

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

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REPUBLIC OF KENYA

***TRANS NZOIA COUNTY GAZETTE
SUPPLEMENT***

ACTS, 2014

NAIROBI, 4th June, 2014

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P. O. Box 73552 - 00200,
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2014 *Trans Nzoia County Youth and Women Development Fund*



**THE TRANS NZOIA COUNTY YOUTH AND
WOMEN DEVELOPMENT FUND ACT**

No. 2 of 2014

Date of Assent: 4th June, 2014

Date of Commencement: 4th June, 2014

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2014 *Trans Nzoia County Youth and Women Development Fund*

**THE TRANS NZOIA COUNTY YOUTH AND
WOMEN DEVELOPMENT FUND ACT, 2014**

**AN ACT of County Assembly of Trans Nzoia to
provide for the establishment of the Trans
Nzoia County Youth and women Development
Fund, and for matters incidental thereto and
connected therewith**

ENACTED by the County Assembly of Trans Nzoia
as follows—

1. This Act may be cited as the Trans Nzoia County
Youth and Women Development Fund Act, 2014.

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

“Fund” means the Trans Nzoia County Youth and
Women Development Fund established under section 5;

“Board” means the Board of the Fund constituted
under section 8;

“CEC” means the County Executive Member
responsible for matters relating to youth & Women;

“Financial year” means the financial year of the Fund
as provided for under section 28;

“Fund” means the Trans Nzoia Youth & Women
Development Fund established under section 5;

“Member of the Board” means a person appointed or
nominated under section 8;

“Youth” means any Kenyan citizen who has attained
the age of eighteen but has not exceeded the age of thirty
five years;

“Ward, Youth and Women Committees” means the
Ward, Youth Committees established under section 17;

“Woman” means any female Kenyan citizen who has
attained the age of 18 years or above;

Objects and purpose of this Act

3. The objects and purpose of the Act is to provide
for—

- (a) The establishment, functions, powers and responsibilities of the Trans Nzoia County Youth, and Women Development Fund; and
- (b) measures for ensuring that the youth & women access employment pursuant to Article 55 of the Constitution.

Guiding principles

4. In the performance of the functions and exercise of powers under this Act, the Fund shall be guided by the values and principles set out in Articles 10, 201 and 232 of the Constitution.

PART II—ESTABLISHMENT OF THE COUNTY YOUTH AND WOMEN DEVELOPMENT FUND

Establishment of the Fund

5. (1) There is established a fund to be known as the Trans Nzoia County Youth and Women Development Fund.

(2) The Fund shall be a body corporate, capable of suing and being sued in its corporate name.

(3) The offices of the Fund shall be located at the Trans Nzoia County Headquarters at Kitale town.

Powers and Functions of the Fund

6. (1) The Fund in its corporate name shall further be capable of—

- (a) taking, purchasing or otherwise acquiring, holding, charging and or Disposing of movable and immovable property, if any;
- (b) entering into contracts;
- (c) borrowing and lending money; and
- (d) doing or performing all such other things or acts necessary for the Proper performance of its functions under this Act, and which may lawfully be done or performed by a body corporate.

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6. (2) The core mandate of the Fund shall be to provide loans to the youth and women groups registered in Trans Nzoia County.

(3) Without prejudice to the generality of the provisions of subsection (1), the Fund shall—

- (a) provide enterprise development services;
- (b) facilitate employment of youth in the local and inter County labor market;
- (c) perform any other lawful function for purposes of promoting youth and women enterprise.
- (d) consider facilitating already existing projects of youth and women at the ward level.

Sources of revenue for the Fund

7. (1) The funds and assets of the Fund shall comprise—

- (a) monies allocated by County Government for the purposes of the Fund;
- (b) any grants, gifts, donations, loans or other endowments given to the County department of Gender;
- (c) such funds as may vest in or accrue to the Fund in the course of the exercise of its powers or the performance of its functions under this Act; and
- (d) Monies from any other lawful source accruing to the County department of gender.

(2) The funds of the Fund shall be held in a Fund to be known as the Youth and Women County Development Fund which shall be Administered, on behalf of county ministry of gender, by the Board.

(3) The Board shall be paid from the Fund—

- (a) loans to the youth and women from Trans Nzoia County;
- (b) capacity building, training to women and youth group;

- (c) such other operational expenses incurred by the Fund in the performance of its functions; and
- (d) monies that are necessary for the Board to carry out its mandate within the scope of this Act.
- (4) the Fund may, subject to any other law relating to the management of public finances, apply the revenue generated from the discharge of its core mandate specified under section 6 (1) in supporting the functions specified under section 6 (2).

(5) The provision of any law or regulation relating management of public funds shall apply to the management of the Fund.

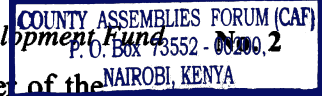
Management of the Fund

8. (1) The management of the Fund shall, subject to the Corporations Act, vest in the Management Board which shall consist of—

- (a) a non-executive chairperson nominated by the members of the Board and approved;
- (b) the Chief Officer for the Ministry of Gender/Youth/Women;
- (c) the Chief Officer for the Ministry responsible for;
- (d) one person nominated by the County Youth Council and Appointed by the Board;
- (e) one person of either gender, appointed by the CEC Member responsible for youth and women;
- (f) two members of the County assembly, one man and one woman, nominated by Gender/Youth Committee;
- (g) a Chief executive officer of the Board, as the Secretary to the Board;
- (h) a person with disability nominated by Council.

(2) A member of the Board who is a public officer may, in writing, appoint another Public officer to attend meetings of the Board in the member's absence and the alternate member appointed shall, when attending a

2014 *Trans Nzoia County Youth and Women Development Fund* meeting, be deemed for all purposes to be a member of the Board.



(3) An alternate member appointed under subsection (2) shall not delegate his/her appointment.

(4) The members of the board shall be paid such sitting allowance as may be decided by the CEC member for Gender, Youth, Culture, Sports and Tourism.

Function and Powers of the Board

9. (1) The Board shall have such powers as may be necessary for the proper performance of its functions under this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), the Board shall—

- (a) prepare reports to the CEC member responsible for youth and women on affirmative Action and vet youth and women groups;
- (b) manage, control and monitor the Fund in such manner and for such purposes as best promotes the purpose for which the Fund is established;
- (c) receive and consider all loan applications from eligible persons and groups from Ward committees.
- (d) approve or reject such applications in accordance with the provisions of this Act;
- (e) monitor recovery of matured loans;
- (f) subject to the provisions of this Act, exercise discretion in the application of the Fund;
- (g) keep data of youth and women groups from each ward for purposes of lending on such terms and conditions as the Board may determine;
- (h) exercise such other lawful powers as may be conferred by this Act or other law.

(3) The Board shall, partner with any person for purposes of achieving its objectives under this Act,

including partnering with the credit reference bureaus in enforcing repayment of the loans.

Appointment and qualifications of chairperson

10. (1) The appointment and qualification of the chairperson and under section 8 (1) (a), (f) and (g) shall be in accordance with the provisions of this Act.

(2) A person shall be qualified for nomination as a chairperson under section 8 (1) (a) if such person—

- (a) holds a minimum of a bachelors degree from a university recognized in Kenya;
- (b) has a distinguished career in a senior management position in either the private or public sector;
- (c) holds at least five years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter six of the Constitution.

The Members

(3) A person shall be qualified to be nominated as a member of the Fund under section 8 (1) (f) and (g) if such person—

- (a) holds a minimum of O level certificate;
- (b) has not been discharged bankrupt;
- (c) Satisfies the requirements of chapter six of the Constitution;
- (d) has at least five years' post-qualification professional experience in matters relating financial management, venture capital fund management or youth and women development; and
- (e) satisfies the requirements of Chapter six of the Constitution.

(4) A person shall not be qualified for nomination as the chairperson of the Fund if the person—

- (a) is a member of county assembly;
- (b) is a member of a governing body of a political party;
- (c) is an undischarged bankrupt;
- (d) has been removed from office for contravening the Constitution or any other law; or
- (f) has, in the conduct of his affairs, not met any statutory obligations.

Term of office of members of the Board

11. (1) The chairperson and every member of the Board appointed by CEC Member responsible for youth and women shall hold office for a term of four years and shall be eligible for appointment for one further term based on satisfactory performance.

(2) The term of office of the chairperson and members of the Board as first constituted and at every nomination or change in membership shall commence on the date of appointment approved by County Executive Members.

(3) The chairperson or a member of the Board may resign from office by written notification addressed to the CEC Member responsible for youth and women

Removal from office

12. (1) A member of the Board may be removed from office only for—

- (a) gross violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's Functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office; or
- (e) incompetence or neglect of duty.

(2) The CEC Member responsible for youth and women may, upon the recommendation of the Board terminate the nomination of a member of the Board on any of the grounds specified under subsection (1).

Vacation of office

13. A person shall cease to be a member Board if such person—

- (a) resigns in writing, to the CEC Member responsible for youth and women
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is declared bankrupt;
- (d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (e) dies.

Filling of vacancy

14. Where a vacancy occurs in the membership of the Board under section 12 or 13, the CEC Member responsible for youth and women shall, if the vacancy relates to any of the positions specified under section 8 (a), (f) or (g), appoint a new member in accordance with the provisions of this Act.

Meetings of the Board

15. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall convene the ordinary meetings of the Board at the premises of the Board.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board at any time where he considers it expedient for the transaction of the business of the Board.

(4) Unless three quarters of the total number of the members of the Board otherwise agree, at least fourteen days written notice of every meeting of the Board shall be given to every member of the Board by the chief executive officer.

(5) The quorum for the conduct of the business of the Loans Board shall be two-thirds of the total number of members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of the Loans Board at which he is present and in his absence, the members of the Loans Board present shall elect one person from their number to preside over the meeting of the Board and he shall have all the powers of the Chairperson.

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

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of any relevant written law the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings thereof.

Roles and functions of the Chief Executive Officer

16. (1) The Chief Executive Officer of the Fund shall be the chief officer of the ministry of Gender, Youth, Culture, Sports and tourism who shall also be the Secretary to the Board.

(2) The Chief Executive Officer shall—

- (a) be responsible to the Board for the day-to-day management of the affairs of the Fund;
- (b) be the accounting officer;
- (c) Custodian of all records of the Board;
- (d) responsible for—
 - (i) implementation of decisions of the Board;
 - (ii) assignment of duties and supervision of all employees at the department level;
 - (iii) facilitating, coordinating and ensuring execution of the Board's mandate;
 - (iv) ensuring staff comply with chapter six of the constitution;

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- (v) the performance of such other duties as may be assigned by the law and the Loans Board.

Youth and Women Ward Committee

17. (1) There shall be a committee at the Ward level known as Youth and Women Ward Committee.

- (2) Youth and Women Ward Committee shall comprise—
- (a) ward administrator who shall be the CEO of the Committee
 - (b) a woman representative elected by the woman.
 - (c) a youth representative elected by the youths.
 - (d) the elected member of the County Assembly.
 - (e) religious organization
 - (f) A person with disability.
 - (g) special groups

The functions of the Youth and Women Ward Fund Committee

18. The functions of the Youth and Women Ward Fund Committee shall be to—

- (a) receive application forms from the board.
- (b) distribute the application forms in a manner that is equitable and fair
- (c) receive the applications forms after being filled from the members of the public.
- (d) vetting of applications the bursary forms and
- (e) returning the forms back to the bursary board.

Removal from Office

19. A member of the Youth and Women Fund Committee may be removed from office for—

- (a) Violation of the Constitution or any other written law;

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- (b) misconduct in the public members functions and performance;
- (c) incapacitation either physically or mentally;
- (d) incompetence.

Vacation of Office

20. A person shall cease to be a member of the Youth and Women Ward Fund Committee if such a person—

- (a) resigns in writing to the Ward Administrator who is the CEO of the Committee.
- (b) is convicted of a criminal offence and sentenced
- (c) declared bankrupt
- (d) is unable to perform the functions as required in their capacity
- (e) if an MCA loses their position in the Assembly.
- (f) dies.

Filling of Vacancy

21. Where a vacancy occurs in the membership of the board under Sec 19 and 20, the Women and Youth members shall be replaced as the vacating member.

Special Ward Committee

22. (1) The board may create a special Ward Committee as considered necessary for the performance of its function and the exercise of its powers under this Act.

(2) The board may co-opt into the membership of a committee established under (1) other persons whose knowledge and skills are found necessary for the functions of the board.

Disbanding of the Special Committees

23. (1) Where the board formed a special committee and the special committee has fulfilled its functions then the board is at liberty to disband the special committee.

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(2) Notwithstanding the provisions of section (1) any member officer agent or staff who knowingly will in our liability would be exempted from the provisions of sub section (i) causes damage or loss to the Fund will be held liable.

Delegation by the Board

24. The Board may, in writing generally or in any particular case, delegate to a member, Chief Executive Officer, the exercise on any of its powers or the performance of any of the functions under this Act.

Official Seal of the Fund

25. (1) The Official seal of the Fund shall be kept in the custody of the CEC Member responsible for youth and women and used except upon the order of the CEC Member.

(2) The Official seal shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved any order or authorization by the Fund under this section shall be presumed to have been duly given.

(3) The affixing of the Official seal of the CEC Member responsible for youth and women shall be authenticated by the signatures of the Chairperson or the Chief Executive Officer.

(4) In the absence of the Chairperson or the Chief Officer, the Board shall nominate a member of the Board to authenticate the Official seal of the Authority on behalf of either the Chairperson or the Chief Executive Officer.

Signing on behalf of the Board

26. (1) All letters and instruments written or made by or on behalf of the Board, other than those required by law to be under seal, and all decisions of the Board, shall be signed under the hand of the Chairperson or the Chief Executive Officer.

(2) In the absence of the Chairperson or the Chief Executive Officer, a member of the Board, authorized as such, may sign any letter or instrument.

Protection of members of the Fund and staff from liability

27. Liability shall not attach to the Fund or to any of its members, officer, an agent or staff for loss or damage incurred by any person as a result of any act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any, duty or power imposed by or conferred under this Act notwithstanding;

Administration of the Fund

28. (1) Youth and women wishing to be considered for a loan shall make an application to the Board in the prescribed form.

(2) Any person who—

- (a) in filling a loan application form, knowingly makes any false statement, whether orally or in writing relating to any matter affecting a request for a loan;
- (b) being required under paragraph (a) to answer any questions, furnish any information or particulars or produce any document or paper, neglects to do so without reasonable cause; or
- (c) is granted a loan based on false information, commits an offence and in the case of paragraphs (a) and (b) shall, upon conviction, be liable to a fine of not exceeding one hundred thousand shillings or to imprisonment for a term of not exceeding eighteen months and in the case of paragraph (c) to a fine of not exceeding two hundred thousand shillings or to imprisonment for a term of not exceeding three years.

(3) The Board shall recommend the youth & women groups through the ward committees.

Conditions for grant of Loan

29. (1) The Board shall grant a loan to an applicant upon such terms and Conditions as the Board may deem fit.

(2) Notwithstanding subsection (1), the Board may set the criteria and Conditions governing the granting of loans including the rate of interest to be charged, taking into

consideration the need to ensure sustainability of the Fund and affordability of the loan.

(3) Any unrepaid loan, including administrative management fee thereon, shall be recoverable by the Board as a civil debt, but prejudice to the board's right of realization of any security advanced in securing the loan.

(4) Security for any loan to be advanced shall be subject to the terms and conditions as may be set by the Board.

PART IV—FINANCIAL PROVISIONS

Annual Estimates.

30. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.

(2) The financial estimates referred to under subparagraph (1) shall—

(a) differentiate between recurrent and development expenditure; and

(b) itemize every activity that the Fund intends to undertake in the coming financial year under a separate vote head.

(3) The Chief Executive Officer shall lay the proposed estimates before the Executive Member representing youth and women for review and approval.

(4) The Board may make alterations to the estimates and shall thereafter submit them to the CEC Member representing youth and women for transmission to the County Assembly for approval.

(5) Upon approval of the estimates by the County Assembly, all monies from time to time required for purposes of the this Act shall be paid into the Fund.

(6) If after approval of the budget the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act as contemplated under Article 223 (1) (a) of the Constitution, the Secretary shall prepare supplementary

estimates of revenue and expenditure in the manner specified under paragraph (2).

(7) Supplementary estimates referred under paragraph (6) shall not exceed the ten percent of the sum appropriated by Parliament for that financial year unless special circumstances exist as contemplated under Article 223(5).

(8) If there are any special circumstances to warrant exceeding the limit stipulated under paragraph (7), the supplementary estimates shall contain a description of the circumstances and a justification for requesting for more funds.

(9) Supplementary estimates shall be presented to the CEC for Gender then Submission to the county assembly for approval.

Accounts and Audit

31. (1) The Fund shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the CEC member representing youth and women may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the CEC-Finance;

- (a) a balance sheet showing details of the assets and liabilities of the Fund and
- (b) Such other statements of account as the CEC Member may approve.

(2) The accounts of the Fund shall be examined, audited and reported upon annually by the CEC-Finance in accordance with the Public Audit Act.

(3) The Fund shall submit to the CEC-Finance all books and accounts of the Loans Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Fund such information and explanation as he may consider necessary for the performance of his duties as CEC-Finance.

Annual report and publication

32. (1) The Fund shall, within a period of three months after the end of the financial year, submit to the CEC member representing youth and women a report of the operations of the Fund during such year, and the yearly balance sheet and such other statements of account as the CEC member representing youth and women shall require, together with the County Report.

(2) The Fund shall, publish the report, balance sheet and statements submitted under subsection (1) in such manner as the CEC member may specify.

(3) The CEC member shall lay before the County Assembly the reports, balance sheet and statements submitted under subsection (1), and such statements of accounts as may be approved, within a period of fourteen days of the receipt of the reports and statements, or, if the County Assembly is not sitting, within fourteen days of the commencement of its next sitting.

Financial year of the Fund

33. The financial year of the Fund shall be the period of twelve months ending on the thirtieth June in each financial year.

PART IV—MISCELLANEOUS PROVISIONS

Disclosure of interest

34. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

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

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed

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on behalf of the Fund by any person generally or specifically authorized by the Board for that purpose.

Regulations

35. The executive member for Gender, Youth, Culture, Sports and Tourism may make regulations for better performance of the functions of the management committee and of the board, and for giving full effect to this act.

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