

SPECIAL ISSUE

Kenya Gazette Supplement No. 4 (Kilifi County Bills No. 3)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KILIFI COUNTY BILLS, 2018

NAIROBI, 4th May, 2018

CONTENT

Bill for Introduction into the County Assembly of Kilifi —

PAGE

The Kilifi County Microfinance Fund (Mbegu Fund) (Amendment) Bill, 2018 1

**THE KILIFI COUNTY MICROFINANCE FUND (MBEGU FUND)
(AMENDMENT) BILL, 2018**

A Bill for

**AN ACT of the County Assembly of Kilifi to amend the Kilifi County
Microfinance (Mbegu Fund) Act, 2016**

ENACTED by the County Assembly of Kilifi as follows—

Short title and commencement

1. This Act shall be cited as the Kilifi County Microfinance (Mbegu Fund) (Amendment) Act, 2018 and shall come into operation upon publication.

Amendment of Long title of No. 12 of 2016

2. The Long title of the Kilifi County Microfinance (Mbegu Fund) Act, 2016, in this Act referred to as “the principal Act” is amended by inserting the words “(Mbegu)” immediately after the word “Microfinance”.

Amendment of section 2 of No. 12 of 2016

3. Section 2 of the principal Act is amended by—

- (a) inserting the words “Kenya Shillings” immediately after the word “exceed” in paragraph (a) of the definition of the word “micro enterprise”.
- (b) inserting the words “”thousand” between the words five hundred” and “and” in paragraph (a) of the definition of the word “small enterprise”.
- (c) inserting the words “Kenya Shillings” immediately after the word “between” in paragraph (a) of the definition of the word “small enterprise”.
- (d) inserting the following new definitions in their proper alphabetical sequence,

“Sub-County Administrator” means an administrator responsible for the coordination, management and supervision of the general administrative functions in the sub-county unit as provided in section 50 of the County Governments Act;

“Ward Administrator” means an administrator responsible for the coordination, management and supervision of the general administrative functions in the ward unit as provided in section 51 of the County Governments Act;

2 *The Kilifi County Microfinance Fund (Mbegu Fund) (Amendment) Bill, 2018*

- (e) by deleting the definition of “Financial Year”;
- (f) by deleting the words “section 11” in the definition of the word “fund” and replacing it with the words “section 4”;
- (g) In the definition of the word “Fund Manager”-
 - (i) by deleting the words “any” and replacing it with “the”,
 - (ii) by deleting the words “by the County Executive Committee Member under section 15” and replacing it with the words “section 17(1)”; and
- (h) by deleting the words “micro and small enterprise” and its definition.

Amendment of section 3 of No. 12 of 2016

4. Section 3 of the principal Act is amended by deleting the entire section and rephrasing it as follows—

3. The object and purpose of the Act is to provide for;
- (a) the establishment and administration of the Kilifi County Microfinance Fund; and
 - (b) the provision of seed capital for micro and small enterprises within Kilifi, for their business development and linkages to markets.

Amendment of section 4 of No. 12 of 2016

5. Section 4 of the principal Act is amended in subsection (2) by deleting paragraph (a) and replacing it with the following new paragraph—

- (a) Monies allocated by the County Executive and approved by the County Assembly of an amount not less than 0.5% of the total County annual revenue per year for 10 years subject to review.

Amendment of section 5 of No. 12 of 2016

6. Section 5 of the Principal Act is amended by—

- (a) deleting the words subject to section 12” appearing in subsection (2);
- (b) deleting the words “manage and administer” appearing in subsection (2) and replacing with the words “provide strategic leadership, policy direction and supervision of the fund”

Amendment of section 6 of No. 12 of 2016

7. Section 6 of the principal Act is amended in sub-section 2—

- (a) by deleting the word “clause” and replacing it with the word “section”; and
- (b) by deleting the word “(f)” appearing immediately after the words “sub-clause (1) and replacing it with the words “(d)”.

Amendment of section 7 of No. 12 of 2016

8. Section 7 of the principal Act is amended by—

- (a) inserting the number “(1)” immediately after the words “section 6”;
- (b) deleting the number “6(f)” appearing immediately before the word “and” and replacing it with the letter “(d)”

Amendment of section 8 of No. 12 of 2016

9. Section 8 of the principal Act is amended in sub-section (2)—

- (a) by deleting the words “manage, control and administer the Fund” and replacing with the following words “enter into association with such other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects of this Act” in paragraph (b);
- (b) by deleting the word 'establish' and replacing it with “Advice the County Executive Member for Finance on” in paragraph (c);
- (c) by inserting the words 'as provided under section 116(1), 9 and 145 of the Public Finance Management Act, 2012” immediately after the word “recovery” in paragraph (c).
- (d) by deleting the words “engaged by the Board” appearing immediately after the word “Administrator ” in paragraph (d);.
- (e) by deleting the word 'receive and consider" and replacing it with “Approve” in paragraph (d)(i);
- (f) deleting the word “recover matured loans” and replacing it with “oversee implementation of the fund activities” in paragraph 8(2)(d)(ii);

Insertion of new section 10

10. The principal Act is amended by deleting Section 10 and 11 and inserting the following new section immediately after section 9—

10A. Sub-County Microfinance Fund Committees

1. There shall be established a Microfinance Fund Committee in every Sub County.

2. The Sub County Microfinance Fund Committee shall consist of—

4 *The Kilifi County Microfinance Fund (Mbegu Fund) (Amendment) Bill, 2018*

- (a) the Sub County Administrator who shall be the Chairperson of the committee;
- (b) the Sub County Trade Officer who shall be the secretary of the committee;
- (c) the Sub County Cooperative Officer; and
- (d) Ward administrators for the area Sub County.

Amendment of section 12 of No. 12 of 2016

11. Section 12 of the principal Act is amended by deleting the entire section and rephrasing it as follows—

12. Functions of the Sub-County Committees

(1) The Sub-County Microfinance Fund Committees shall have the following functions—

- (a) to receive, to verify, to reject or to approve such applications to certain limits in accordance with the provisions of this Act and as stipulated in the regulations;
- (b) identify and profile duly registered/licensed MSEs within the Sub-County using guidelines as provided;
- (c) receive and appraise duly filled loan applications forms;
- (d) recommend disbursements of funds to the board;
- (e) undertake monitoring and evaluation of the activities including field visit to beneficiaries; and
- (f) compile update and forward progress to the board on a quarterly basis.

(2) Pursuant to subsection (1) above, the Sub County and Ward administrators shall also—

- (a) co-ordinate the Funds activities at their respective units;
- (b) facilitate in Identifying and profiling duly registered/licensed beneficiaries within their units using guidelines provided; and
- (c) periodically conduct monitoring and evaluation of the beneficiaries' funded projects including undertaking field visits to beneficiaries.

Amendment of section 14 of No. 12 of 2016

12. The Principal Act is amended at Section 14—

- (a) by deleting the words “Sub-county Micro Finance Fund Committee” appearing immediately after the word “Board”; and

- (b) by deleting the words “and in the case of the Sub-County Committee the appointing authority shall write to the Board requesting for removal of a member in the Sub-County Committee”.

Insertion of new section 15A into No. 12 of 2016

13. The principal Act is amended by inserting the following new section immediately after section 15.

Other Staff of the Fund

15 A. The Board may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the Fund under this Act, upon such terms and conditions of service as the Board may determine.

Insertion of new section 17A into No. 12 of 2016

14. The principal Act is amended by inserting the following new section immediately after section 17—

17A. Fund Oversight

1. The County executive committee member for finance shall oversee the performance of the activities of the fund under this Act and may, in writing, give directions and make Regulations to the Act on matters of policy not inconsistent with the provisions of this Act under section 23 and subsection 116(9) of the Public Finance Management Act, 2012.

2. The County Executive Committee member for finance shall ensure that a security given in respect of a loan under this section is given in the name of the county government as provided under section 145(4) of the Public Finance Management Act, 2012.

3. The County Executive Committee member for finance may, on behalf of the county government, carry out any of the responsibilities, and exercise any of the powers, of the county government with respect to securing a loan granted by the county government. 145(5) of the Public Finance Management Act, 2012.

Amendment of section 21 of No. 12 of 2016

15. The principal Act is amended at Section 21 (3) by deleting the number “14” appearing immediately after the word “section” and replacing it with the number “16”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Kilifi County Microfinance (Mbegu) Fund Act, 2016 by providing a definite period during which the County Assembly will allocate funds towards the capital of the fund.

In the spirit of fiscal responsibility and prudence, the Act also utilizes the existing structures of the County Government such as the Sub-County and Ward Administrators, Trade and Cooperative Officers who will now form the new Sub-County Committees. The Act also makes provisions for securing loans and clearly outlines the roles of the County Executive Committee Member for Finance as contemplated under section 145 (4) of the Public Finance Management Act, 2012.

The Act also revises the roles of the Kilifi County Microfinance Fund Board to ensure that they conform to section 116 of the Public Finance Management Act, 2012.

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

Dated the 23rd April, 2018.

PETER ZIRO,
*Chairperson, Economic Planning, Trade, Tourism and Co-operative
Development Committee.*