

SPECIAL ISSUE

Bungoma County Gazette Supplement No. 13 (Bills No. 12)



REPUBLIC OF KENYA

***BUNGOMA COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2014

NAIROBI, 14th November, 2014

CONTENT

Bill for Introduction into the Bungoma County Assembly —

PAGE

The Bungoma County Microfinance Bill, 2014 1

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

**THE BUNGOMA COUNTY MICROFINANCE
BILL, 2014**

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

ARRANGEMENT OF CLAUSES

Clause

- 1—Short title.
- 2—Interpretation.
- 3—Purpose of the Act.

**PART II—THE MICROFINANCE
CORPORATION**

- 3—Establishment of the Corporation.
- 5—Functions of the Corporation.
- 6—Board of the Corporation.
- 7—Functions of the Board.
- 8—Conduct of Business.
- 9—Committees of the Board.
- 10—Remuneration of the Board.
- 11—Managing Director.
- 12—Staff of Corporation.
- 13—Common Seal of the Corporation.
- 14—Protection from personal liability.
- 15—Liability for damages.
- 16—Corporate governance.
- 17—Annual report.

PART III—FINANCIAL PROVISIONS

- 18—Funds of the Corporation.
- 19—Internal Auditor.
- 20—Financial year.
- 21—Annual estimates.
- 22—Accounts.
- 23—Financial reports and audit.

**PART IV—PROVISIONS RELATING TO
MICROFINANCE SERVICES**

- 24—Operational principles.

- 25— Powers and duties of the Corporation.
- 26— Capitalization by county government.
- 27— Borrowing powers.
- 28— Issuance of collateral.
- 29— County government loan guarantee.
- 30— Minimum liquid assets.
- 31— Lending to Board members.
- 32— Insider lending.
- 33— Granting of loans or credit facility.
- 34— Loan interest rates.
- 35— Branches and agencies.
- 36— Investment powers.
- 37— Non— performing loans.
- 38— Writing off bad debt.
- 39— Business plan.
- 40— Financial sustainability.
- 41— Partnership.
- 42— Dividend policy.
- 43— Compliance with Central Bank of Kenya guidelines

PART V—GENERAL PROVISIONS

- 31—Regulations.

SCHEDULE—Conduct of business and affairs of the Board.

THE BUNGOMA COUNTY MICROFINANCE BILL, 2014

A Bill for,

AN ACT of County Assembly of Bungoma to provide for microfinancing and the establishment of a microfinance Corporation and for connected purposes

ENACTED by the County Assembly of Bungoma, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Bungoma County Microfinance Act, 2014

Interpretation.

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

Cap 491.

“Central Bank” means the Central Bank of Kenya established under the Central Bank of Kenya Act;

“Corporation” means the Microfinance Corporation established under section 4;

“County Executive Committee” means the County Executive Committee member for the time being with or without interest or a premium and either on demand or a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it, but does not include a sum of money which is paid as-responsible for Finance;

“Board” means the Board of the Corporation established under section 6;

“deposit” means a sum of money received or paid on terms under which it shall be repaid,

(a) an advance or part payment under a contract for the sale, hire or other provision of property or service where the service is repayable only if the property or service is not sold, hired or otherwise provided; or

(b) security for performing a contract;

“Executive Member” means the county executive committee member for the time being responsible for finance;

Purpose of the Act

3. The purpose of this Act is to provide for the establishment of a microfinance institution for providing financial services to micro and medium enterprises in order to—

- (a) promote local business and investment growth;
- (b) enhance access to capital and credit and financial services to small and medium enterprises;
- (c) reduce poverty and unemployment;
- (d) promote local economic growth.

PART II—THE MICROFINANCE CORPORATION

Establishment of the Corporation.

4. (1) There is established the Bungoma County Microfinance Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (b) borrowing money or making investments;
- (c) entering into contracts; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The Corporation shall be wholly owned by the county government.

(4) Notwithstanding subsection (3), the county government may, with the approval of the county assembly, sell or dispose part of the ownership to any subscribers in accordance with the laws for the time being governing sale or disposal of shares or stocks in public entities and regulation of microfinance banks.

Functions of the Corporation

5. The functions of the Corporation shall be to—

- (a) provide microfinance banking services to small and medium enterprises;
- (b) undertaking any business related microfinance banking;

- (c) carry out such other roles necessary for the better carrying out of the objects and purpose of this Act.

Board of the Corporation.

6. The management of the Corporation shall vest in the Board of Directors which shall consist of—

- (a) a non executive chairperson appointed by the governor and approved by the county assembly;
- (b) chief officer for the time being responsible finance;
- (c) chief officer for the time being responsible for trade;
- (d) two professionals appointed by the executive member through a competitive process;
- (e) the Managing Director who shall an *ex officio* member.
- (f) Corporation Secretary who may be a staff of the corporation or an external person and shall be *ex officio* member.

(2) A person shall not be qualified for appointment as chairperson unless the person—

- (a) holds a masters degree in economics, business, law, finance, accounting or any other related field from a recognized university;
- (b) has experience of at least ten years in in senior management in public or private sector;
- (c) meets the requirements of Chapter Six of the Constitution; and

(3) A person shall not be qualified for appointment as a member under sub section (1) (d) unless the person—

- (a) holds a degree in economics, business, law, finance, accounting or any other related field from a recognized university;
- (b) has experience of at least 5 years in management;
- (c) meets the requirements of Chapter Six of the Constitution.

(4) A person shall not be qualified to be a Corporation Secretary unless he or she is in good professional standing with the Institute for Certified Public Secretaries of Kenya.

(5) A person shall not be a member of the Board—

- (a) unless the person is fit and proper to be in a Board of microfinance bank as prescribed by the Central Bank;

(b) if the person is a director in a bank or a microfinance bank.

(6) The term of office for the chairperson or a member appointed under sub section (1) (d) shall be three years which may be renewed for one further term after which the person shall retire from the Board for at least two years before being eligible for reappointment to the Board.

Functions of the Board.

7. The functions of the Board shall be to—

- (a) ensure proper and efficient exercise of the powers and performance of the functions of the Corporation;
- (b) uphold the vision and mission of the Corporation;
- (c) provide strategic guidance to the Corporation and ensure effective organizational planning;
- (d) advise the management of the Corporation generally on the exercise of the powers and the performance of the functions of the corporation;
- (e) approve the estimates of the revenue and expenditure of the Corporation;
- (f) ensure effective and efficient risk management;
- (g) oversee the management performance;
- (h) perform such other functions as are provided for under this Act or any other written law.

Conduct of business.

8. (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

Committees of the Board.

9. (1) The Board may establish the committees consisting of its members in order to enable it discharge its functions.

(2) Notwithstanding subsection (1), the Board shall establish the following committees in accordance with the prescribed procedures –

- (a) executive committee;
- (b) audit and finance committee; (c) risk management committee;
- (d) human resources management committee.

Remuneration of the Board.

10. The remuneration of the members of the Board shall be as determined by the County Treasury.

Managing Director.

11. (1) There shall be a Managing Director of the Corporation who shall be the chief executive officer of the Corporation.

(2) The Managing Director shall be appointed by the executive member in consultation with the Board and recruited through a competitive process.

(3) To qualify for appointment as a Managing Director, a person must—

- (a) be a holder of a degree in economics, business, law, finance, accounting or any other related field from a recognized university;
- (b) have had experience in management for a period of not less than five years.

(4) The Managing Director shall hold office for a period of three years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re- appointment for a further and final term of three years.

(5) The Managing Director shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

(6) The Managing Director shall-

- (a) subject to the direction of the Board, be responsible for day to day management of the affairs of the Corporation;
- (b) in consultation with the Board, be responsible for the day to day management and direction of the affairs and transactions of the Corporation, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Corporation;
- (c) carry out any other function as may from time to time be assigned by the Board.

(7) The Managing Director may—

- (a) at any time resign from office by issuing notice in writing to the chairperson of the Board;
- (b) be removed from office by the executive member on recommendation of the Board, for—

- (i) serious violation of the Constitution or any other written law;
- (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
- (iii) physical or mental incapacity to perform the functions of office;
- (iv) incompetence; (v) bankruptcy.

Staff of the Corporation.

12. (1) The Corporation shall appoint such staff as are necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

(2) The Corporation shall—

- (a) recruit staff through a competitive process;
- (b) ensure that there is sufficient number of staff qualified in matters related to finance, investment analysis and management and project management;
- (c) ensure that the staff are qualified, competent, experienced and committed to its vision and mission.

(3) A person shall not be a staff of the Corporation if the person—

- (a) has been convicted of an offence related to fraud or embezzlement of funds;
- (b) on reasonable grounds is suspected to have engaged in financial impropriety in a previous employment or engagement.

(4) The corporation shall undertake due diligence and background assessment on character and professional ethics for any staff seeking employment with it.

The common seal of the Corporation.

13. (1) The common seal of the Corporation shall be kept in the custody of the Managing Director or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

(2) The common seal of the Corporation, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Corporation shall be authenticated by the signature of the chairperson of the Board or the Managing Director.

(4) The vice chairperson shall, in the absence of either the chairperson or the Managing Director, in any particular matter, authenticate the seal of the Corporation on behalf of either the chairperson or the Managing Director.

Protection from personal liability.

14. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Corporation shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Corporation under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done *bona fide* be paid out of the funds of the Corporation, unless such expenses are recovered by him or her in such suit or prosecution.

Liability for damages.

15. The provisions of section 13 shall not relieve the Corporation of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Corporate governance.

16. (1) The Corporation shall establish and implement corporate governance principles and practices applicable to similar entities or as may be prescribed.

Annual report.

17. (1) The Corporation shall, within three months after the end of each financial year, prepare and submit to the executive member a report of the operations of the Corporation for the immediately preceding year.

(2) The annual report shall provide information regarding the activities and plans of the Corporation during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and its plans and priorities and, without limitation, shall include—

- (a) details of the performance of the Corporation against its key performance indicators;
- (b) report on the overall status of the business development and profitability including the Corporation's projections for the following year;
- (c) such information and other material as the Corporation may be required by this Act to include in the annual report;
- (d) measures taken to implement corporate governance principles and practices;
- (e) level of loan disbursements, key challenges faced and proposed measures;
- (f) the financial statements prepared under section 23;
- (g) report of the Auditor-General prepared under section 23; and
- (h) such additional information or other material as the executive member may request in writing.

(4) The executive member shall, within fourteen days of receiving the annual report submit it to the county executive committee and thereafter within twenty one days transmit it to the Clerk of the county assembly for tabling before the county assembly for consideration.

(5) The county assembly may after considering the report make recommendations to the executive member on appropriate ways of effectively implementing the Act.

PART III—FINANCIAL PROVISIONS

Funds of the Corporation.

18. The funds and assets of the Corporation shall consist of—

- (a) such moneys as may be appropriated by county assembly for the purposes of the Corporation;
- (b) revenues realized from Corporation's business;
- (c) such gifts, grants or monies received from any lawful source the Corporation;
- (d) all monies borrowed from securities market or received as loans to the Corporation.

(2) The Corporation shall apply the money provided under this section for the furtherance of the objects and performance of the functions of the Corporation and as prescribed under this Act.

Internal auditor.

19. (1) The Corporation shall appoint an internal auditor who shall report directly to the Board on financial matters of the Corporation.

(2) A person shall not be qualified to be appointed as an internal auditor unless the person—

- (a) is a holder of a degree in business, accounting and finance or any related field from a recognized university;
- (b) is a certified public accountant or holds an equivalent qualification certified by Institute of Certified Public Accountants of Kenya;
- (c) has at least three years experience in auditing.

Financial year.

20. The financial year of the Corporation shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

21. (1) At least three months before the commencement of each financial year, the Corporation shall cause to be prepared estimates of the revenue and expenditure of the Corporation for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Corporation for the financial year and in particular, the estimates shall provide for the—

- (a) allocations for business operations;
- (b) debt repayment schedule;
- (c) payment of the salaries, allowances and other charges in respect of the staff of the Corporation;
- (d) payment of allowances and other charges in respect of members of the Board;
- (e) payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Corporation;
- (f) proper maintenance of the buildings and grounds of the Corporation;
- (g) maintenance, repair and replacement of the equipment and other property of the Corporation; and
- (h) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other

matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee for final approval.

(4) No expenditure shall be incurred for the purposes of the Corporation except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the Board given with prior written approval of the Executive Member.

Accounts.

22. The Board shall cause to be kept proper books and records of accounts and assets of the Corporation in accordance with the International Accounting Standards or other requirements as may be prescribed.

Financial reports and audit.

23. (1) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General, the accounts of the Corporation together with—

- (a) a statement of financial position as at the thirtieth day of June;
- (b) a statement of comprehensive income;
- (c) a statement of cash flow for the year ended;
- (d) a summary of significant accounting policies and other explanatory information;
- (e) other financial statements applicable to similar institutions.

No. 12 of 2003.

(3) The accounts of the Corporation shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

PART IV—PROVISIONS RELATING TO MICROFINANCE SERVICES

Operational principles.

24. The Corporation shall be guided by the following principles while carrying out its operations—

- (a) promotion of small enterprises' growth;
- (b) value for money;
- (c) prudence in financial and business management;

- (d) efficiency; (e) economy;
- (f) competitiveness in approach to business;
- (g) commercial principles; (h) financial sustainability.

(2) The Corporation shall adopt such policies and measures to give effect to the principles under this section.

Powers and duties of the Corporation.

25. The Corporation may while carrying out its functions –

- (a) open savings or current accounts on behalf of any person placing deposits with the Corporation;
- (b) take or receive deposits from any person;
- (c) disburse or advance monies in form or loans;
- (d) take, receive or hold any appropriate movable or immovable asset as security or collateral for any loan advanced.

Capitalization by county government.

26. (1) The county government shall provide the initial capital to the Corporation whether in the form of grant or loan.

(2) Notwithstanding subsection (1), the county assembly may, from time to time appropriate monies either as loans or conditional or non conditional grants to the Corporation for the purposes of enable it carry out its functions effectively.

Borrowing powers.

27. Subject to the approval by the county executive committee and the county assembly, the Corporation may borrow such monies as may be required for the purposes of carrying out its functions effectively.

Issuance of collateral.

28. Subject to the approval of county Treasury, the Corporation may, while borrowing any monies issue or provide any of its assets as collateral for any loan borrowed.

County government loan guarantee.

29. The county government may guarantee any loan advanced to the Corporation subject to the approval by the county assembly.

Minimum liquid assets.

30. (1) The Corporation shall maintain such minimum liquid assets as may be prescribed and in accordance with guidelines issued by the Central Bank.

No. 19 of 2006.

(2) "Liquid assets" has the same meaning assigned under the Microfinance Act, 2006.

Lending to Board members.

31. The Corporation shall not lend any loan to a member of the Board unless the member is in full time employment of the Corporation.

Insider lending.

32. The Corporation may lend money or grant a credit facility to its member of staff provided that such loan or credit facility does not exceed the prescribed limit.

Granting of loans or credit facility.

33. (1) The Corporation may lend money or grant credit facility to any person provided they meet the prescribed conditions and standards.

(2) The Corporation shall not lend any money or grant any credit facility to a person or entity unless the Corporation has undertaken due diligence and established the capacity and suitability of a person to repay the loan and meet the obligations of the credit facility.

Loan interest rates.

34. The Corporation shall ensure that the interest rates chargeable on loans are affordable to the small and medium enterprises.

Branches and agencies.

35. The Corporation may establish branches or agencies in any part of the Republic for the purposes of carrying out its functions.

Investment powers.

36. Subject to any written law governing public investments and with the approval of the county Treasury, the Corporation may invest in bonds, securities, bank deposits, trust funds, Treasury Bills or any investment venture approved by the county Treasury.

Non performing loans.

37. The corporation shall—

- (a) not lend any money or provide any credit facility to a person who is in default of fulfilling their obligations under a loan or credit facility agreement with the Corporation;
- (b) prepare a quarterly report on all non performing loans or credit facilities and submit it to the county treasury for onward

transmission to the county executive committee for consideration.

Writing off bad debt.

38. The Corporation shall—

- (a) not write off a bad debt unless it demonstrates to the county executive committee that there are no existing means of recovering the debt;
- (b) prepare an annual report for consideration by the county executive committee and the county assembly on the debts written off.

Business plan.

39. (1) The Corporation shall prepare a five-year business plan which shall be approved by the county executive committee.

(2) The business plan shall provide among others for—

- (a) analysis of business environment;
- (b) source of funds for business; (c) projected business growth; (d) projected profits;
- (e) capitalization;
- (f) expected return on capital or investment;
- (g) projected products;
- (h) estimated cost of the business and expenditures;
- (i) any other matter as the executive member may prescribe.

(4) The Corporation may review the business plan after each year in order to align it with prevailing market trends.

Financial sustainability.

40. The Corporation shall maintain the prescribed—

- (a) asset base to enable it realize its objectives;
- (b) liquidity ratios;
- (c) debt service plan;
- (d) any other matter that the executive member may from time to time prescribe.

Partnership.

41. The Corporation may enter into partnership or collaboration

with any entity for the purposes of carrying out the objectives of this Act.

Dividend policy.

(1) The Corporation shall, in consultation with the county executive committee establish a dividend policy which shall be reviewed annually.

(2) The dividend policy shall stipulate among others for—

- (a) the prevailing business conditions under which dividend may be paid out;
- (b) minimum percentage of annual dividend payout to the county government;
- (c) any other matter as the executive member prescribe.

Compliance with Central Bank guidelines.

42. The Corporation shall comply with the guidelines issued by the Central Bank.

PART V- GENERAL PROVISIONS

Regulations.

43. (1) The executive member may, on recommendation of the Board make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may-

- (a) prescribe for the establishment of Board Committees;
- (b) prescribe for corporate governance principles and practices;
- (c) prescribe for accounting standards;
- (d) prescribe for the limits on insider lending;
- (e) prescribe for the conditions for loans and credit facilities;
- (f) prescribe for matters related to dividend policy.

SCHEDULE

(s. 8)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Tenure of office.

1. Any member of the Board, other than chief officers shall, subject to the provisions of this Schedule, hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years.

Vacation of office

2. A member of the Board may—

- (a) at any time resign from office by notice in writing to the executive member;
- (b) be removed from office by the executive member if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Authority; or
 - (vi) fails to comply with the provisions of this Act relating to disclosure.

Meetings.

3. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least seven members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be five members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

Conflict of interest.

4. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the executive in writing.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the executive member any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

Code of conduct.

5. (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the Board in the performance of their duties.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the Board shall publish the proposed code or amendments in the Gazette and in a newspaper circulating nationally, inviting public comments.

(3) The Board shall include in its annual report a report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff.

Execution of Interest.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally

Minutes.

7. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

MEMORANDUM OF OBJECTS AND REASONS

Firstly, this Bill aims at establishing a framework for facilitating access to credit and capital to small and micro enterprises. The Bill seeks to provide an avenue for empowering small businesses through access to affordable capital.

Secondly, this Bill seeks to establish a microfinance bank that will provide banking and financial services to business sector. In addition, the Bill is in line with the county's vision for revitalizing enterprise development through individual businesses and co-operative movement.

PART I of the Bill provides for preliminary provisions.

PART II of the Bill provides for the establishment of the Microfinance Corporation as a body corporate. The Part provides that the Corporation will be wholly owned by the county government although the county assembly may approve disposal of shares to the public. The Corporation's function is to provide microfinance banking services to small and medium enterprises and undertaking businesses related to microfinance banking. The management of the Corporation vests in the Board, which consists of five members and the Corporation secretary and the managing director who are *ex officio* members. The Board is obligated to establish certain committees such as executive committee, audit and finance committee, risk management and human resources management committee among others. The Corporation is obligated to prepare annual report on the performance in regard to the assigned functions.

PART III of the Bill provides for financial provisions, which includes the funds of the Corporation, financial reporting and audit. The Part provides for the appointment of an internal auditor.

PART IV of the Bill provides for provisions related to microfinance services. It provides for operational principles such as value for money, promotion or small enterprises' growth, efficiency and economy. It empowers the Corporation to open savings or current accounts on behalf of any person, to receive deposits from any person

as well as borrowing and issue collateral against any loan. The Part provides also for prohibition against insider lending and requires the Corporation to comply with guidelines issued by Central Bank of Kenya. The Corporation is obligated to prepare a business plan, which will be approved by the county executive committee. The Corporation will also establish a dividend policy in consultation with the county executive committee.

PART V of the Bill provides for general provisions, which include the power to make Regulations.

JOHN NANYAKHA,
Chairman, Finance and Economic Planning Committee.