

SPECIAL ISSUE

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**ELGEYO/MARAKWET COUNTY
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COUNTY ASSEMBLIES FORUM (CAF)
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NAIROBI, KENYA

**ELGEYO MARAKWET COUNTY ASSEMBLY
REVOLVING FUND BILL, 2014
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**ELGEYO MARAKWET COUNTY ASSEMBLY
REVOLVING FUND BILL, 2014**

A Bill for

AN ACT of the County Assembly of Elgeyo Marakwet to establish a Revolving fund to provide low interest loans to members and staff of the County Assembly of Elgeyo Marakwet and for connected purposes

ENACTED by the County Assembly of Elgeyo Marakwet, as follows—

1. This Act may be cited as the County Assembly Revolving Fund Act, 2014. Short title.

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

“Applicant” means a member of the County Assembly of Elgeyo Marakwet;

“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.

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. Establishment of the Fund.

(2) The object and the purpose of the Fund shall be to provide funds to the members of the County Assembly of Elgeyo Marakwet at low interest rates of 3% (three per centum) for acquisition of housing and motor vehicle loans.

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

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.

Administration of
the Fund.

(2) The grant of a loan by the Board shall be preceded with due compliance of the Board's conditions by the applicant.

(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 not exceeding one million shillings or to imprisonment for a term of not less than three years.

(4). A loan granted based on false information shall be recalled and cancelled.

6. (1) The Board may—

Conditions for
grant of loan.

- (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:-
- (c) A loan granted to a member of the County Assembly shall not exceed the aggregate of a salary and other emoluments due and receivable by such a member for the balance of the term to be served.
- (d) The total loan together with interests and other charges accrued thereon shall be fully paid and

recovered at least 90 days before the expiry of the term of the member of the County Assembly to whom the loan shall have been made.

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) The grant of a loan by the Board shall be proceeded with due compliance of the Board's conditions by the applicant.

(3) Where any applicant fails to comply with the conditions set by the Board, the application shall be rejected forthwith.

(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.

7. On the last day of each calendar year, the Board shall send to the Loanee an annual return form on the status of that loan provided that a Loanee shall have a right to request for and obtain information from the Board regarding the loan.

Annual Returns.

8. In making its deduction for loan recovery, the Board shall not deduct more than two-thirds of the loanee's Gross monthly salary and other emoluments.

Loan Deductions.

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 shall forthwith recall the loan and :-

General Provisions.

- (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

10. A loan granted by the Board under this Act shall not be waived or written off unless, in the case of the loanee's death it has become impossible unduly difficult to recover it on the basis that expenses to be incurred in its recovery would be far in excess of the amount sought to be recovered. There upon 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.

Board's discretion to waive loans.

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.

Fund Accountant.

(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

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

Power to make Regulations.

- (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;

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.

Mandatory consultation with the Salaries and Remuneration 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 of the County Assembly of Elgeyo Marakwet.

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:

- (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.

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 Elgeyo Marakwet estimates.

Dated the 28th February, 2014.

BENSON KIPTIRE,
*Chairman, Administration,
Justice and County Security Committee.*

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