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SPECIAL ISSUE

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REPUBLIC OF KENYA

***BUSIA COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2015

NAIROBI, 13th March, 2015

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**BUSIA COUNTY PETITION TO COUNTY ASSEMBLY
(PROCEDURE) BILL, 2015**

AN ACT of the County Assembly of Busia to give effect to Article 37 of the Constitution and Section 15 of the County Governments Act, 2012 in order to provide for the establishment of a legal framework for procedure of presenting public petitions to the County Assembly 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 Petition to County Assembly (Procedure) Act, 2015 and shall come into effect on the fourteenth day after Gazettement.

Interpretation

2. In this Act—

“clerk” means the Clerk of the County Assembly;

“Member” means a member of the County Assembly;

“petition” means a written prayer to the County Assembly by a member of the public under Article 37 of the Constitution or section 15 of the County Governments Act using the procedure set out in this Act;

“petitioner” means a person who petitions the County Assembly under Article 37 of the Constitution or section 15 of the County Governments Act using the procedure set out in this Act;

“register” means the register maintained by the Clerk under Section 8 ;

“Speaker” means the Speaker of the County Assembly.

Purpose of the Act

3. The purpose of this Act is to provide for a legal framework for petitioning the County Assembly in order to—

- (a) promote and facilitate public participation in the conduct of the business of the County Assembly;
- (b) to promote good local governance;
- (c) promote democratic and accountable exercise of power.

PART II—PETITION PROCEDURE

Form of Petition

4. A petition to the County Assembly shall be in the form set out in the Schedule and shall—

- (a) be handwritten, printed or typed;
- (b) be in English or Kiswahili and be written in respectful, decorous and temperate language;
- (c) be free of alterations and interlineations in its text;
- (d) be addressed to the County Assembly;
- (e) have its subject-matter indicated on every sheet if it consists of more than one sheet;
- (f) confirm that efforts have been made to have the matter addressed by the relevant body and that there has been no response on the matter from the relevant body or that the response has not been satisfactory;
- (g) confirm that the issues in respect of which the petition is made are not pending before any court or other constitutional or legal body;
- (h) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;

- (i) subject to paragraph (m), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- (j) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (k) not have any letters, affidavits or other documents annexed to it;
- (l) in the case of a petition presented by a Member on behalf of a petitioner, be countersigned by the Member presenting it; and
- (m) if the petitioner is unable to sign, be signed by a witness in whose presence the petitioner shall make his or her mark or thumb impression on the petition.

Procedure for Presenting the Petition

5. (1) A petition to the County Assembly shall be—

- (a) submitted to the Clerk by the petitioner; or
- (b) presented by a Member on behalf of a petitioner, with the consent of the Speaker.

(2) Notwithstanding subsection (1) (b), a Member shall not be eligible to present a petition on his or her own behalf.

(3) The Clerk shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements of this Act.

(4) Where the Clerk considers that a petition does not comply with section 4, the Clerk may give such directions as are necessary to ensure that the petition is amended to comply with that section.

(5) A petition shall not be rejected merely because it is not addressed to the Clerk.

Consideration of Petition

6. (1) The Clerk shall, if satisfied that the petition meets the requirements of this Act, forward the petition to the Speaker for tabling in the Assembly.

(2) A petition that is tabled in the County Assembly under this Act shall be considered in accordance with the County Assembly Standing Orders.

(3) The Clerk shall, within fifteen days of the decision of the county Assembly, in writing, notify the petitioner of the decision of the County Assembly.

Publication of Decision on Petition

7. The Clerk shall, within fourteen days after the decision is communicated to the petitioner or petitioners under section 6 (3)—

- (a) give notice of the decision to the public by posting a copy in a conspicuous place at the County Assembly offices;
- (b) inform the public that a copy or extract of the decision is available on its website;
- (c) publish the decision in the county Gazette, print or electronic media; or
- (d) publish the decision in such other manner as may be appropriate for the dissemination of information.

Register of Petitions

8. (1) The Clerk shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the County Assembly.

9.

(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

SCHEDULE (s. 4)

FORM OF PETITION

Busia County Assembly

WE/I, the undersigned and humble Petitioner(s),

(Here insert the names or description of the petitioner or petitioners and address including their status: residents of a particular area e.g sub county, Ward or Village, workers, particular part of the community, minority or marginalised group etc.)

DRAW the attention of the County Assembly to the following:

(Here, briefly state the reasons underlying the petition and request for the intervention of the county Assembly by outlining the grievances or problems and summarizing the facts which the petitioners wish the County Assembly to consider)

THAT:

(Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give satisfactory response.)

THAT:

(Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.)

THEREFORE your humble petitioners PRAY that the County Assembly—

(Here, set out the prayer, by stating in summary what action the petitioners wish the County Assembly to take or refrain from)

and your PETITIONERS will ever Pray.

Name of petitioner	Full Address	National ID Passport No.	or Signature/Thumb print
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***This form may contain such variations as the circumstances of each case may require.**

MEMORANDUM OF OBJECTS AND REASONS

The main purpose of this Bill is to give effect to Article 37 of the Constitution, Section 15 of the County Governments Act, 2012 and Part 22 of the Busia County Assembly Standing Orders in order to provide for the establishment of a legal framework for procedure of presenting public petitions to the County Assembly.

Pursuant to Standing Order No. 114 of the Busia County Assembly Standing Orders, it is provided at Section 9 of the Bill that the Speaker of the County Assembly is given delegatory powers of making rules to effect the objectives of this Act but with proper consultation and recommendations from the relevant committee.

The Bill does not limit any fundamental rights and freedoms. This Bill concerns the County Government and is under the ambit of County Assembly functions as earlier stated at paragraph 1 hereof.

The enactment of this Bill shall not occasion expenditure of public funds.

Dated the 15th February, 2015.

HON. OTE OBOYERE,
*Member of County Assembly and
Deputy Chairman of the Committee.*