

SPECIAL ISSUE

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COUNTY ASSEMBLIES FORUM (CAF)
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REPUBLIC OF KENYA

***BUSIA COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2014

NAIROBI, 16th May, 2014

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THE BUSIA COUNTY FLAG, EMBLEMS AND NAMES PROTECTION BILL, 2014

A Bill for

AN ACT of the Busia County Assembly of Busia to prevent the improper use of the County Flag and of certain emblems, names, words and likenesses for professional and commercial purposes, and to prohibit the display of certain flags, and for connected purposes.

ENACTED by the County Assembly of Busia as follows—

1. This Act may be cited as the County Flag, Emblems and Names Protection Act, 2014 and shall come into operation on such date as the Member of the Executive Committee, may with the concurrence of the Governor, appoint.

Short title and
commencement

2. The purpose of this Act is to provide a legal regime to prevent the improper use of the County Flag, the County Emblem, and title of Governor for professional and commercial purposes.

Purpose of the Act

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

Interpretation

“coat of arms” or arms means any object or figure, being a symbolic representation displayed in colours on a shield in conformity with the principles and rules of heraldry, with or without any crown, helmet, mantling, supporters, motto, or other accessories

“emblem” means any device, seal, mark, trade mark, badge, symbol, design, logotype, or other distinctive sign of identification; and includes any representation thereof, whether on any flag, banner, sign, or other printed or written material, or by way of any pictorial representation or other visual image, or otherwise

“Member of the Executive Committee” means the Member of the Executive Committee responsible for public administration;

“specified emblem” means any emblem, seal, flag, pennant, insignia, ensign or coat-of-arms of a kind specified in Part I of the First Schedule to this Act;

“specified likeness” means any photograph, drawing

or other pictorial representation of the person for the time being holding any of the offices or dignities specified in Part III of the First Schedule to this Act;

“specified name” means any of the names and words specified in Part II of the First Schedule to this Act, and includes any abbreviation of any such name.

4. (1) The flag of which the design and description are set out in Part I of the Second Schedule to this Act is hereby declared to be the County Flag of Busia (in this Act referred to as the County Flag).

County Flag,
County Public
Seal, County Coat
of arms declared

(2) The seal of which the design is set out in Part II of the Second Schedule to this Act is hereby declared to be the Public Seal of the County of Busia.

(3) The Coat of Arms of which the design is set out in Part III of the Second Schedule to this Act is hereby declared to be the Coat of Arms of the County of Busia.

5. Any person who shows disrespect, in speech, manner or writing, to a County Government emblem, specified likeness or specified name, or any representation thereof, shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Insulting a County
flag, emblem,
name is an
offence

6. (1) Notwithstanding anything contained in any law for the time being in force, a person shall not, except with the written permission of the Member of the Executive Committee—

Prohibition of
improper use of
emblems, names
and likenesses

- (a) use any specified emblem, specified name or specified likeness, or any colourable imitation thereof, in furtherance of, or display the same as an advertisement for, any trade, business, calling or profession; or
- (b) use any specified emblem, specified name or specified likeness, or any colourable imitation thereof, in the title of any patent, or in any trade mark or design; or
- (c) manufacture or import any article or goods bearing any specified emblem, specified name or specified likeness, or any article or goods on which any title, trade mark or design is used in contravention of paragraph (b) of this subsection.

(2) Subsection (1) (a) of this section relating to the use of a specified likeness shall not apply to the publication of a bona fide news item (whether in a newspaper or by any other medium) or to the publication in a newspaper of any article connected with any bona fide news item other than a news item in the furtherance of, or as advertisement for, any trade, business, calling or profession.

(3) Any permission given under subsection (1) of this section may be given subject to such conditions as the Member of the Executive Committee may deem fit.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

7. (1) A person shall not—

Prohibition of
display of county
flags

- (a) without lawful authority, alter the County Flag by the placement thereon of any letter, emblem, or representation;
- (b) in or within view of any public place, use, display, destroy, or damage the County Flag in any manner with the intention of dishonouring it.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

8. (1) For the avoidance of doubt, the following persons shall fly the County Flag:-

Officials
authorised to fly
the County Flag

- (a) governor;
- (b) deputy governor;
- (c) members of the county executive committee;
- (d) speaker of the County Assembly; and
- (e) deputy speaker of the County Assembly

(2) The Member of the Executive Committee shall prescribe the manner in which the County Flag may be flown or displayed.

9. (1) Subject to this Act, the County flag shall be hoisted on the following occasions:-

- (a) At all official functions that are attended by the governor, the deputy governor or member of the executive committee;
- (b) At the headquarters of the county government;
- (c) At the county assembly; and
- (d) At the head offices of decentralized units.

(2) The Member of the Executive Committee may prescribe such other place where the county flag shall be hoisted or displayed.

In learning institutions

10. The Governor shall be the custodian of the County flag, emblems, coat of arms and all other symbols protected by this Act.

Custodian of the County flag, etc

11. The Member of the Executive Committee may, by notice in the County Gazette, amend the First Schedule to this Act, only through popular demand from the public and the amendment must be through a public process.

Power to amend First Schedule

12. (1) The Member of the Executive Committee may make regulations—

Regulations

- (a) prescribing other occasions upon which, other persons by whom and the manner in which the County Flag may be flown or displayed, as the case may be;
- (b) the days and the times during which the County flag shall be flown;
- (c) without detracting from the general design depicted in the Second Schedule, the standard sizes, dimensions, proportions, and colours of the County Flag for all or any purposes or in all or any circumstances;
- (d) the conduct and the etiquette to be followed in the flying or other use of the County Flag;
- (e) prohibiting, controlling or restricting the use of any specified emblem, specified likeness or specified name;
- (f) regulating the manner in which application may

be made to the office of the Member of The Executive Committee for permission under section 6 of this Act,

- (g) prescribing the form of any licence by which such permission may be given and fixing any fee for such application and licence;
- (h) the reproduction and production of documents requiring the official use of the protected symbols; and
- (i) generally for carrying this Act into effect.

(2) The regulations prescribed under subsection (1) shall be approved by the County Executive Committee before they take effect.

FIRST SCHEDULE

Part I—Emblems

1. The County Flag,
2. The Public Seal of County Government of Busia; and
3. The Coat of Arms of the County of Busia

Part II—Names and Words

The name of the Governor

The name of the Deputy Governor

The name of the county executive committee member

The name of the Speaker

The name of the Deputy Speaker

Part III — Offices and Dignities

The Governor

The Deputy Governor

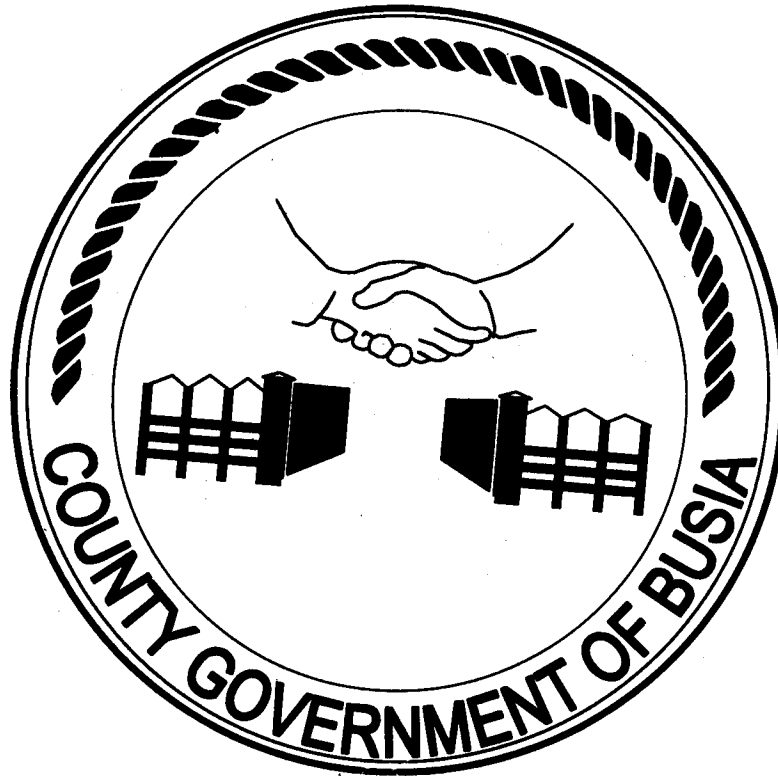
The county executive committee member

The Speaker

The Deputy Speaker

Part II

The County Public Seal

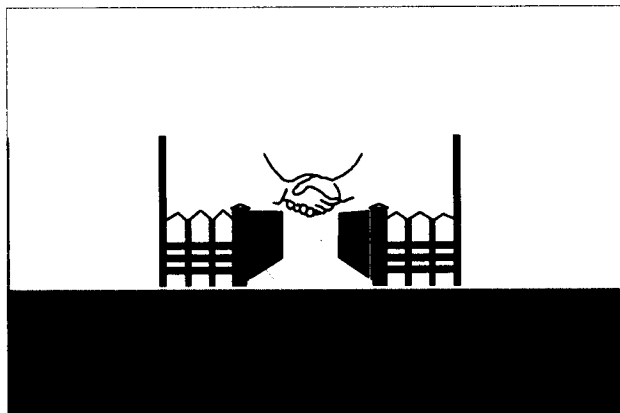


SECOND SCHEDULE

Part 1

The County Flag

THE FLAG



Explanation

Colors

- Green:- It symbolizes agriculture, the backbone of the county's economy, and other natural resources.
- White:- It symbolizes peace and harmonious co-existence of the citizens of Busia county
- Blue:- It symbolizes Lake Victoria and other water resources.

Charges

- The handshake: It symbolizes cooperation, partnership and a gesture of welcome
- The gate: It symbolizes the county as the gate way to the East and Central African region considering the county's border points.

Part III

The Coat of Arms





MEMORANDUM OF REASONS AND OBJECTS

The Bill has been submitted by the Member of the Executive Committee responsible for Public Service, ICT and Intergovernmental Relations. The bill prevents the improper use of the County Flag and of certain emblems, names, words and likenesses for professional and commercial purposes, and to prohibit the display of certain flags.

The enactment of the Bill shall not occasion additional expenditure of public funds.

JOSEPHAT WANDERA,

*Majority Leader and Vice Chairperson of the Busia County Assembly
Service Board.*