

Kenya Gazette Supplement No. 5 (Kisii County Acts No. 2)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KISII COUNTY ACTS, 2014

NAIROBI, 23rd April, 2014

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**THE KISII COUNTY ASSEMBLY MEMBER'S
MORTGAGE FUND ACT, 2014**

NO. 2 of 2014

Date of Assent: 23rd April, 2014

Date of commencement: 23rd April, 2014

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**THE KISII COUNTY ASSEMBLY MEMBER'S LOAN AND
MORTGAGE FUND ACT, 2014**

**AN ACT of the County Assembly of Kisii to Establish a Loan and
Mortgage Fund for the Members and employees/staff of the Kisii
County Assembly and for connected purposes**

ENACTED by the County Assembly of Kisii, as follows—

Short title

1. This Act may be cited as the Kisii County Assembly Member's Loan and Mortgage Fund Act, 2014, and shall come into operation on the date of Assent by the Governor.

2. (1) In this Act, unless the context otherwise requires—

“Applicant” means a Member and Employee/staff of the County Assembly of Kisii;

“Committee” means the Committee established under section 7 of this Act;

“Borrower” means any applicant in receipt of a loan and or mortgage out of the fund;

“Chief Officer” means the person appointed to administer the County department responsible for financial affairs;

“Committee” means any of the committee established under this Act;

“Employee/staff means person employed by the county assembly service Committee as an employee of the County Assembly, employed on permanent and pensionable terms or on term contract or seconded as the case may be.”

“Governor” means the Governor of Kisii County Government;

“Member of the County Assembly” Means a member elected or nominated in accordance with Article 177(1) of the Constitution;

“Member of the Executive Committee” means the Member of the Executive Committee responsible for Finance;

“Members of the scheme” means the Kisii County Assembly Members and any employee of Kisii County Assembly employed on permanent and pensionable terms or on term contract or on secondment.

“Prescribed” means as prescribed by the Member of the Executive Committee responsible for Finance.

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Kisii County Assembly Member's Loan and Mortgage Fund

Establishment of the Fund

3. (1) There is hereby established a Fund to be known as the Kisii county assembly member's Loans and Mortgage Fund.

(2) The Fund shall be a body corporate with perpetual succession and a common seal, and shall have power to acquire, own, possess and dispose of property, and to contract, and to sue and be sued in its own name.

Objectives of the Fund

4. (1) The object and the purpose of the Fund is to enable loans and mortgages to be advanced to members and Employees of the Kisii County Assembly as may be prescribed by the Salaries and Remunerations Commission.

(2) With respect to the fund, the Members of the Kisii County Assembly shall each be entitled to a Car loan and or mortgage facility as follows—

- (a) A maximum Car Loan facility of Kenya Shillings Two Million at three per centum interest rate per annum on a monthly reducing balance
- (b) A maximum Mortgage facility of Kenya Shillings Three Million at a three per centum interest rate per annum on a monthly reducing balance Provided that the Loan and or Mortgage money together with the interest accrued shall be repayable within the legislative term of the borrower.
- (c) A maximum and minimum car loan and mortgage loan for employees shall be as prescribed by the salaries and remuneration commission guidelines or as shall be legislated from time to time.

Resources of the Fund

5. (1) The resources of the Fund shall consist of—

- (a) all sums of money received by or falling due to the Fund in respect of loans made there from and the interest on these loans;
- (b) any amounts that may from time to time be appropriated by the County Assembly;
- (c) all sums of money borrowed by the Fund with the approval of the County Assembly for the purpose of exercising any of its functions or discharging any of its obligations;

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- (d) all sums of money earned by or arising from investments made in respect of the Fund;
- (e) all other sums of money that may in any manner become payable to or vested in the Fund including gifts, grants and donations.

(2) There shall be paid out of the Fund any expenditure approved by the County Assembly Service Board and incurred in connection with the administration of the Fund.

Financial Institution to be Designated Financial Agent

6. The Board may, by Notification to the County Treasury, designate a bank to act as the financial agent of the Fund and the bank so designated shall be subject to the terms and conditions of any agreement for the purpose between the Fund and itself.

Administration of the fund

7. (1) A Loan and Mortgages Management Committee is hereby established for the purposes of this Act and shall consist of the following members.

- (a) The leader of Majority party who shall be the chairperson;
- (b) The leader of minority party who shall be the vice chairperson;
- (c) Two members of the county assembly of different gender, nominated by the members of county assembly to represent special interest groups;
- (d) One person of the public appointed to the County Assembly Service Committee under section 12 (3) (d) of the County Government Act (2012).
- (e) The Clerk who shall be the secretary to the committee.
- (f) The Director, Finance and Budget Affairs
- (g) Two members of different gender representing the staff in the committee"

(2) The Committee shall be responsible for the general administration and management of the affairs of the Fund and specifically, the Committee shall be responsible for —

- (a) Making recommendations with respect to the conditions under which a loan and or a mortgage shall be granted or repaid under this Act;

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- (b) Processing applications for the granting of loans and mortgages to Members of the County Assembly subject to the provisions of any agreement relating to the provision of the loan and or mortgage;
- (c) Receiving, administering and investing there sources of the Fund;
- (d) Supervising the day-to-day running of the Fund;
- (e) Liaising with financial institutions (if any) to set up a revolving fund for the disbursement of the loans; and
- (f) Generally doing all that is expedient or necessary for the proper exercise of other duties and functions with respect to the fund.

(3) The Committee may co-opt any one or more persons to attend any of its meetings for the purpose of assisting or advising the Committee, but no person who has been so co- opted shall have the right to vote.

(4) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson, by a member designated by the chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

(5)(a) The quorum for a meeting of the Committee shall be the chairperson and any two members.

(b) the quorum of the committee shall be a third and in the absence of the chairman and the vice chairman the members shall elect one among themselves for the purpose of chairing that meeting.

Appointment of Committees

8. (1) The Committee in consultation with the County Assembly may appoint committees to examine and report to it on any matter whatsoever arising out of or connected with any if its powers and duties under this Act.

(2) The Committee may by resolution declare the remuneration and allowances payable to persons, other than members of the Committee, appointed to a Committee.

(3) The Committee may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adoptions as the Committee may think fit.

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Applications to the Committee

9. (1) an applicant wishing to be considered for the grant of a loan and or mortgage facility shall make an application to the Committee in the prescribed form.

(2) Regulations shall specify how the borrower shall utilize the loans and or mortgages obtained under this Act.

Lien

10. The security for the loan or mortgage grant shall be the applicant's Certificate of title-log book, or title deed, or lease certificate or deed of guarantee.

Committee to keep Proper Records

11. (1) The Committee shall keep proper accounts and other records relative to its duties and functions and shall prepare annually a statement of accounts in a form to be approved by the County Treasury.

(2) Not later than three months after the end of each financial year, the Committee shall submit the financial statements prepared under this section to the Auditor General.

(3) The Committee shall submit a copy of the report to the County Committee Executive member responsible for

Inducing the Committee to get Loan and or Mortgage

12. (1) Every person who by making or causing to be made a false representation induces or attempts to induce the Committee to grant a loan is liable on conviction to a fine up to a maximum of five hundred thousand or imprisonment for a term not exceeding six months, or to both.

(2) Nothing in this section precludes the instituting of any other proceeding under any other law.

Recovery of Loans and Mortgages

13. (1) Where a repayment of a loan and or mortgage is not made in accordance with the terms and conditions of the loan and or mortgage as provided for under this Act, the sums of money due and owing to the fund shall be recoverable by the Committee, without prejudice to any other remedy, in civil proceedings in the High Court.

(2) Such recoveries shall include—

- (a) the sum of money specified as outstanding with respect to the principal sum initially advanced.
- (b) interest for the sum of money that remains unpaid.
- (c) All reasonable costs and charges incurred by the Committee to recover the unpaid money and interest.

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*Kisii County Assembly Member's Loan and Mortgage Fund***Power to make Regulations**

14. The Committee may, with the approval of the County Assembly, make Regulations generally for the proper carrying out of the purposes and provisions of this Act and in particular, may make Regulations—

- (a) Provision for the administration, management and investment of the resources of the Fund;
- (b) requiring a loanee/mortgagee to whom a loan and or mortgage is made under this Act to furnish such information as may from time to time be required by the Committee; (c) prescribing the basis on which a loan may be obtained;
- (d) prescribing the procedure to be followed prior to the obtaining of a loan and for payment of the amount due on a loan together with any interest thereon;
- (e) Prescribing anything which may be or is required to be prescribed under this Act.

Transition Clause

15. (1) in the absence of appointees to the offices relevant to constitution of the Committee as provided for herein, nothing shall stop the County Assembly from appointing an Interim Committee within three months to deal with the functions of the Committee until such time that the Committee is fully constituted as provided for under the Act.

(2) The Interim Committee as constituted shall be subject to the powers and mandate of the Committee as provided for under the Act.

Remuneration of the Committee

16. The Committee shall be paid sitting allowances as shall be determined by from time to time by the County Assembly Service Board and shall not have more than three sittings a week unless the extra sittings are approved by the County Assembly Service Board.

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