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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

HOMA BAY COUNTY BILLS, 2020

NAIROBI, 4th February, 2020

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**THE HOMA BAY COUNTY VALUATION AND
RATING BILL, 2020**

A Bill for

**AN ACT of Homa Bay County to provide for valuation
and rating of land and for connected purposes**

ENACTED by the County Assembly of Homa Bay as
follows—

PART I—PRELIMINARY

1 This Act may be cited as the Homa Bay County
Valuation and Rating Act, 2020 and shall come into
operation on the fourteenth day after its publication in the
Kenya Gazette

Short title

2 In this Act, unless the context otherwise
requires—

Interpretation

“assessment for improvement rate”, in relation to
land, means the residual amount found by deducting the
value of the unimproved land from the value of the
parcel of land,

“Chief Officer” means the County Chief Officer for
the time being responsible for land, appointed in
accordance with Section 45 of the County Government
Act, 2012,

“County Valuer” means the County Valuer
established under section 4 of this Act,

“Executive Member” means the County Executive
Committee Member for the time being responsible for
land,

“Improvements” in relation to land means all work
done or material used on, in or under that land by the
expenditure of money or labour in so far as the effect of
the work done or material used is to increase the value of
the land, but does not include machinery, whether fixed to
the soil or not,

“land” includes any improvements thereon, therein or
thereunder,

“rateable owner” means a person, in respect of any
rateable property, who—

- (a) is the owner of the registered leasehold of, or the tenant for the specified period of, that property, in possession or in reversion or in remainder expectant upon a lease or interest, other than a lease or interest referred to in paragraph (b) or paragraph (c), or
- (b) is the lessee of that property holding under a registered lease for a definite term, or under a registered lease which is renewable from time to time at the will of the lessee, or under a registered lease which is for a definite term, or under a registered lease which is renewable at the will of the lessee for a specified term or terms, or is a person having any interest, other than an interest as a statutory tenant arising under the Rent Restriction Act (Cap 296) in such property entitling him to possession thereof for a period not less than the period for which he would be entitled to possession if he were the lessee of the property, or
- (c) is a lessee of public land, under a registered lease of such property holding under a lease for, or is a person having an interest in such property otherwise than a lessee entitling him to possession of such property for a specified term or,
- (d) in the case of property situate in any area or place to which the Land Registration Act, 2012, has been applied, but being property in respect of which no certificate of ownership has, at such date, as aforesaid, been registered under that Act has or claims to have such leasehold or other interest in the property as is specified in paragraphs (a), (b) or (c), or where it cannot be established that any person has or claims to have such an interest, is in possession, or is in receipt of the rents or profits of such property, or
- (e) subject to paragraph (b), in the case of public land vested in the County Government, which receives the rent thereof or which would receive rent if the land were leased, or
- (f) is the lessee from the County Government of the

rateable property holding under a registered lease for a specified term, shall, for the purposes of this Act, be a rate payer in respect of the property

“rateable property” includes land, except—

- (a) any land used or reserved for roads, streets (including private streets), car parks, squares, parks, gardens or other open or enclosed spaces vested in the County Government,
- (b) public land as defined in the Constitution and provided for under the Land Act,
- (c) Community land as defined and provided for in the Constitution and provided for under the Land Act,
- (d) any land used for any of the purposes specified in section 20 or under any rule made thereunder

“time for valuation” means such date, within a period of twenty-four months preceding the commencement of the financial year in respect of which a valuation roll prepared under section 9 is to come into force,

“Value of land” and “Valuer of unimproved land” shall be construed by reference to section 12

“Valuer” means any person or authority prescribed by or under any law for carrying out valuation of land for the purpose of imposing rates on land so valued,

3 The purpose of this Act is to provide a legal framework for valuing and rating land in order to— Purpose of Act

- (a) ensure efficiency, accountability and transparency in administration of land for valuation and rating,
- (b) promote economic development,
- (c) ensure equity and fairness in land valuation and rating system,
- (d) provide for process and information to ensure rate tax payers can identify and understand their liability for rates, to establish clarity, certainty and sustainability in matters related to rating

- (e) set out mechanisms to allow the county to raise revenue
- (f) provide the county government with flexible powers to set, assess and collect rates pursuant to Article 209 (3) of the Constitution
- (g) ensure that rates imposed by the county Government are made in a transparent and consultative manner

PART II ADMINISTRATION

4 There is established the office of the County Valuer which shall be an office in the county public service

County Valuer

5 The County Valuer shall be responsible for—

Functions of the Valuer

- (a) conducting valuation and rating of land,
- (b) preparing the valuation roll,
- (c) administering the valuation roll,
- (d) advising the executive member on the appropriate methods of rating applicable under this Act,

6 (1) The County Valuer shall have powers to—

Powers of the County Valuer

- (a) Enter, inspect and obtain information on any land for purposes of valuation, on production of written authority signed by the Chief Officer,
- (b) value land for the purposes of rating,
- (c) prepare the valuation roll,
- (d) alter or amend the valuation roll in accordance with this Act or any written law,
- (e) carry out any function as will be necessary to give effect to the purpose of this Act

(2) The County Valuer may delegate his powers under this section to any Valuer or person in writing

7 The County Public Service Board shall ensure that the County Valuer has staff and resources as will be necessary for the effective carrying out of responsibilities under this Act

Staff

PART III—VALUATION

8 The County Valuer shall from time to time, but at least once in every ten years or such longer period as the County Executive Committee may approve, cause a valuation to be made of every rateable property within the county in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll

Preparation of
Valuation Roll

9 (1) The County Valuer may, either on his or her own initiative or at the request of any person amend the valuation roll in relation to—

Amendment of
Valuation Roll

- (a) any rateable property omitted from the valuation roll,
- (b) any new rateable property,
- (c) any rateable property which is subdivided or consolidated with other rateable property, or
- (d) any rateable property which, from any cause particular to such rateable property arising since the time of valuation, has materially increased or decreased in value

(2) The County Valuer shall cause a supplementary valuation roll to be prepared which shall consist of the amendments, alterations and additions to the valuation roll which are permitted under this section

(3) The valuation roll shall be prepared at least once in each year following the year of valuation unless no alterations or additions to the valuation roll are required

(4) Where part of any rateable property not separately valued in a valuation roll may be subject to a special rate under this Act, the County Valuer may cause an apportionment of the value of that property as between the part which may be subject to a special rate and the remaining part to be made and inserted in a supplementary valuation roll

10 (1) The County Valuer or a Valuer authorized in writing by the Valuer and acting in his behalf may, for the purposes of preparing a valuation roll—

Power of entry and
inspection

- (a) enter any premises, land or property for which a

rate may be imposed,

- (b) inspect any premises, land or property or scrutinize any data, information, records, title deed or instrument in possession of any public officer or any person with interest in the land or property

(2) The County Valuer may, by notice in writing, require the rateable owner or the occupier of any land to make a return containing such written particulars in regard to that land as may be necessary to enable the Valuer to prepare a draft valuation roll or draft supplementary valuation roll accurately

(3) A person who wilfully hinders or obstructs the County Valuer or a Valuer in the exercise of the powers conferred on him under this section commits an offence

(4) A rateable owner or occupier of land who—

- (a) neglects to furnish the particulars required under subsection (2) within fourteen days after being called upon to do so commits an offence and liable upon conviction to a fine not exceeding ten thousand shillings,
- (b) furnishes false statement of value or of any other particulars shall be guilty of an offence

5) Any person who commits offence under subsection 3 & 4 shall be liable to imprisonment for six months or a fine not exceeding ten thousand shillings or to both imprisonment and fine

(6) Where a prosecution for a violation of this Act involves a failure to furnish particulars required under subsection (2) the court upon conviction of the accused person may order him to furnish the particulars required under subsection (2) in addition to any other penalty

11 The valuation roll shall consist of—

- (a) the description, situation and area of the land valued,
- (b) the name and address of the rateable owner,
- (c) the value of the land,

Contents of valuation
rolls

- (d) the value of the unimproved land,
- (e) the assessment for the improvement rate
- (f) Any other relevant particulars

12 (1) For the purposes of valuation roll, the value of land shall be the sum which the leasehold free from encumbrances might be expected to realize if offered for sale on such reasonable terms and conditions as a *bonafide* seller might be expected to impose

Basis of valuation

(2) In arriving at the value under subsection (1), the County Valuer shall have regard to other land of similar class, character or position or to other comparative factors and to any restrictions imposed on the land or its use under any written law, which either increase or decrease the value of the land

(3) In arriving at the value of land under this section, the Valuer may adopt any suitable method of valuation

(4) Where a valuation roll includes the value of the unimproved land, then the value of improvements shall in no case exceed the amount found by deducting the value of the unimproved land from the value of the land

13 The County Valuer shall when preparing the valuation roll ensure that the rateable owners and any interested person are actively consulted and involved throughout the process

Public participation

14 (1) The County Valuer shall, after the completion of the valuation roll under section 15 (1) and before submission to the Executive Member, issue a public notice-

Notice Objections
and appeals

- (a) informing the rateable owners or any interested person where the valuation roll can be inspected,
 - (b) inviting any rateable owner who has an objection with any issues stipulated under subsection (2) hereunder to lodge the objection with the County Valuer
- (2) A rateable owner who is aggrieved by—
- (a) the inclusion in or omission of any rateable property from the valuation roll,
 - (b) any value ascribed in a valuation roll to any

rateable property, or

- (c) any statement made or omitted to be made in respect to any rateable property may lodge an objection to the County Valuer in the prescribed form within twenty one days after the notice issued under this section

(3) Where there is an objection raised under this section, the County Valuer shall convene an ad hoc dispute resolution committee to consider and advise on the objection

(4) (1) The *ad hoc* dispute resolution committee shall consist of—

- (a) the Chief Officer who shall be the chairperson,
- (b) the County Valuer who shall be the secretary,
- (c) the county official in charge of Physical Planning,
- (d) one Valuer who is in private practice,
- (e) the County head of Legal services and
- (f) the County grievances and complaints Committee Chair
- (g) one Advocate of the High Court who is experienced in matters related to land

(2) The quorum of the ad hoc committee shall be five members

(5) The *ad hoc* dispute resolution committee shall consider the objection and advise the Executive Member on the appropriate decision to make in regard to the objection

(6) If a rateable owner or a person is dissatisfied with the decision of the Executive Member in respect of the *ad hoc* dispute resolution committee, under this section, he/she may, within thirty days from the date of the decision, appeal to the Environment and Land Court

15 (1) When a valuation roll has been completed, the County Valuer shall submit the roll to the Executive Member

Approval of
valuation roll

(2) The Executive Member shall submit the valuation

roll to the County Executive Committee for consideration and adoption

(3) The County Executive Committee shall within thirty days of adoption of the valuation roll transmit it to the County Assembly for consideration and approval

16 Upon approval of the valuation roll by County Assembly, the County Valuer shall —

Public notice and inspection

- (a) publish a notice in the County/Kenya Gazette to the effect that the valuation roll has been approved and where it can be inspected, and
- (b) send a notice of the valuation provided in the valuation roll to each rateable owner

17 The valuation roll shall apply to the year in which it is prepared for the purposes of imposing land rates

Coming into force

18 The County Valuer may cause the valuation roll to be altered in order to—

Alteration of valuation roll

- (a) correct any clerical error not affecting any valuation,
- (b) correct any error as to the name or address of the rateable owner,
- (c) record any change in the name or address of the rateable owner,
- (d) correct any other error in the valuation roll
- (e) Record any rateable property arising from subdivision or amalgamation of the existing land

19 Any public land which would, if it were not public land be rateable property shall for the purposes of assessing the contribution in lieu of rates be valued in the same manner as any rateable property in the same area

Valuation of public land

20 (1) No valuation for the purposes of any rate shall be made in respect of any land which is used, or, is *bona fide* intended to be used within a reasonable time, directly and exclusively for any of the following purposes—

Exemption from valuation

- (a) public religious worship,
- (b) cemeteries, crematoria and burial or burning grounds,

- (c) public hospitals or other public institutions for the treatment of the sick,
- (d) public educational institutions (public schools within the meaning of the Basic Education Act, 2013) whether or not wholly supported by endowments or voluntary contributions, including the residence of students provided directly by educational institutions or forming part of, or being ancillary to, educational institutions,
- (e) charitable institutions, museums and public libraries,
- (f) outdoor sports,
- (g) National Parks and National Reserves within the meaning of the Wildlife(Conservation and Management) Act (Cap 376)

Provided that nothing in this subsection shall apply to land used for profit or for residential purposes other than those specified in paragraphs (a) and (d) of this subsection

(2) For the purposes of this section the Executive Member may make rules—

- (a) determining the principles upon which any land shall be deemed to be used for any of the purposes specified,
- (b) prescribing the principles for determining the circumstances in which any land shall be deemed to be the bona fide intended to be used for any of the purposes specified

PART IV—RATING

21 There shall be levied rates on any property that is rateable under this Act

Levying of rates

22 (1) The following rates shall be applicable under this Act—

Forms of rating

- (a) an area rate in accordance with Section 23 of this Act,
- (b) an agricultural rental value rate

- (c) a site value rate or a site-value rate in combination with an improvement rate in accordance with section 24 of this Act

(2) Where any one of the forms of rating under subsection (1) has been adopted in respect of any rating area, no other form of rating under this subsection shall, at the same time, be adopted in respect of that area

(3) The provisions on valuation under this Act shall apply in regard to any form of rating adopted under this Act

23 (1) Subject to subsection (2) the County Government may, with the approval of the County Assembly, adopt one or more of the following methods of rating—

Alternative methods
of area rating

- (a) flat rate upon the area of land,
- (b) a graduated rate upon the area of land,
- (c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved,
- (d) an industrial rate upon the area of land used for other agricultural or residential purposes,
- (e) a residential rate upon the area of land used for residential purposes
- (f) such other method for rating upon the area of land or buildings or other immoveable property as the County Government may resolve

(2) A rate levied under this section shall be referred to as an area rate

(3) Subject to subsection (1), Executive Member on the recommendation of the County Valuer may adopt different methods of area rating for different parts of the County and may from time to time vary the method or methods adopted, and may adopt in relation to any rating area the methods of area rating referred to in subsection (1) in the following manner —

(i) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive,

(ii) method (d) or method (e), or both, in addition to method (a) or method (b), but not in addition to method (c),

(iii) method (f) shall not be combined with any other method of area rating

24 A site value rate may be levied in combination with a rate on the assessment for improvement rate as appearing in the valuation roll (in this Act referred to as an improvement rate)

Site value and improvement rates

25 Any site value rate or improvement rate levied under this Act shall be a rate at a uniform percentage of the rateable value of each rateable property in the county as prescribed in the County Finance Act

Uniformity of rates

26 The Executive Member shall, while adopting any method of rating under this Act ensure that the rates are equitably distributed across all rating areas, subject to a maximum of 7% of the value

Equitable distribution of rates

27 (1) Any rate levied under this Act shall become due on the first day of January and shall become payable not later than the last day of that month

Due date of rates

(2) The County Director of Revenue shall publish a notice of not less than thirty days to all rateable owners informing them of the due date for payment

28 (1) Subject to the regulations, a rateable owner is liable for the due rate until it has been paid

Liability to pay rate and interest rate

(2) Any amount due under this Act shall bear a simple interest at the prescribed rate, not exceeding two per cent per month, from the day on which that amount should have been paid

Provided that the interest charged in accordance with this subsection shall not exceed the principle amount of the rate owing

29 The County Executive Committee may allow a discount or waive interest on any rate paid in full on or before the date on which the rates become payable

Discount and waiver

30 If any rate or part thereof remains unpaid after the day on which the rate became payable, the County Director of Revenue, may serve a written notice upon any person paying rent to the owner of the land in respect of

Recovery of rates if owner is in default

which such rate was imposed

31 (1) If any rate or part thereof remains unpaid for four (4) months after the day on which the rate became payable, the rate or part thereof, as the case may be, and any interest on such unpaid rate or part thereof, is recoverable in a court of competent jurisdiction as a debt due and owing to the County from the person liable for payment of the rate

Proceedings to
recover rates

(2) The County Director of Revenue is authorized to sue for and recover debt for the County

(3) A certificate signed by the County Director of Revenue certifying that—

- (a) an amount of rates is or was due and payable on or before a certain date
- (b) the amount or part thereof has not been paid on or before the due date, is admissible as evidence against the defendant in proceedings under this section, and is prima facie evidence in court

32 (1) Any rate due, together with interest thereon shall be a charge against the land on which the rate was levied

Rates chargeable on
property

(2) Where the title to property described under subsection (1) is registered under any law relating to the registration of title to land, the County Valuer may deliver a notification of such charge in the prescribed form to the registrar who shall register it against the title to that land and the charge shall take priority in accordance with such law

33 (1) The County Director of Revenue shall on his own volition or upon request by rateable owner provide a statement / demand for payment of rates in the form prescribed in the first schedule which shall include any other relevant charges chargeable to the property

Statement of
payment of rates and
other charges

(3) The County Director of Revenue shall issue a Rates/Rent Clearance Certificate in the form prescribed in the second schedule once a rateable owner clears all the applicable charges

34 No area rate or agricultural rental value shall be imposed on any land to which no valuation for the

Exemption from and
remission of rates

purposes of rating may be made under this Act

35 (1) There shall be paid to the County Government an annual contribution in lieu of any rates levied under this Act by the National Government in respect of public land held by the National Government, and

Contribution in lieu
of rates

(2) The contribution in lieu of rates payable under this section shall be calculated in accordance with this Act, subject to a maximum of 5% of the value

36 (1) Unless otherwise provided under this Act, any notice required to be published shall be published in one or more daily newspapers circulating in the county or in the County gazette

Publication and
service of notices
etc

(2) Any notice, demand or other document required or authorised to be sent or served under or for the purposes of this Act may be sent or served either—

- (a) by delivering it to the person to or on whom it is to be sent or served ,
- (b) by delivering it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office,
- (c) by ordinary or registered post,
- (d) by delivering it to some person on the premises to which it relates, or, if there is no person on the premises to whom it can be delivered, then by fixing it on or to some conspicuous part of the rateable property, or
- (e) by any method which may be prescribed

PART V—MISCELLANEOUS

37 (1) The Executive Member may on the recommendation of the County Valuer make regulations generally for the better carrying out of the object of this Act

Regulations

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

- (a) prescribe the form and contents of the valuation roll,

- (b) prescribe the forms of applications and notices,
- (c) prescribe the rates payable under this Act,
- (d) prescribe the fees payable under this Act

38 Any rate paid or payable to the County Government prior to the coming into force of this Act shall be deemed to be paid or payable under this Act Savings

39 Any valuation roll prepared or adopted prior to the commencement of this Act shall continue to apply until the same is replaced with a roll prepared under this Act Transition

FIRST SCHEDULE

**OFFICE OF THE DIRECTOR OF REVENUE
HOMA BAY COUNTY**



REPUBLIC OF KENYA

HOMA BAY COUNTY

Our Ref

P O Box 469-40300

HOMABAY

Date ,

To

**RE DEMAND NOTICE FOR LAND RATES AND RENT FOR L R./
PLOT N0**

Take notice that you are hereby required within fourteen (14) days from the date hereof to make payment to Homa Bay County Government for the sum of shillings as tabulated below

Rate (Principle) -Ksh

Rate(Interest) - Ksh

Rent - Ksh

Other Charges – Ksh

Total Ksh

On Plot No of which you are rateable owner

FURTHER, take notice that in default of payment as aforesaid, a suit will be instituted in court of law in accordance with the provisions of Section 31 of this Act without further notice to you for a decree against you for the said amounts with cost/interest

Director of Revenue

Homa Bay County

SECOND SCHEDULE
COUNTY GOVERNMENT OF HOMA BAY
RATES CLEARANCE CERTIFICATE

This is to certify that all sums due at the date of this certificate, or estimated to become due on or before the date of expiry hereon to the **County Government of Homa Bay** in respect of the premises known as

L R / PLOT No _____ situated at _____

Registered in the name of _____

have been paid to the County as hereunder -

- (i) Rate (Principle) – Ksh _____ M R N0 &
Date _____
- (ii) Rate (Interest) –Ksh _____ M R N0 &
Date _____
- (iii) Plot Rent- Kshs _____ M R N0 & Date

- (iv) Transfer Fees - Kshs _____ M R
N0&Date _____
- (v) Other Charges- KShs _____ M R N0 & Date

TOTAL CHARGES PAID KSHS _____

This certificate is valid upto 31st DECEMBER, 20____

Given under my hand at **HOMA BAY** this _____ Day
of _____ 20____

DIRECTOR OF REVENUE
HOMA BAY COUNTY

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons

This Bill provides for the legal framework for land valuation for the purposes of rating and for the rating process by the County Government

The Bill seeks to promote transparency and efficiency in the land valuation and rating process. The Bill has been prepared in accordance with the national standards and policies related to valuation and rating.

PART I of the Bill deals with preliminary matters. The Part sets out the purpose of the Bill that includes ensuring effective, efficient and transparent administration of valuation of land for rating and rating, ensuring equity and fairness on the valuation and rating process.

PART II of the Bill provides for administration framework. It establishes the office of the County Valuer which is responsible for dealing with relevant matters related to valuation and rating.

PART III of the Bill provides for the process of valuation of land for rating. It provides for the preparation of the valuation roll, the content of the valuation roll and the process of preparation of the valuation roll.

PART IV of the Bill provides for the rating process. It provides for the levying of rates, the forms of rating, the methods of area rating, the process of collecting the rate, payment of rates and the appeal mechanisms where disputes arise in relation to rating.

PART V of the Bill provides for miscellaneous provisions which include the powers of the Executive to make Regulations as well as the transition mechanisms.

Statement of the delegation of legislative powers and the limitations of fundamental rights and freedoms

The Bill does not delegate legislative powers. The Bill neither limits any fundamental right nor freedom.

Statement of how the Bill concerns county government

The Bill concerns the concerns county government of Homa Bay County in line with the provisions of Article 186(1) and the forth schedule of the constitution of Kenya 2010, which devolves matters concerning county planning and development. Further Article 209 of the Constitution of Kenya 2010 permits the County Governments to impose property rates.

Statement as to whether the Bill is within the meaning of Article 114 of the constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution

Statement of financial implication

The Bill has financial implication since it seeks to establish the office of the County Valuer which is responsible for dealing with relevant matters related to valuation and rating

Dated the 4th February, 2020

DAVID OLOO,
Chairperson, Land Housing, Physical Planning & Urban Development