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KIAMBU COUNTY ACTS, 2018

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THE KIAMBU COUNTY JIJENGE FUND ACT, 2018

No. 8 of 2018

Date of Assent: 13th June, 2018

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Kiambu County Jijenge Fund

No. 8

THE KIAMBU COUNTY JIJENGE FUND ACT, 2018

**AN ACT of the County Assembly of Kiambu to provide
for the establishment and management of the
Jijenge Fund and for connected purposes**

ENACTED by the County Assembly of Kiambu, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kiambu County Jijenge Fund Act, 2018. Short title

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

“Act” means the Kiambu County Jijenge Fund Act, 2018;

“appropriation” means Funds appropriated by the County Assembly for purposes of the Fund;

“beneficiary” means a successful applicant of a loan from the Fund;

“business” means any legal activity of making, buying or selling commodities, products or services;

“chief officer” means the Chief Officer for the time being responsible for the implementation of the Fund;

“Constitution” means the Constitution of Kenya, 2010;

“County” means Kiambu County;

“County Assembly” means the County Assembly of Kiambu;

“County Government” means the County Government of Kiambu;

“Director” means the Director appointed under section 14 of the Act;

“Executive Member” means the County Executive Committee Member for the time being responsible for implementation of the Fund;

“existing business” means a business which has been in existence as a going concern for one year and above;

“financial year” means the period of twelve months ending the 30th June in each year;

“Fund” means the Kiambu County Jijenge Fund established under section 6 of this Act;

“Jijenge Fund” has the same meaning ascribed to the word “Fund”;

“micro enterprise” means any business in any sector which—

- (a) does not exceed five hundred thousand shillings in its annual turnover;
- (b) employs less than ten people; and
- (c) has assets and financial investment, where determined under the Micro and Small Enterprise Act, 2012 of a value not exceeding—
 - (i) KSh. ten million (KSh.10,000,000) in plant, machinery or registered capital for the manufacturing sector; or
 - (ii) KSh. five million (KSh.5,000,000) in equipment or registered capital for the retail, service and farming sector’

Act 55 of 2012

Act 14 of 2003

“person with disability” means a person or an organization of person with disability registered under the Persons with Disabilities Act; Act 55 of 2012

“semi-financial institution” includes any institution registered as a co-operative, community based organization or self-help group operating within the County for at least six months whose objectives includes economic welfare of its members;

“small enterprise” means any business in any sector which—

- (a) has an annual turnover of between KSh. five hundred thousand (KSh. 5,00,000) and KSh. five million (KSh. 5,000,000);
- (b) employs between ten and fifty people; and
- (c) has assets and financial investment, where determined under the Micro and Small Enterprise Act, 2012 of a value between—
 - (i) ten million shillings and fifty million shillings in plant, machinery or registered capital for the manufacturing sector; or

- (ii) five million shillings and twenty million shillings in equipment or registered capital for the retail, service and farming sector;

“officer administering the Fund” means the Officer designated as such under section 15 of this Act;

“start-up business” means a business which is a business idea or a concept that has not yet commenced or a business which has commenced and in operation for less than one year;

“resident” means a person who either, for the last five years resides within the County, or owns a permanent resident within the County, or for the last five years carries out business within the County;

“youth” has the same meaning assigned to it under Article 260 of the Constitution;

“vulnerable person” means a marginalized or disadvantaged person or a member of a marginalized or disadvantaged group resident within the County;

3. (1) This Act shall guide—

Application

- (a) the youth, women, vulnerable persons and persons with disabilities in applying for a loan from the Fund;
- (b) the officer administering the Fund in the administration and utilization of the Fund;
- (c) in recovery of any monies lent from the Fund, including recovery of any loan granted by the operations of the Kiambu County Youth, Women and Persons with Disabilities Enterprise Development Fund Act, 2014.

No. of 2014

(2) A person who utilizes or authorizes the utilization of the Fund other than in accordance with this Act commits an offence and on conviction, shall be liable to a fine of a sum not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

(3) The provisions of sub-section (2) shall not be construed as barring the County Government from applying any other remedy under any other written law.

4. The objects of the Act is to provide for—

Objects of the Act

- (a) establishment and administration of the Jijenge Fund;
- (b) promotion of self-employment for the youth, women, vulnerable persons and persons with disabilities;
- (c) promotion of enterprise development among youth, women, vulnerable persons and persons with disabilities; and
- (d) establishing a framework for investing in and facilitating growth of micro and small enterprises to spur economic growth in the County.

5. (1) The administration of the Fund shall be guided by the following principles—

Guiding principles

- (a) equitable allocation of the Funds among the wards on basis of population and demand for loans;
- (b) flexible loan products;
- (c) coordinated economic development;
- (d) prioritization of economic activities for preferential financing in line with the County Integrated Development Plan;
- (e) ease of access of Funds; and
- (f) respect for rule of law.

**PART II— ESTABLISHMENT OF THE KIAMBU
COUNTY JIJENGE FUND**

6. (1) There is established a Fund to be known as the Kiambu County Jijenge Fund.

Establishment of
the Fund

(2) The Fund shall consist of—

- (a) monies appropriated by the County Assembly;
- (b) any grants, gifts, donations, loans or other endowments granted to the Fund;
- (c) income generated from the proceeds of the Fund;
- (d) interest earned from the Funds deposits, loan or other lawful sources; and
- (e) any monies accruing to or received by the Fund from any other lawful sources.

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7. (1) All monies received by the Fund shall be maintained in a separate bank account in the name of the Fund, opened and administered in accordance with the provisions of the Public Finance Management Act.

Fund bank
accounts
No. 18 of 2012

(2) The receipts, earnings and accruals to the Fund and the balance of the Fund at the close of each year shall be retained by the Fund for the purposes for which the Fund is established.

(3) The signatories of the Fund's bank account shall be—

- (a) the officer administering the Fund whose signature shall be mandatory; and
- (b) two persons designated by the Executive Member for the time being responsible for finance.

(4) The Executive Member responsible for Finance may from time to time issue guidelines for proper implementation of this section.

8. (1) The money in the Fund shall be utilized for granting any of the following loans—

Utilization of the
Fund

- (a) capital financing for startup business;
- (b) financing local purchase order or local supply order;
- (c) business support financing for micro and small enterprises;
- (d) asset financing;
- (e) agri-business financing; and
- (f) such other loan product as the Executive Member may, by regulations prescribe.

(2) In addition to sub-section (1), where Executive Member finds it necessary for purposes of ensuring coordinated economic growth and equitable distribution of resources, he or she may, with the approval of the County Executive Committee, reserve not more than five percent of Funds available for capital and business support financing loans to beneficiaries of a particular area or a business idea.

(3) In addition to any other monies appropriated by the County Assembly for such functions, not more than three

percent of the Fund may be utilized for—

- (a) facilitating training and mentorship programmes;
- (b) monitoring and evaluating utilization of the loan;
- (c) facilitating development and promotion of loan products; and
- (d) meeting administration and operation costs of disbursing the Fund and ensuring repayments.

(4) The Executive Member shall in every financial year, with the approval of the County Assembly, prescribe the portion of the Fund available for the residents of each ward.

9. The officer administering the Fund may, with the approval of the Executive Committee Member for Finance, place on deposit with a bank or otherwise invest the Funds which are not immediately required for its purposes and the interest earned from such investment shall be paid to the Fund's bank account.

Investment of
Funds

10. (1) The monies of the Fund shall be adequately insured against all risks.

Fund insurance

(2) In addition to the provisions of sub-section (1), the costs of such insurance shall be apportioned to the loan applicant.

PART III—ADMINISTRATION OF THE FUND

11. (1) The Executive Member shall at the close of the financial year submit an annual report to the County Assembly containing details of—

Annual report

- (a) total loans disbursed in each ward;
- (b) loan products offered by the Fund;
- (c) strategies employed to achieve the Fund's Objectives;
- (d) impact of the Fund against its objectives;
- (e) repayment status; and
- (f) any other information that the Executive Member may deem necessary.

(2) The Executive Member shall cause the report to be publicized within the County.

12. The Executive Member shall, with the approval of the County Executive Committee, prescribe policies, rules and guidelines for better implementation of this Act.

Policies, strategies
and guidelines

13. The officers in charge of decentralized units may—

Public
participation and
mobilization

- (a) publicize, sensitize and mobilize the target beneficiaries to participate in the Fund;
- (b) participate in verification of the particulars of an applicant;
- (c) assess the economic needs of their area of administration and recommend appropriate loan products to the Executive Member; and
- (d) assess the impact of the utilization of the Fund in their areas of administration and submit a report to the Executive Member.

14. (1) There is established the Directorate of Jijenge Fund whose functions shall include—

Directorate of
Jijenge Fund

- (a) supervising the implementation of this Act;
- (b) developing and implementing programmes to sensitize and promote the Fund among the residents;
- (c) collecting and maintaining data of beneficiaries;
- (d) co-ordinating the operations of the department to ensure performance of its mandate;
- (e) recommending loan products to the Executive Member;
- (f) recommending to the Executive Member policies, strategies, administrative structure, systems and processes for better implementation of this Act;
- (g) assessing and advising the Executive Member on the impact of the loan products;
- (h) advising the Executive Member on any matter relating to Fund; and
- (i) undertaking any other function assigned under this Act or by Executive Member for better realization of the objects of this Act.

(2) The Directorate shall be headed by a Director appointed by the County Public Service Board.

(3) The Director shall be responsible for the day to day operations and implementation of the Directorates' functions.

(4) A person shall qualify for appointment as a Director under this Act unless that person is—

- (a) a Kenya Citizen;
- (b) holds an academic degree from a university recognized in Kenya;
- (c) possess as least five years' post-graduation experience in senior management position; and
- (d) has met the requirements of Chapter Six of the Constitution.

15. (1) The Executive Member for Finance shall designate an officer to be the officer administering the Fund.

Officer
Administering the
Fund.

(2) The Officer Administering the Fund shall—

- (a) control and supervise the administration of the Fund;
- (b) prepare the Fund's budget and submit it to the Executive Member for approval;
- (c) keep or cause to be kept proper books of accounts and other books and records in relation to the Fund of all the activities and undertakings financed from the Fund;
- (d) co-ordinate and supervise the implementation of the Fund by financial and semi-financial institutions and any other organization contracted under this Act;
- (e) prepare, sign and transit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund prepared in such a manner as the Public Sector Accounting Standard

Board shall prescribe and submit a copy to the County Treasury;

- (f) furnish additional information which is proper and sufficient for the purpose of examining and audit by the Auditor General in accordance with the provisions of the Public Audit Act;
- (g) undertaking such other functions as the Executive Member may assign.

(2) The Officer administering the Fund shall in every quarter submit a report to the Executive Member on the Fund activities, operations and expenditure, detailing among others—

- (a) total amounts disbursed;
- (b) the status of uptake of the loan in each ward;
- (c) the performance of any financial institution contracted under this Act;
- (d) the rate of repayment and the strategies for management of defaulter; and
- (e) any other information that the Executive Member may require.

16. (1) The County Public Service Board may appoint such other members of staff as may be necessary for better administration of the Fund.

Other staff
members

(2) Notwithstanding the provisions of this Act, the Chief Officer may deploy such members of staff to implement the provisions of this Act and in particular—

- (a) evaluate an applicant's credit worthiness and advice the officer administering the Fund;
- (b) evaluation of loan applications and any attachments, including evaluation of a business proposal;
- (c) recommend to the officer administering the Fund the successful applicants for grant of a loan;
- (d) assess an applicant's eligibility for the loan applied for and advice the officer administering the Fund;

- (e) follow up on loan repayments; and
- (f) undertake such other duties as may be assigned from time to time.

(3) The Executive Member may prescribe regulations for better implementation of this section.

PART IV—APPLICATION, CONDITIONS AND DISBURSEMENT OF THE LOAN

17. (1) A person shall not be eligible for a loan under this Act unless that person is—

Eligibility for a loan

- (a) a resident; and
- (b) is either a youth, woman, person with disability or a vulnerable or disadvantaged person.

(2) Notwithstanding the provisions of subsection (1), a person may not qualify for a loan where that person is listed as a defaulter by the Credit Reference Bureau.

(3) For purposes of this Part, a person shall be deemed to be a successful applicant if that person has met all the requirements under this section.

18. (1) In addition to any other requirements under this Act, an applicant may be granted capital start-up loan under this Act to a maximum of Kenya Shillings fifty thousand subject to the applicant—

Requirements for capital start-up

- (a) submitting a business proposal; and
- (b) providing a security for the loan.

(2) For purposes of this section, a security may include chattels, movable and immovable securities.

(3) Notwithstanding the provisions of subsection (1), the Executive Member may, with the approval of the County Executive Committee, prescribe the limits of the capital start-up loan by a notice.

19. (1) In addition to any other requirements, an asset acquired from the proceeds of a loan under this Act shall be charged to the Fund until the loan is fully paid, and in the event of default, the asset shall be repossessed by or on behalf of the Fund and disposed of to recover the outstanding debt.

Asset financing

(2) Where applicable, a beneficiary shall insure an asset financed under this section against all risks.

20. (1) The agriculture produces or livestock acquired from the proceeds of a loan granted under this Act may, in the event of default, be attached and disposed of by or on behalf of the Fund to recover any outstanding debt.

Agribusiness
financing

(2) Where applicable, a beneficiary shall insure livestock and agriculture produce financed under this sections against all risks.

21. (1) An applicant may be financed up to fifty percent of the value of a local purchase order or a local supply order granted by the County Government and shall not be required to provide any security.

Local Purchase
Order financing

(2) An applicant may be financed up to twenty percent of the value of a local purchase order or local supply order granted by any other entity or agent subject to that person providing a security for a loan.

22. (1) An application for a loan shall be made to the officer administering the Fund in the format prescribed by the Executive Member by a notice.

Application
process

(2) An application under this section may be made by a person or groups of persons.

(3) The loan application maybe processed through a financial or semi-financial institution in accordance with the provisions of this Act.

(4) The officer administering the Fund may, on recommendation of the designated officer, the semi-financial institution or the financial institution, disburse or authorize disbursement of the loan to successful applicant's subject to the availability of the Funds.

23. (1) The Executive Member may in writing, upon execution of a memorandum of Understanding under this section, appoint a semi-financial institution operating within the County to process and disburse loan products under this Act to its members.

Processing an
application
through a semi-
financial
institution

(2) The Memorandum of Understanding under subsection (1) shall include—

(a) the provisions that the loan products shall be disbursed to its members only;

- (b) the amount of money advanced to the Cooperative society;
- (c) the period the cooperative society is allowed to utilize the money;
- (d) conditions for utilization of the money advanced;
- (e) the date of repayment of the total amount deposited in their account to the County Government;
- (f) a clause to commit the cooperative society to the loan conditions, limits and interest rates set by the County Government;
- (g) undertaking by the cooperative society to guarantee the members loans and to reimburse the County Government in the event of default by any of its members;
- (h) undertaking to insure the total amounts disbursed to its account by the County Government against all risks; and
- (i) termination and consequences of termination.

(3) A semi-financial institution appointed under this section shall apply to the officer administering the Fund for a loan from the Fund on behalf of its members and shall give a guarantee equivalent to the sum borrowed.

(4) A guarantee of the members' shareholding may be given by a resolution of the members committing the members shares in the semi-financial institution as a lien for any amounts owing to the County Government.

(5) An application under this section shall be accompanied by—

- (a) registration documents;
- (b) list of the members, their contacts and total shareholding;
- (c) a resolution of the members to borrow;
- (d) a resolution to guarantee the loan; and
- (e) a copy of the Memorandum of Understanding executed under this section.

(6) The Officer Administering the Fund shall consider the application under this section and where

satisfied that the semi-financial institution is committed to improving the economic welfare of its members and has the organizational and governance structure to guarantee payment of the loan, shall, with the approval of the Executive Member in writing, disburse the loan to the semi-financial institution.

(7) A semi-financial institution shall only disburse the loan products to its members in accordance with its rules and regulations

(8) In addition to any other remedy under any written law, where a semi-financial institution is unable to repay the total loan advance as per the Memorandum of Understanding, the County Government shall have the right to recover the amount in full either or from the Co-operative society's guarantee, the member's shareholding or directly from the individual member to whom a loan was advanced as if the County Government had entered into an agreement with the individual member.

(9) A semi-financial institution shall prepare a quarterly report and submit to the officer administering the Fund detailing—

- (a) the amounts disbursed to the date of reporting;
- (b) the list and contacts of the member who has been granted a loan;
- (c) the rate of repayment; and
- (d) assessment of the impact of the loan granted.

(10) The County Assembly may summon any official of a semi-financial institution to appear before it to answer to any question or submit a report relating to the loan granted to it.

(11) The Executive Member may prescribe rules for better implementation of this section.

24. (1) The Executive Member may, with the approval of the Executive Committee Member responsible for finance, upon execution of a memorandum of understanding, appoint a financial institution to process and disburse loans to applicants under this Act.

Appointment of a
financial
institution

(2) For purposes of this section, a financial institution shall have the same definition as ascribed in the Central Bank Act.

(3) A financial institution appointed under sub-section (1) shall not disburse any Funds without the prior approval of the officer administering the Fund.

(4) The Executive Member may prescribe rules for better implementation of this section.

25. (1) The following interest rates shall be applicable for the specific loan products—

Approved interest rates

- (a) not more than five per cent per annum for start-up capital loans;
- (b) not more than eight per cent per annum for business support for micro, Macro and existing business; and
- (c) not more than eight per cent per annum for tender award financing.

(2) The Memorandum of Understanding executed under this section shall, in addition to any other requirements, prescribe the share of the interest which the financial and semi-financial institutions shall to deposited to the Fund account.

(3) Notwithstanding the provisions of sub-section (1), the Executive Member may with the approval of the County Executive Committee and the County Assembly by notice issue guidelines prescribing the loan limits, interest rates and repayment conditions.

26. (1) A loan shall not be utilized for any other purpose other than the purpose for which it was approved.

Utilization of the loan

(2) Where a person utilizes the loan contrary to the purposes for which the loan was approved, the Officer Administering the Fund may disqualify a person from accessing a further loan from the Fund.

(3) Where a financial institution utilizes or disburses loans contrary to the provisions of this Act and the Memorandum of Understanding, the Executive Member may with or without notice revoke the memorandum of understanding and in every such case, the financial

institution shall be required to pay back all the monies advanced within the period specified in the Memorandum of Understanding.

27. (1) In addition to any other remedy under this Act, the officer administering the Fund shall refer the name of any defaulter to the Credit Reference Bureau.

Actions against defaulters

(2) For purposes of this section, a defaulter shall include any person who has failed to repay any loan granted under the Kiambu County Youth Women and Persons with Disabilities Enterprise Development Fund Act, 2014.

PART V— FINANCIAL PROVISIONS

28. (1) The officer administering the Fund shall in accordance with the county budget schedule as shall be notified by the Executive Member responsible for finance prepare or cause to be prepared the estimates of the revenue and expenditure of the Fund for that financial year.

Annual estimates

(2) Upon approval of the estimates by the County Assembly, all monies appropriated for purposes of the Fund shall be paid into the Fund's account.

29. (1) The officer administering the Fund shall, within three months after the end of the financial year, submit to the Executive Member the Auditor-General report together with a report of the operations of the Fund, the yearly balance sheet and such other statements of accounts as the Executive Committee Member may require.

Annual report and publication

(2) The Executive Member shall lay before the County Assembly the reports, balance sheet and statements submitted under this section in the sitting within the four months after the end of the financial year.

(3) The Executive Member may publish the balance sheet, statements and reports submitted under this section within the County Government communication channels, including the County Government website.

PART VI— GENERAL PROVISIONS

30. (1) In addition to any other written remedy or written law, an applicant who gives false or misleading statements in respect of the loan application or utilization of the loan, whether orally or in writing, commits an

Offences

offence under this Act and on conviction is liable to a fine not exceeding Kenya Shillings. twenty thousand (KSh. 20,000).

(2) A person who disburses loan contrary to the provisions of this Act or the memorandum of understating contrary to this Act commits an offence and on conviction shall be liable to a fine of a sum not exceeding Kenya Shillings five hundred thousand (KSh. 5,00,000) or to imprisonment for a term not exceeding six months or to both.

31. (1) Subject to the provision of the Public Finance Management Act, the Executive Member, may, with the approval of the County Executive Committee, make regulations generally for the better carrying out of the provisions of this Act. Regulations

(2) Without prejudice to subsection (1), regulations may prescribe the—

- (a) procedure and criteria for accessing a loan from the Fund;
- (b) loan repayment conditions, interest or penalties applicable including the procedure for management of defaulters.
- (c) loan limits; and
- (d) criteria for appointment of a financial institution.

(3) Pursuant to Article 94(6) of the Constitution, the legislative authority delegated to the Executive Member in this section shall be exercised only for the purpose and intent specified in this section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory Instruments Act. Cap 2

32. A person who is aggrieved by the decision of the officer administering the Fund may appeal to the Executive Member in writing within thirty days from the date the decision was made. Appeal

33. Any contract entered into or any loan granted or any liability, right or interest arising or accrued by the operation of the Kiambu County Youth, Women and Persons with Disabilities Enterprise Development Fund Act, 2014 shall be deemed to be a contract, loan, liability, right or interest accrued under this Act. Transition and saving provisions

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