

SPECIAL ISSUE

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REPUBLIC OF KENYA

***BUSIA COUNTY GAZETTE
SUPPLEMENT***

COUNTY ASSEMBLY BILLS, 2013

NAIROBI, 25th October, 2013

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THE BUSIA COUNTY ASSEMBLY REVOLVING FUND BILL, 2013

A Bill for

An Act of the County Assembly of Busia to establish a Revolving Fund to provide low-interest loans to members and staff of the County Assembly of Busia and for connected purposes.

Enacted by the County Assembly of Busia, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Busia County Assembly Revolving Fund Act, 2013.

Interpretation

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

‘Applicant’ means a member or staff of the County Assembly of Busia;

‘Loanee’ means an applicant whose loan request has been approved and granted under this Act;

"Board" means the County Assembly Services Board

"Member of the Executive Committee" means the Member of the Executive Committee responsible for finance.

"Prescribed" means prescribed by the Board.

Establishment of the Fund

3. (1) There is hereby established a Fund to be known as the County Assembly Revolving Fund which shall be managed and administered by the Board.

(2) The object and the purpose of the Fund shall be to provide funds to the members and staff of the County Assembly of Busia at low interest rates i.e. at 3% (three per centum).

Revenue and expenditure of the Fund

4. (1) There shall be credited to the Fund—

- (a) sums of money which may from time to time be voted by the County Assembly for that purpose;
- (b) sums which represent the repayment of the capital and interest of any loan granted by the Board;
- (c) income from any investment made by the Board;
- (d) any sums of money borrowed by the Board with the consent of the Member of the County Executive Committee;
- (e) any gifts, donations, grants and endowments made to the Fund.

(2) There shall be paid out of the Fund any expenditure approved by the Board and incurred in connection with the administration of the Fund.

Administration of the Fund

5. (1) An applicant wishing to be considered for the grant of a loan shall make an application to the Board in the prescribed form.

(2) An applicant who has been awarded a loan will be issued with a Loanee Identification Personal Account Number by the Board.

(3) An applicant who—

- (a) in filling a loan application form, knowingly makes any false statement, whether orally or in writing relating to any matter affecting his request for a loan; or
- (b) being required under paragraph (a) to answer any questions, furnish any information or particulars or produce any document or paper, neglects to do so without reasonable cause; or

(c) is granted a loan based on false information,

shall be guilty of an offence and in the case of paragraphs (a) and (b) be liable to a fine of not less than three thousand shillings or to imprisonment for a term of not less than six months and in the case of paragraph (c) to a fine of not less

than thirty thousand shillings or to imprisonment for a term of not less than three years.

Conditions for grant of loan

6. (1) The Board may:-

- (a) accept or reject any application for a loan;
- (b) grant a loan to an applicant and in so granting impose conditions, demand security and require repayment in installments at such times and within such periods as the Board deems fit:

Provided that and subject to the provisions of this section the Board may upon the request by an applicant to whom a loan has been granted at any time vary—

- (i) the condition subject to which the loan was made;
- (ii) any security given in relation to the loan;
- (iii) any of the terms of repayment of the loan.

(2) Where the Board has resolved to make a loan to any eligible applicant, the Board shall notify the applicant in writing, and require him within a specified period not exceeding six months to comply with any conditions and provide any security which the Board may have imposed or demanded.

(3) Where any applicant fails to comply with the requirement of the Board notified to him under subsection (2) within the prescribed period, the application shall be deemed to have lapsed.

(4) Where in granting a loan to an applicant the Board considers it prudent to request for a guarantor to guarantee any loan granted to the applicant, in case of any default by the loanee in the repayment of the loan any guarantor who has guaranteed any such loan, shall automatically and fully be liable to pay to the Board all or any loan together with interest accrued and outstanding owed to the Board by the loanee, as shall be notified to the guarantor by the Board.

(5) Where a guarantor who has been notified by the Board under subsection (4) fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be guilty of an offence and liable to

criminal prosecution or civil proceedings or both in accordance with the provisions of this Act.

Annual returns

7. On the last day of each calendar year the Board shall send to all loanees an annual return form which every loanee shall be required to fill and submit to the Board before the end of the month of February of the succeeding year.

Loan deductions

8. In making its deduction for loan recovery, the Board shall not deduct more than one quarter of the loanee's basic monthly salary.

General provisions

9. (1) If in the opinion of the Board there has been or is likely to be any breach of or failure to comply with any condition or term of repayment respecting a loan the Board may forthwith—

- (a) recover from the person from whom the loan was made or his personal representative as a civil debt under the Debts (Summary Recovery) Act, Chapter 42 of the Laws of Kenya, the amount of the loan or the amount thereof then remaining unpaid together with interest thereon;
- (b) enforce or realize any security relating thereto.

(2) The Board may, in exercise of the powers conferred by subsection (1), engage the services of private legal practitioners.

Boards' discretion to waive loans

10. Notwithstanding the provisions of this Act, in any case where the Board is of the opinion that a loanee should be exempt from repaying his loan by reason of—

- (a) death;
- (b) impossibility or undue difficulty, or the expenses to be incurred in the recovery of the loan being far in excess of the amount sought to be recovered;
- (c) thereupon the liability of the loan shall be extinguished or deemed to be abandoned under the

provision of this Act and the provisions of this Act, other than this section, shall no longer apply to any such loan.

Fund Accountant

11. (1) The Board shall employ a Fund Accountant who shall assist the Board in the management and administration of the loans granted under this Act.

(2) The salary and allowances of the Fund Accountant shall be paid out of the Fund as the Board may from time to time determine

Power to make regulations

12. The Board may make regulations generally for the better carrying out the provisions of this Act, and without prejudice to the foregoing, the Board may make regulations in respect of the following—

- (a) the receipt, processing and approval of applications for loans and the granting of loans to applicants;
- (b) the preparation and maintenance of loanees' records; already granted;
- (c) the withdrawal, recovery and cancellation of loans;
- (d) the waiver or exemption from repayment of loans; and
- (e) the setting-up of procedures for dealing with loan defaulters;

Mandatory consultation with the Salaries and Remuneration Commission

13. The Board shall consult with the Salaries and Remuneration Commission to ensure all its decisions under this Act conform to the guidelines or directives issued by the Commission.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish a Revolving Fund to provide low –interest loans to members and staff of the

County Assembly of Busia.

Sections 1 and 2 provide for preliminary matters.

Section 3 provides for the establishment of the Fund which is to be managed and administered by the County Assembly Services Board.

Section 4 gives provisions for Revenue and expenditure of the Fund. Clause 4(1) provides that the Fund comprises:

- Sums of money which may from time to time be voted by the County Assembly for that purpose;
- Sums which represent the repayment of the capital and interest of any loan granted by the Board;
- Income from any investment made by the Board;
- Any sums of money borrowed by the Board with the consent of the Member of the County Executive Committee;
- Any gifts, donations, grants and endowments made to the Fund.

Section 5 provides for the administration of the Fund. Clause 5 (1) requires that an applicant makes an application to the Board in a prescribed form while clause 5 (3) (g) spells out the penalty for an applicant who makes a false statement in filling a loan form.

Section 6 Contains conditions for grant of loan. Clause (1) reposes the power to reject or accept any application in the Board.

Section 7 gives deadlines for the Annual Returns.

Section 8 provides conditions for loan deductions.

Section 9 contains the general provisions for the loan repayment.

Section 11 contains provision for the employment of a Fund Accountant who shall be tasked with assisting the

Board in the management and administration of the loans granted under this Act.

Section 12 provides power to the Board to make regulations generally for the better carrying out the provisions of this Act.

Section 13 provides for the mandatory consultation of the Board with the Salaries and Remuneration Commission so as to ensure that all its decisions under the Act are in conformity to the guidelines or directives issued by the Commission.

The enactment of the Bill shall occasion additional expenditure of public funds which shall be provided for in the County Government of Busia estimates.

Dated the 24th October, 2013.

GODFREY ODONGO,
Chair-Budget and Appropriations Committee,
County Assembly of Busia.