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**THE HOMA BAY COUNTY WARDS DEVELOPMENT FUND
BILL, 2016**

A Bill for

AN ACT of the County Assembly of Homa Bay to provide for the establishment, administration and use of the Wards Development Fund and for connected purposes

ENBILLED by County Assembly of Homa-Bay as follows-

PART I —PRELIMINARY

Short title and commencement

1. This Act may be cited as the Homa-Bay County Wards Development Fund Act, 2016, and shall come into operation upon the expiry of thirty days from the date of publication.

Interpretation

2. In this Act, unless the context otherwise requires, -

“Clerk” means the Clerk of the Homa-Bay County Assembly;

“Community” means resident of a particular area or region as a Ward, location or sub – location and having common interests;

“County Management Committee” means the County Wards Development Fund Management Committee established by section 5;

“Fund” means the Ward Development Fund established by section 4;

“Member of the County Executive Committee” means the Member of the County Executive Committee responsible for finance and economic planning;

“Officer Administering the Fund” means the person appointed as such under section 8;

“Deputy Administrator of the Fund” means the person appointed as such under section 9;

“Officer of the Fund” means the officer seconded by the Member of the County Executive Committee to the Ward under section 10;

“Ward Development Fund Committee” means the committee established under section 30;

“Ward Fund Account” means the account maintained for every ward in accordance with section 14.

Object and purpose of Act

3. The object and purpose of this Act is to ensure that a specific portion of the county annual budget is devoted to the Wards for purposes of development and in particular the fight against poverty at the Ward level.

PART II—ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment of the Fund

4. (1) There is established a Fund to be known as the Homa Bay County Wards Development Fund which shall be administered by the Officer administering the Fund and under the direction of the Member of County Executive Committee.

(2) The Fund shall consist of—

- (a) an amount of not more than twenty percent of the approved total development budget of the Homa Bay County Government in every financial year;
- (b) any monies accruing to, donated, lent or received by the Fund from any other lawful source.

(3) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained for the purpose for which the Fund is established.

(4) There shall be paid out of the Fund payments in respect to any expense incurred in pursuance of the provision of this Act.

Establishment of the County Management Committee

5. (1) There is established a committee to be known as the County Management Committee.

(2) The County Management Committee shall consist of—

- (a) the Chief Officer of the County Department for the time being responsible for matters relating to finance and economic planning or a designated alternate not being below the level of Director;
- (b) the Chief Officer of the County Department for the time being responsible for matters relating to transport and infrastructure or a designated alternate not being below the level of Director;
- (c) three persons, qualified in matters relating to finance, accounting, engineering, economics, community development, or law, competitively and transparently recruited and appointed

by the Member of the County Executive Committee taking into account gender balance and the diversity of the County;

- (d) An officer in the Office of the Governor responsible for legal matters who shall be an ex-officio member;
- (e) the Officer Administering the Fund who shall be an ex-officio member.

(3) The Governor shall appoint the Chairperson of the County Management Committee from amongst the three persons appointed in accordance with paragraph (c) of subsection (2).

Conduct of Business and affairs of County Management Committee

6. (1) The conduct and regulation of the business and affairs of the County Management Committee shall be as provided in the First Schedule.

(2) Except as provided in the First Schedule, the County Management Committee may regulate its own procedure.

Functions of the County Management Committee

7. The functions of the County Management Committee shall be to—

- (a) ensure allocation and disbursement of funds in every Ward;
- (b) ensure prudent management of the Fund;
- (c) receive and discuss the annual reports and returns from the Wards;
- (d) ensure the compilation of proper records, returns and reports from the Wards;
- (e) ensure timely submissions to County Assembly of various returns, reports and information as required under this Act;
- (f) consider project proposals submitted for various wards in accordance with the Act and make appropriate recommendations to the County Assembly;
- (g) continually review, oversee the implementation, policy framework and legislative matters that may arise in relation to the Fund;
- (h) perform such other functions as may be provided for in this Act.

Officer administering Fund

8. (1) There shall be an Officer Administering the Fund who shall be appointed by the Member of the County Executive Committee and has—

- (a) at least a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;
- (b) at least five years working experience in a relevant development field.

(2) The Officer Administering the Fund shall be the Administrator of the Fund and Secretary to the County Management Committee and shall subject to the directions of the Member of the County Executive Committee—

- (a) supervise and control the day to day administration of the Fund;
- (b) be responsible for the day to day management of the affairs and County treasury staff in the service of the County Management Committee;
- (c) prepare monthly returns on the movement of funds as appropriate for submission to the County Management Committee;
- (d) keep or cause to be kept proper books of accounts and other books and records related to the Fund;
- (e) prepare, sign and transmit to the County Head of Audits, accounts of the Fund in accordance with relevant legislation; and
- (f) perform any other duties that maybe reasonably assigned to him by the County Management Committee from time to time.

(3) The Officer Administering the Fund shall—

- (a) serve a term of five years but shall be eligible for reappointment.

Deputy Administrator of the Fund

9. (1) There shall be a Deputy Administrator of the Fund who shall be appointed by the Member of the County Executive Committee and has—

- (a) at least a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;
- (b) at least five years working experience in a relevant development field.

(2) The Deputy Administrator of the Fund shall be the Deputy to the Officer Administering the Fund and shall subject to the directions of the Member of the County Executive Committee—

- (a) in the absence of the Officer Administering the Fund, perform the functions of the Officer Administering the Fund;
- (b) assist the Officer administering the Fund in supervising and controlling the day to day administration of the Fund;
- (c) assist the Officer Administering the Funds in the day to day management of the affairs and County treasury staff in the service of the County Management Committee;
- (d) assist the Officer Administering the Funds in preparing monthly returns on the movement of funds as appropriate for submission to the County Management Committee;
- (d) keep or cause to be kept proper books of accounts and other books and records related to the Fund;
- (e) assist the Officer Administering the Funds in preparing and transmitting to the County Head of Audits, accounts of the Fund in accordance with relevant legislation;
- (g) perform any other duties that maybe reasonably assigned to him by the Officer Administering the Fund and the County Management Committee from time to time.

(3) The Deputy Administrator of the Fund shall serve a term of five years but shall be eligible for reappointment.

Secondment of Staff

10. (1) The Member of the County Executive Committee shall, facilitate secondment to the Fund of such officers from the county public service as may be appropriate and necessary for the proper management of the Fund.

(2) The Member of the County Executive Committee may designate any of the officers seconded under subsection (1) to be Officer of the Fund in respect of one or more wards as may be appropriate.

Delegation by the County Management Committee

11. The County Management Committee may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the County Management Committee, the exercise of any of the powers or the performance of any of the functions or duties of the County Management Committee under this Bill or under any other written law.

PART III—FINANCIAL PROVISIONS

Disbursement from the Fund

12. (1) Each and every disbursement from the Fund shall be approved and minuted by the County Management Committee.

(2) All disbursements from the Fund shall be for specific projects as submitted by the wards in accordance with the procedures outlined in this Act.

(3) All disbursements shall be made through IFMIS (Gpay) in accordance with procedures outlined in this Act.

(4) Notwithstanding the provisions of subsection (3), payments for a joint project as outlined in section 29 (4) or a joint procurement, may be made directly to a supplier or to an account established for the purpose with due approval of the County Management Committee.

(5) The record of the amounts received in respect of each project and the record of expenditure of amounts so received shall be submitted to the County Management Committee quarterly by the Ward Development Committee for each ward.

(6) The County Management Committee may impose reasonable requirements, including restrictions, on a particular Ward and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Member of the County Executive Committee in accordance with this Act.

Allocation of funds

13. (1) The Member of the County Executive Committee, with the concurrence of the County Management Committee shall for each financial year allocate funds to each Ward in accordance with section 26.

(2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the County Management Committee.

(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund.

(4) Unspent funds shall be allocated to any eligible project and such project may be new or ongoing at the end of the financial year.

(5) For the avoidance of doubt, a return as set out in the Second Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

Funds to be retained in the Fund

14. (1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be returned to the Fund and applied in accordance with section 12 (5) of this Act.

(2) All funds allocated to a Ward shall be cumulative and shall be carried forward from one financial year to the next, including funds returned into the accounts in accordance with section 12(3) or funds which are not utilized for whatever reasons.

Ward Fund Account

15. (1) For the purpose of disbursement of funds for office operation, office administration, monitoring and evaluation under this Act there shall be opened and maintained a Ward Fund Account for every Ward at any commercial bank, approved by the Member of the County Executive Committee into which the said fund shall be paid and such an account shall be known by the name of the Ward for which it is opened and each Ward Development Fund Committee shall maintain only that one account.

(2) The bank account opened pursuant to subsection (1), shall be separate from that of the County Treasury.

(3) At least two signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from a Ward Fund Account and the signing instructions shall be such that there shall be at least one signature of an officer seconded by the County Executive Member and at least a signature of a member of the Ward Development Fund Committee.

(4) The Officer seconded by the member of the County Executive Committee shall hold the authority to incur expenditure of the funds at the Ward Fund Account.

(5) Every payment or instruction for payment out of the Ward fund account shall be strictly on the basis of a minuted resolution of the Ward Development Fund Committee.

(6) All receipts, savings and accruals to the Ward Fund Account and the balances thereof at the end of each financial year shall be returned to the County Revenue Fund Account.

(7) All unutilized funds of the Project Management Committee shall be returned to the County Revenue Fund account.

(8) Any accruing revenues, interest and liabilities from any Ward Fund Account shall be declared to the County Management Committee together with the annual returns.

Record of disbursements to be kept

16. (1) An accurate record of all disbursements made for projects to every Ward shall be kept and updated every month by the County Management Committee.

(2) The disbursement of operation funds to the Ward Fund Account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five per centum of the annual allocation for the Ward and thereafter the Ward Fund Account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year.

(3) The Chairperson of the County Management Committee shall submit an annual report on the activities, operations and expenditure to the member of County Executive Committee under the Act.

(4) At the end of every financial year the County Management Committee shall submit to the County Head of Audit accounts for onward submission to the Auditor General.

Remuneration and allowances

17. (1) The personal emoluments of officers of the County Government working or involved in the management of the Fund shall be determined by the Salaries Remuneration Commission and shall be provided under the recurrent expenditure of the County Government.

(2) Out of pocket expenses incurred by any person officially involved in the management of the Fund or the implementation of projects under the Fund, including public officers may be reimbursed but that not more than three percent of the total allocation in the financial year may be used for this purpose.

(3) Sitting and other allowances for the members of the County Management Committee and the Ward Development Fund Committees shall be fixed by the Member of the County Executive Committee upon the advice of the County Public Service Board and the Salaries and Remuneration Commission.

PART IV—SUBMISSION OF WARD PROJECT PROPOSALS

Submission of projects

18. (1) The list of proposed Ward based projects to be covered under this Bill shall be submitted by the chairperson of the Ward Development Fund Committee to the County Management Committee after approval by the Ward Development Fund Committee for that Ward.

(2) The County Management Committee shall receive and compile the list of proposed Ward projects submitted to it under this Act and grant the necessary approval where the requirements of this Act has been fulfilled.

Submission deadline

19. (1) The list of the proposed Ward projects shall be submitted to the County Management Committee before the end of the month of December in each year or such other month as may be determined by the Member of the County Executive Committee in order to ensure timely inclusion of the projects in the annual Government budget of a particular financial year.

(2) Where the chairperson of the Ward Development Fund Committee fails to submit the list of Ward based projects to the County Management Committee within the stipulated time in subsection (1), the list shall be deemed to have been submitted to the County Management Committee upon the lapse of the stipulated time.

Submission Form

20. (1) The list of projects shall be submitted on a Ward Projects Submission Form set out in the Third Schedule to this Act accompanied by minutes of the Ward Development Fund Committee approving the projects.

(2) All projects proposed for every Ward shall be listed in the Form together with the cost estimates, amounts allocated and amounts disbursed to such projects.

Approval of projects

21. (1) The list of projects received by the County Management Committee pursuant to section 17 shall be tabled for review at a meeting of the County Management Committee.

(2) The County Management Committee shall scrutinize and approve for funding those project proposals that are consistent with the Act.

(3) Where the County Management Committee does not approve a proposal submitted to it under this section, it shall refer the matter to the Wards Development Fund Committee giving reasons as to, why it has declined the proposal.

Discretion of Ward Development Fund Committee

22. The allocation of funds to various projects in each Ward is the responsibility of the Ward Development Fund Committee to be exercised at its own discretion within the provisions of this Act.

List to be Serialised

23. The projects listed for each Ward shall be numbered by the County Management Committee and the serial numbers of all projects in a Ward shall bear the number of the Ward as delineated by the Independent Electoral and Boundaries Commission in order to ensure that a project retains the same serial number every year until its completion.

Basis for budget ceiling

24. (1) The budget ceiling, for each Ward shall be—

- (a) seventy five percent of the amount specified in section 4 (2) (a) divided equally among all Wards;
- (b) twenty five per cent of the amount specified in section 4 (2) (a) divided by the population in the county multiplied by the number of inhabitants in that Ward as at the last national population census.

(2) The Chairperson of the relevant Committee of the County Assembly shall table in the Assembly a schedule showing the ceiling for each Ward, which shall be determined in accordance with sub section (1).

Criteria for Projects

25. (1) The types of projects submitted for funding under this Act shall comply with the provisions of this Act.

(2) It shall be the responsibility of the Ward Development Fund Committee to ensure that the list of projects submitted for funding comply with the provisions of the Act and their total cost does not exceed the allowable ceiling for the particular Ward or is not below that ceiling.

(3) If the list of projects submitted for funding is in contravention of subsection (2) the same shall be referred back to the Ward Development Fund Committee for amendment and re-submission.

(4) Whenever the amount for projects in a Ward is less than the allowable ceiling for reasons of projects being deleted in accordance with sub-section (3), or for whatever reason, the shortfall shall be indicated as unallocated amount against that particular Ward on the list to be forwarded to the Member of the County Executive Committee.

PART V—TYPES OF PROJECTS

Projects to be community based

26. (1) Projects under this Act shall—

- (a) be in respect of those falling within the functions of the county government as contemplated under Part 2 of the Fourth Schedule to the Constitution; and
 - (b) be community based in order to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants of a particular area.
- (2) Any funding under this Act shall be for a complete project or a defined phase, of a project and may include the acquisition of land and buildings.
- (3) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility.
- (4) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political Activities or for supporting religious bodies or religious Activities.
- (5) Notwithstanding the provisions of subsection (4), the Ward Development Fund Committee may identify a religious body or organization as an appropriate specialized agency for purposes of section 12 with regard to emergency support.
- (6) A Ward Development Fund Committee office project shall be considered as a development project for purposes of the Act and may include appropriate furniture and equipment for the office.
- (7) Each of the projects shall be listed on the Third Schedule including, where applicable, the Activities under subsection (8) of this section.
- (8) The allocation may be used as follows—
- (a) an amount not exceeding three per cent of each ward annual allocation may be used as expenses for administration of the Fund which may include rent and utilities, staff salaries and committees allowances;
 - (b) three per cent of each ward annual allocation may be used for monitoring and evaluation;

Number of projects

27. (1) The number of projects to be included in the Ward Projects Submission Form specified in the Third Schedule shall be a minimum of five and a maximum of ten for every Ward in each financial year.

(2) Wards with unspent funds at the end of the financial year shall submit new proposals to the County Management Committee for approval in accordance with section 12(5) of this Act.

(3) Project Activities of a similar nature in a particular Ward may be combined and considered as one project for purposes of subsection (1) provided that the sub projects are listed in the Second Schedule.

(4) Wards may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the Ward Development Fund Committee of each of the participating wards and shall be reflected on the projects listed for each of the participating wards.

(5) Where wards have joint projects, the County Management Committee shall co-ordinate such projects.

Cost estimates to be realistic

28. (1) The Ward Development Fund Committee may make appropriate consultations with the relevant Government departments to ensure that cost estimates for the projects are as realistic as possible.

(2) The Ward Development Fund Committee shall rank the projects in order of priority and whenever, in the opinion of the County Management Committee, the total cost of the projects listed exceed the ceiling for a particular Ward, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that on-going projects shall take precedence over all other projects.

Personal awards to be excluded

29. A project or any part thereof which involve personal awards to any person in cash or in kind, shall be excluded from the list of projects submitted.

Counter-part funding to be permitted

30. For the purposes of this Act, the County Management Committee may consider part funding of a project financed from sources other than the Fund so long as the other financiers or donors of that project have no objection and provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated under this Act.

PART VI—THE WARD DEVELOPMENT FUND COMMITTEE AND THE COUNTY ASSEMBLY SELECT COMMITTEE

Establishment of Ward Development Fund Committee

31. There shall be a Ward Development Fund Committee for every Ward which shall be constituted by the Ward Administrator.

Composition of the Ward Development Fund Committee

32. (1) The membership of the Ward Development Fund Committee shall comprise—

- (a) two persons representing the male in the Ward of whom one shall be a youth;
- (b) two persons representing the female in the Ward of whom one shall be a youth;
- (c) one representative of local non-governmental organizations or religious organizations;
- (d) one person with disability
- (e) one representative of religious organizations;
- (f) respective Sub County Administrator
- (g) the Ward Administrator;
- (h) the officer seconded by the Member of the County Executive Committee who shall be the Secretary;

(2) The Chairperson shall be elected by Members of the County Ward Development Committee during their first meeting;

(3) The seven persons referred to in subsection (1) (a), (b), (c), (d) and (e) shall be nominated through the following procedure—

- (a) each Ward Administrator for a particular Ward shall convene open public meetings of registered voters in each sub location of the Ward;
- (b) each sub location shall then elect three persons whose names shall be forwarded to the officer of the Fund seconded by Member of the County Executive Committee to the Ward;
- (c) upon receiving the names from the Ward, the officer of the Fund and the sub county administrator, shall appoint seven persons to the Ward Development Fund Committee, taking into account the geographical diversity within the Ward, communal, religious, social and cultural interests in Ward and the requirements of gender, youth and representation of persons with disabilities;

- (d) upon conclusion of the election of the chairperson in the manner stipulated in sub section (2) (2), the officer of the fund seconded by the Member of the County Executive Committee to the ward shall forward the names of the members of the Ward Development Fund Committee to the Officer Administering the Fund for onward transmission to the Member of the County Executive Committee for gazettelement;

(4) The Member of the County Executive Committee shall cause the names of persons appointed as members of the Wards Development Fund Committee, pursuant to subsection (3) to be published in the Kenya Gazette.

(5) The first meeting of the Ward Development Fund Committee shall be convened within the first sixty days of a new County Assembly or a by-election, by the county government official at the Ward or in his or her absence, by an officer of the Fund seconded by the Member of the County Executive Committee to the Ward, on such day as may be designated by the Member of the County Executive Committee.

(6) The Chairperson of the Ward Development Fund Committee in consultation with the sub-county administrator for the Ward, and the ward administrator for every ward shall, within the first year of a new County Assembly and at least once every two years thereafter, convene open forum public meetings in every sub-location in the Ward to deliberate on development matters of the ward.

(7) Each sub location shall come up with a list of priority projects to be submitted to the Ward Development Fund Committee

(8) The term of office of the members of the Ward Development Fund Committee shall be three years irrespective of a county assembly term but shall be renewable and shall come to an end upon the appointment of a new Ward Development Fund Committee in a manner provided in this Act.

(9) The Officer of the Fund seconded by the Member of the County Executive Committee to the ward shall be the custodian of all records and equipment of the Ward during the term of the county assembly and during transitions occasioned by general elections or a by-election.

(10) Whenever a vacancy occurs in the Ward Development Fund Committee by reason of resignation, incapacitation or demise of a member then the vacancy shall be filled from the same category of persons where the vacancy has occurred.

(11) The Ward Development Fund Committee shall meet at least four times in a year and not more than eighteen times in every financial year including sub-committee meetings.

(12) The committee may employ staff, not exceeding three in number, and such staff shall have knowledge in information and communications technology, construction and basic accounting.

(13) Staff employed under subsection (12) shall help in project monitoring and evaluation, co-ordination and proper keeping of records and such staff shall be remunerated from the funds allocated for administration and recurrent expenses.

Functions of the Ward Development Fund Committee

33. (1) Each unit of a ward shall come up with proposals, discuss them, select and prioritize a list of projects to be submitted to the Ward Development Fund Committee

(2) The Ward Development Fund Committee shall deliberate on project proposals from the Ward and any other project which the committee considers beneficial to the Ward, then draw up a priority project list both immediate and long term, out of which the list of projects to be submitted to County management committee.

(3) The quorum of the Ward Development Fund Committee shall be one half of the total membership.

Establishment of the County Assembly Select Committee

34. (1) The County Assembly shall, in accordance with its Standing Orders, establish a Select Committee consisting of a chairperson and not more than eight other members of the County Assembly.

(2) In determining the membership of the County Assembly Select Committee, the County Assembly shall ensure proportionate representation of the County Assembly political parties.

(3) The term of office of the members of the County Assembly Select Committee shall be three years renewable or upon the appointment of a new committee in a manner provided for in this Act, whichever comes earlier.

(4) The procedures and rules for the operations of the County Assembly Committee shall be governed by the Standing Orders of the County Assembly.

(5) The functions of the County Assembly Select Committee shall be to—

- (a) consider and recommend to the County Assembly any matter requiring action by the County Assembly pursuant to the provisions of this Act;
- (b) oversee the implementation of this Act and in this respect, shall after every two years submit a report to the County Assembly and where necessary, propose any amendments to this Bill, in particular, with respect to the quantum of funds repayable into the Fund in accordance with section 4 of the Act,
- (c) oversee the policy framework and legislative matters that may arise in relation to the Fund;
- (d) continually review the framework set out for the efficient delivery of development programmes financed through the Fund;

(6) The Committee may make reports other than the statutory report stated in sub section 5(b) to appraise the County Assembly on various matters relating to the Fund and to seek various approvals as required by the Act.

Quarterly reports on projects and disbursements

35. (1) The County Management Committee shall, on a quarterly basis, submit a report to the County Assembly Select Committee detailing—

- (a) a summary of the project proposals received from the wards in the preceding quarter and indicating the approval status of such projects;
- (b) a summary of the status of disbursements of funds to the wards for that preceding quarter;
- (c) a summary of the status of disbursements from the County Treasury; and
- (d) any restriction imposed on a Ward Fund Account in accordance with the Act,

(2) The County Management Committee shall ensure that the list of projects forwarded to it by each ward is, upon approval, funded in accordance with the Act,

PART VII—IMPLEMENTATION OF PROJECTS

Project Management Committee to implement

36. (1) Projects under this Act, shall be implemented with the assistance of the relevant department of County Government and all

payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force.

(2) Where a project in a Ward involves the purchase of equipment, such equipment shall remain for the exclusive use of that Ward.

(3) The Ward Development Fund Committee and the County Management Committee shall be responsible for monitoring the implementation of projects and may designate a sub-committee, a ward committee or a project committee, the functions of monitoring an ongoing project and shall submit a report on the ongoing projects to the ward administrator and sub-county administrator, and the County Assembly committee.

(4) All fixed and movable assets, including equipment bought under this Act for use by the Ward Development Fund Committee shall be the property of the County Government to be insured in the name of the County Government but serialized to reflect the name of the Ward.

(5) No asset or equipment acquired under this section shall be disposed of by the County Government without the prior approval of the County Management Committee.

(6) Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (5) shall be credited to the account of the Ward from whose funds the asset was acquired and such funds shall be reflected and declared as part of the following years Ward fund for that Ward.

Procurement of services and Works

37. (1) All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposals Act, 2005.

(2) Regulations made under the Public Procurement and Disposals Act, 2005 shall provide for the composition of the ward tender committees for purposes of procurement under this Act.

Record of receipts and disbursement

38. The officer of the Fund seconded by the Member of the County Executive Committee in every ward shall compile and maintain a record showing all receipts and actual expenditures on a monthly basis in respect of every project and sub-project under this Act and shall—

- (a) table such record at a meeting of the Ward Development Fund Committee in every month; and

- (b) submit a summary of the record for the year to the Ward Development Fund Committee not later than thirty days after the end of every financial year.

Audit

39. All funds received under this Act shall be audited and reported upon by the Auditor-General.

Community initiatives to be eligible

40. (1) Projects initiated by a community shall be eligible for support under this Act provided that such projects shall be submitted with the other projects in conformity with the requirements of this Act.

(2) Pursuant to subsection (1), a community shall, maintain an elected committee to represent the interests of that community during and after the implementation of the project and such a committee shall conform to the requirements of this Act.

Duplication of projects to be avoided

41. The County Management Committee shall ensure that no duplication of projects occur particularly where it is prudent to combine efforts on projects designed to benefit a large section or sector of a community traversing several wards in a County.

County Management Committee to prepare list

42. (1) The County Management Committee shall, at the beginning of every financial year, prepare and circulate to the various Ward Development Fund Committees in that county a list of other government allocations for various projects in the County.

(2) The County Management Committee shall ensure cooperation with the Ward Development Fund Committee to avoid duplicity of funding to projects within the Ward.

(3) Despite subsections (1) and (2), the existence of another allocation by government to a project in the Ward shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

(4) The existence of another allocation by Government to a different project in the county shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

PART VIII—MISCELLANEOUS PROVISIONS

Member of the County Executive Committee to make regulations

43. (1) The Member of the County Executive Committee may make regulations for the smooth running of the Fund.

(2) The Member of the County Executive Committee may amend any of the Schedules through a notice in the Gazette.

Provisions in the Act are Complimentary

44. (1) The provisions of this Act shall be complimentary to any other development efforts by the national government, the county governments or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development programmes.

(2) For the avoidance of doubt, normal Government development allocations shall continue alongside the projects funded under this Act.

Offences and penalties

45. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not less than five years or to a fine not less than five hundred thousand shillings or to both.

Dispute resolution

46. (1) All complaints and disputes by persons arising due to the administration of this Act shall be forwarded to the County Management Committee in the first instance.

(2) Complaints of a criminal nature shall be forwarded by the County Management Committee to the relevant government agencies with prosecutorial powers.

(3) Disputes of a civil nature shall be referred to the County Management Committee in the first instance and where necessary an arbitration panel whose costs shall be borne by the parties to the dispute, shall be appointed by consensus of the parties to consider and determine the matter before the same is referred to court.

(4) Notwithstanding subsection (3), parties shall be at liberty to jointly appoint an arbitrator of their choice in the event of a dispute but where parties fail to jointly agree on an arbitrator, the Member of the County Executive Committee may appoint an arbitrator whose costs shall be jointly borne by the parties.

(5) Subject to this Act, no person in the management of the Fund shall be held personally liable for any lawful action taken in his official capacity or for any disputes against the Fund.

Transition

47. (1) The initial capital of the Fund shall be the sum of 400 million shillings appropriated under the vote of the County Department for Finance and Planning in the 2014-2015 financial year.

(2) Notwithstanding subsection (1), If this Act comes into operation mid-way in a financial year, then the Leader of the Majority Party shall within one month of its publication, introduce in the Assembly the amount proposed to be put in the Fund and the amount proposed, shall be allowed for through supplementary estimates.

FIRST SCHEDULE

(s. 6)

CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY MANAGEMENT COMMITTEE

Tenure of office

1. The Chairperson or a member of the County Management Committee other than *ex-officio* members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two terms;

Vacation of office

2. (1) A member other than an *ex-officio* member may—

(a) at any time resign from office by notice in writing to the Member of the County Executive Committee;

(b) be removed from office by the Member of the County Executive Committee on recommendation of the County Management Committee if the member—

(i) has been absent from three consecutive meetings of the County Management Committee without its permission;

(ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or

(iv) is otherwise unable or unfit to discharge his functions

(2) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1).

Meetings

3. (1) The County Management Committee shall meet not less than four and not more than eighteen times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding sub paragraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the County Management Committee at any time for the trans Billion of the business of the County Management Committee.

(3) Unless three quarters of the total members of the County Management Committee otherwise agree, at least fourteen days' written notice of every meeting of the County Management Committee shall be given to every member of the County Management Committee.

(4) The quorum for the conduct of the business of the County Management Committee shall be four members.

(5) The Chairperson shall when present, preside at every meeting of the County Management Committee but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the County Management Committee shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the County Management Committee shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the County Management Committee may determine its own procedure and the procedure for any committee of the County Management Committee and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Committees of the County Management Committee

4. (1) The County Management Committee may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The County Management Committee shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The County Management Committee may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the County Management Committee.

Disclosure of interest

5. (1) A member who has an interest in any contrBill, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the County Management Committee who contravenes subparagraph (1) shall cease to be a member of the County Management Committee upon direction of the Member of the County Executive Committee.

Common seal.

7. (1) The common seal of the County Management Committee shall be kept in such custody as the County Management Committee may direct and shall not be used except on the order of the County Management Committee.

(2) The affixing of the common seal of the County Management Committee shall be authenticated by the signature of the Chairperson, the Officer Administering the Fund and one member nominated by the County Management Committee and any document not required by law to be made under seal and all decisions of the County Management Committee may be authenticated by the signatures of the Chairperson, the Officer Administering the Fund and that member nominated by the County Management Committee.

(3) The common seal of the County Management Committee when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the County Management Committee under this section shall be presumed to have been duly given.

Schedule to apply to Ward Development Fund Committees.

8. The provisions of this Schedule shall apply to the conduct of the business of the Ward Development Fund Committee but only where no specific provisions have been made in this Act, and only in so far as they do not constitute a contradiction or negation of the provisions of the Act.

SECOND SCHEDULE

PROJECT RE-ALLOCATION FORM

Ward No: Name Financial year

Project No.	Project Title	Amount allocated (Kshs)	Amount disbursed (Kshs)	Balance (Kshs)	Unspent to be reallocated

Signature Date

Name Position

THIRD SCHEDULE

WARD PROJECTS SUBMISSION FORM

Ward No. Ward Name Financial year

Chairperson Ward Devt Fund Committee

Signature Date

Serial	Name of Project	Amount allocated

Total for the Financial Year		

FOURTH SCHEDULE
PROJECT DESCRIPTION FORM

Ward No: Ward Name County

Project Number

Project Title

Sector

Status of projects (tick one) New ... Extension ... On-going ...

Rehabilitation

Brief statement on project status at time of submission

.....

Financial year1st July..... To 30th June.....

Original Cost estimates, in KSh. dated

Amount allocated last financial year

Person completing form..... Signature

Name Position

Date

MEMORANDUM OF OBJECTS AND REASONS

The main object of this Act is to establish the Homa Bay County Wards Development Fund into which an amount not more than twenty per cent of the total development budget of the County Government in every financial year and any monies accruing to, donated, lent or received by the Fund from any other lawful source shall be paid into so as to facilitate development at the Ward Level for the purposes of development and in particular the fight against poverty at the Ward level.

Part I of the Act sets out the preliminary matters including the commencement date and the definition of various terms used in the Bill.

Part II of the Act establishes the Homa Bay County Wards Development Fund to be administered by the Officer Administering the Fund Assisted by the Deputy Funds Administrator and under the direction of the County Management Committee.

Part III of the Act outlines the financial procedures with respect to the administration and use of the Fund. This Part also provides for the allocation and disbursement of funds.

Part IV of the Act provides for the submission of ward project proposals by elected member of the County Assembly. The Part outlines the format for presentation of projects to be undertaken under the fund and also provides the manner of sharing of the moneys from the Fund which shall be based at seventy five percent equality and twenty five percent based on population and other factors.

Part V of the Act provides for the type of projects that may be included for funding under this Bill. In particular, this Part provides that such projects must be development based. This Part also sets out a minimum number of projects to be funded so as to ensure distribution of projects within the Ward and a maximum number in a bid to avoid spreading out too thin. The eligibility of some projects for funding such as counter – part funding is also addressed in this Part.

Part VI of the Act provides for the establishment of a Ward Development Fund Committee. This part sets out the composition, functions of the committee and maximum allocation and restrictions. The Part also provides for the establishment of a County Assembly Select Committee, by the County Assembly to, oversee the implementation of the Bill, the policy framework and legislative matters that may arise in relation to the Fund.

Part VII of the Act provides for the procedure to be followed in the implementation of the Ward based projects. It is proposed in the Act that

actual implementation of the Ward based projects be done by the relevant County Government Department in a Ward.

Part VIII of the Act provides for miscellaneous clauses to ensure proper utilization of funds and also provides for penalties against any person who misappropriates funds meant for development projects under the Bill.

Dated the 28th February, 2016.

N.O. K'ORIKO,
County Executive Committee Member, Finance and Economic Planning.

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