paid in a financial year in anticipation of a liability for general rates in subsequent financial years;
- (b) any sum may be paid in a financial year in anticipation of a liability for 1 or more targeted rates, or for targeted rates for 1 or more specified activities or groups of activities, in subsequent financial years.

(3) If rates are paid in accordance with a policy adopted under subsection (1), the urban area shall credit the payment in accordance with the policy and the instructions, if any, of the person making the payment.

(4) Section 40 (2) and (3) applies, with the necessary modifications, to a policy adopted under this section.

(5) To avoid doubt, payments made under this section shall be credited against future rates, whether or not the policy under which the payment was made is still in force when the rates are assessed.

53. (1) The county may, authorise penalties to be added to rates that are not paid by the due date.

Penalties on unpaid rates.

(2) A resolution made under subsection (1) shall—

- (a) be made not later than the date when the urban area sets the rates for the financial year; and
- (b) state—
 - (i) how the penalty is calculated; and
 - (ii) the date that the penalty is to be added to the amount of the unpaid rates.

(3) A penalty shall not exceed 10% of the amount of the unpaid rates on the date when the penalty is added.

54. (1) An urban area may impose the following types of penalty— Imposition of penalty

- (a) a penalty on rates assessed in the financial year for which the resolution is made and that are unpaid after the due date for payment (or after a later date if so specified);
- (b) a further penalty on rates assessed in any financial year and that are unpaid on whichever day is the later of—
 - (i) the first day of the financial year for which the resolution is made; or
 - (ii) five working days after the date on which the resolution is made;
- (c) a further penalty on rates to which a penalty has been added under paragraph (b), if the rates are unpaid six months after that penalty was added.

(2) The amount of unpaid rates to which a penalty may be added includes—

- (a) a penalty previously added to unpaid rates under this section;
- (b) additional charges added to unpaid rates under this Act; or
- (c) rates levied under the Rating Powers Act 1988 that remain unpaid.

55. (1) If an owner defaults in paying the rates, the urban area may—

Recovery of rates if owner in default.

- (a) notify persons with an interest in the rating area for which the rates are payable (including an interest as first mortgagee) of—
 - (i) the fact of the default;
 - (ii) the provisions of this section; and
- (b) accept payment of the rates from the persons referred to in paragraph (a); or
- (c) recover, as a debt from the first mortgagee of a

rating area, the rates payable in respect of the rating area that remain unpaid on a date that is—

- (i) not less than three months after notice has been given to that person under paragraph (a); and
- (ii) not earlier than 1st November in the financial year following the year in which the rates were first assessed.

(2) A person (other than a mortgagee) who pays the unpaid rates under subsection (1) may—

- (a) recover that amount from the owner as a debt; or
- (b) retain that amount from any money that that person pays to the owner in respect of a debt other than that relating to unpaid rates.

(3) If a mortgagee pays the unpaid rates under subsection (1), the amount paid shall be treated as part of the money secured by the mortgage until it is repaid to the mortgagee, and the provisions of the mortgage apply to that amount.

(4) This section does not affect any agreement between persons about their liability as between themselves to pay the rates for a rating area.

56. (1) The county or an urban area may commence proceedings in a court of competent jurisdiction to recover as a debt rates unpaid for four months after the due date for payment.

Proceedings to recover rates.

(2) In any proceedings under subsection (1), the urban area may recover any other unpaid rates in respect of the same rating area if the rates became due not earlier than one month before the proceedings were commenced.

(3) A magistrate's court has jurisdiction to hear and determine proceedings under this Act for the recovery of rates, whatever the amount of the debt involved.

57. Service of summons to appear before a court of competent jurisdiction shall be served in accordance with

Service of summons.

the relevant civil procedure laws.

58. (1) An action to recover unpaid rates shall not be commenced in a court of competent jurisdiction later than six years after—

Limitation of time for
recovery of rates

- (a) the date on which the rates became due if the county or respective urban area required the rates to be paid in one payment in a financial year; or
- (b) the date on which the last payment became due if the urban area required the rates to be paid in a number of payments in a financial year.

(2) If the county or urban area postpones the requirement to pay rates in whole or in part and the postponed rates are not subsequently written off, an action to recover unpaid postponed rates shall not be commenced in a court of competent jurisdiction later than six years after the date or event to which the rates were postponed.

(3) This section applies to rates set and assessed under this Act.

59. (1) If payment is not made to satisfy a judgment for rates (including any costs, interest, and disbursements) within three months after the date of the judgment, the urban area may apply, in accordance with subsection (2), to the Registrar of the High Court to have the judgment enforced by sale or lease of the rating area.

Enforcement of
judgment.

(2) The county or urban area shall forward to the Registrar, a certificate, signed and dated by the chief executive officer of the urban area, stating—

- (a) the date of the judgment;
- (b) the amount of the judgment given against the ratepayer or other person;
- (c) the name of the ratepayer or other person;
- (d) the address of the rating area that is subject to the judgment and its legal description and location.

(3) Subsection (1) does not apply to land that is subject to enactments that prohibit the alienation or transfer of that land.

(4) However, despite those enactments, the urban area may —

- (a) offer that land, or part of it, for lease under this section on terms that produce a yearly rent equivalent to the amount of rates payable on the whole of the land, together with 5% added for the recovery of expenses; or
- (b) if the ratepayer has an estate or interest in other land that is not subject to an enactment of the kind referred to in subsection (3), register a charging order on, and transfer the power to sell, that other land, or part of it, to produce the amount required to recover the unpaid rates, together with 5% added for the recovery of expenses.

PART IV—MISCELLANEOUS

60. The County Executive Member responsible for finance may make regulations generally for the better carrying out of the provisions and purposes of this Act and different rules may be made in respect of different forms of rating or different ratings.

Power to make
Regulations

(2) Without limiting subsection (1), rules may be made for the following purposes—

- (a) the collecting of rates;
- (b) prescribing cases in which rates may be reduced or remitted;
- (c) exempting any person or class of persons from the payment of rates or with respect to specified classes or cases;
- (d) prescribing the cases or circumstances in which the County Executive Committee Member is to or may grant exemption from the payment of rates or of any rate or class of rates and the persons and classes of persons who may be exempted;
- (e) prescribing the extent to which any land is to be exempted from the payment of rates; or
- (f) prescribing fees.

61. (1) If, immediately before the coming into operation of this Act, there is in force under any law a form or method of rating in respect of any of the county which the county assembly is empowered to adopt under this Act, that form or method of rating continues to apply in respect of that as if adopted by the county assembly, subject to such modifications (if any) as may be necessary to bring such form or method of rating into conformity with the provisions and requirements of this Act and any rules made under this Act.

Savings.

(2) Any rules, in force immediately before the coming into operation of this Act, that apply to any form or method of rating which is continued under subsection (1) are deemed to have been made under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force in respect of such form or method of rating until rules are made under this Act to replace them.

(3) Any rules, in force immediately before the coming into operation of this Act, that exempt any charitable institution from the payment of rates in respect of any in the county are deemed to have been made under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force until rules are made under this Act to replace them.

(4) A valuation roll or supplementary valuation roll that, but for the operation of the Valuation for Rating Act, would have been in force immediately before the coming into operation of this Act in respect of any of the county, is deemed to be in force for the purposes of this Act.

SCHEDULES

FIRST SCHEDULE—RATE

Section 4(1)(a)

1. In imposing rate on any parcel of land, the County Assembly may adopt one or more of the following methods of rating:

Rate.

- (a) a flat rate upon the land;
- (b) a graduated rate upon the land;
- (c) a differential flat rate or a differential graduated rate upon the land according to the use to which the land is put, or capable of

- being put, or for which it is reserved;
- (d) an industrial rate upon the land used for other than agricultural or residential purposes;
 - (e) a residential rate upon the land used for residential purposes;
 - (f) such other method of rating upon the land or buildings or other immovable property as the County Assembly may approve; and
 - (g) the County Assembly may adopt different forms of rating for different ratings.

**SECOND SCHEDULE— AGRICULTURAL
RENTAL VALUE RATE** *Section 5(1)(b)*

1. An agricultural rental value rate is a rate imposed on the annual value of agricultural land.

Agricultural rental value rate.

2. In this Schedule, “agricultural land” and “annual value” have the same meaning as in the Valuation for Rating Act (Cap. 266)

Definitions.

THIRD SCHEDULE
**A SITE VALUE RATE OR AN IMPROVEMENT
RATE** *Section 5(1)(c)*

1. A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation roll.

2. An improvement rate is a site value rate in combination with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll.

3. If a site value rate or an improvement rate is adopted, the Valuation for Rating Act (Cap 266) including relevant definitions applies to the form of rating so adopted.

FOURTH SCHEDULE
WORDING TO IMPOSE A RATE *Section. 5*

1. A rate is imposed on all rateable property in the county for the calendar year starting on 1st January 20 [.....] and the amount of the rate is [.....] per cent of the [unimproved] value of the rateable property.

MEMORANDUM OF OBJECTS AND REASONS

This Bill provides for the imposition of rates on land and buildings within the Tana River County and for connected purposes.

PART I (clauses 1-5) provides for preliminary provisions. This part contains the following; short title, application of the Act, application to the government, purpose of the Act, Interpretation.

PART II (Clauses 6-30) provides for the forms of rating, rateable value of land, uniform annual general charge, rating units in common ownership, imposition of rates, calendar/financial year, deemed amount of rates, default of payment rates.

This part also provides for, liability for payment of rates, collection of rates, discount for early payment of rates, penalty payable on late payment of rates, recovery of rates, recovery rates from persons paying rent, rates chargeable on property, statement of payment of rates and other charges, publication and service of documents and valuer.

PART III (clauses 24-33) on rating information database and rate records. The part provides for rating information database, inspection of complete rating information database, county shall inform owners of right to withhold certain information from database, transitional provision, objections, notification of change of ownership of rating area, notification of surrender or termination of lease or license, notification of transfer or assignment of lease or license, effect of notice on liability for rates.

PART IV (clauses 34-49) on assessment, payment and recovery of rates and remission and postponement. This part outlines the rates to be assessed in accordance with values and factors, notice of rates assessment, contents of rates assessment, rates invoice, payment of rates and appointment of a collector. Other provisions are power not to collect small amounts, policy for early payment of rates in current financial year, policy for payment of rates for subsequent financial year, penalties on unpaid rates, imposition of penalty, recovery of rates if owner is in default, proceedings to recover rates, service of summons, limitation of time for recovery of rates and enforcement of judgement.

PART V (clauses 50-51) provides for miscellaneous provisions. These are power to make regulations and savings.

This Bill does not limit any fundamental rights and freedoms This Bill concerns the county government.

The operationalisation of certain provisions of the proposed law shall entail an additional expenditure of public funds. The funds will be provided for in the estimates.

Dated the 11th April, 2016

MASHA BORU DELA,
Leader of Majority Party.

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