

SPECIAL ISSUE

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WEST POKOT ACTS, 2017

NAIROBI, 5th December, 2017

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THE WEST POKOT COUNTY ASSEMBLY CAR LOAN AND MORTGAGE (AMENDMENT) ACT, 2017

No. 10 of 2017

Date of Assent: 3rd November, 2017

Date of Commencement: 5th December, 2017

AN ACT of the County Assembly of West Pokot to amend the West Pokot County Assembly Car Loan and Mortgage Act, 2015

ENACTED by the County Assembly of West Pokot, as follows—

Short title

1. This Act may be cited as the West Pokot County Assembly Car Loan and Mortgage (Amendment) Act, 2017.

Amendment of the long title of No.10 of 2015

2. The West Pokot County Assembly Car Loan and Mortgage Act, 2015 referred to as the “Principal Act” is amended in the long title by deleting the words “and staff” appearing after the word “members”

Amendment of section 2 of No.10 of 2015

3. Section 2 of the Principal Act is amended in the definitions –

By deleting the definitions of the words:

- (a) “applicant” and substituting therefore with the following definition, “*means a Member of County Assembly of West Pokot who is applying for a loan from the Fund*”.
- (b) “Member of the scheme” and substituting therefore with the following definition, “*means the Member of County Assembly of The West Pokot County, elected or nominated in accordance with Article 177 (1) of The Constitution*;
- (c) “Officer administering the fund” and substituting therefore with the following definition, “*means any person as may be designated by County Executive Committee Member for finance under Section 116(1) and (2) of The Public Finance Management Act, no of 2012*.”

4. The Principal Act is amended by deleting the word “clerk” wherever it appears and substituting thereof with the word “*officer administering the fund*”.

Amendment of Section 7 of No.10 of 2015

5. Section 7 of the principal Act is amended by deleting the words—

“Clerk to administer the Fund” and substituting therefore with the following new words; “Administrator of the Fund”.

No. 10 West Pokot County Assembly Car Loan and Mortgage (Amendment)

Amendment of Section 7 (1) (c) of No. of 2015

6. S. 7 (1) (c). of the principal Act is amended-

By deleting the following words "*in compliance with the accounting standards prescribed and published by the Accounting Standard board*" appearing immediately after the "*Fund*" and substituting thereof with the following words, "*in such details as the Board may*".

Amendment of Section 7(1) (d) of No. 10 of 2015

7. S. 7 (1) (d) of the principal Act is amended-

By deleting the following words-

"*may be required*" appearing immediately after the word "*as*" and inserting the following words, "*she or he may deem to be proper and sufficient*".

Amendment of Section 8(1) of No. 10 of 2015

8. S. 8. (1) of the Principal Act is amended-

-By deleting the whole Sub section and substituting therefore with the following Subsection-

S.8 (1). There is established a committee to be known as the Loans Management Committee, which shall consist of—

- (a) The vice chairperson of the board who shall be the chairperson;
- (b) the administrator of the Fund who shall be the Secretary
- (c) the chairperson of the member's Liaison Committee;
- (d) the Chairperson of the Budget and Appropriations Committee;
- (e) the Minority leader of the West Pokot County Assembly;
- (f) the Majority whip of the West Pokot County Assembly;
- (g) the Minority whip of the West Pokot County;
- (h) Officer in charge of legal services; and
- (i) the Principal Finance officer.

-By inserting the following new sub section

(2) the administrator of the fund shall appoint not more than three officers to help the committee in the administration of the Fund.

Amendment of Section 8(4) (e) of No. 10 of 2015

9. S. 8. (4) (e) of the principal Act is amended-

by deleting the word, "and" appearing immediately after the semi-colon ";".

2017 *West Pokot County Assembly Car Loan and Mortgage (Amendment)*

Amendment to Section 8(4) (f) of No. 10 of 2015

10. S. 8 (4) (f) of the principal Act is amended —

by deleting the whole paragraph and substituting therefore with the following sub-paragraph —

- (a) (f) furnish such additional information as it may deem to be proper and sufficient for the purpose of examination and audit by the Auditor-General;
- (b) By deleting the full-stop and substituting therefore with a semi-colon “;” with “and” preceding it;
- (c) By adding a new sub-paragraph (g).
- (g) prompt accounting and transparent volunteering of information on the implementation, progress and statements of accounts relating to the fund and transmit it to the Controller of Budget, Auditor-General and County Assembly.

Amendment to Section Section 9 of No.10 of 2015

11. S.9. of the principal Act is amended—

By deleting the title of the Section and substituting therefore with the following new title-

“Applications for loans”

Amendment to Section 9. (1) of No.10. of 2015

12. S. 9. (1) of the Principal Act is amended—

- (a) by deleting the words “car loan management” immediately after the word, “the”.
- (b) Inserting the words “hire purchase proposal” immediately after the word “completed”.

Amendment to Section 9(2)b of No. 10 of 2015

13. S. 9. (2) of the principal Act is amended—

By deleting the whole sub section and substituting therefore with the following new Sub-section-

S. 9. (2). The officer administering the Fund shall satisfy the applicant’s financial status and capacity to repay the loan applied and where so satisfied, shall forward the application to the committee for consideration.

Amendment to section 10 of No. of 2015

14. The principal Act is amended—

By inserting a new Section 10A immediately after Section 10.

No. 10 *West Pokot County Assembly Car Loan and Mortgage (Amendment)*

S.10A. (1) The loan that a member of the scheme may receive shall be the value of the vehicle that the member of the scheme proposes to purchase subject to the maximum amount of two million shillings as per Salaries and Remuneration Commission.

(2) For purpose of this Act, the value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a used vehicle shall be as determined by a report from Automobile Association of Kenya, or the Government Department dealing with such matters.

(3) Notwithstanding provisions of subsection (1), there may be advanced from the Fund to a member of the scheme an additional loan not exceeding *ten per centum* of the value of the vehicle purchased by the member of the scheme to cater for an overhaul of the engine of the vehicle.

(4) No member of the scheme shall receive a loan the repayment of which shall result in salary deductions exceeding *thirty per centum* of the monthly emoluments of the Member of the scheme.

Amendment of Section 11 of No.10 of 2015

15. S. 11 of the principal Act is amended—

by inserting the following Sub-sections immediately after Sub-section one (1)—

(2A). A member of the scheme who is unable to raise the funds required for initial insurance premium, such funds may be advanced from the Fund subject to an approved limit, subsequent annual premiums shall be paid by the member of the scheme.

(3). A member of the scheme who is unable to pay the subsequent annual premiums referred to in subsection (1) may apply to the Fund for a loan which shall be repaid within one (1) year.

(4) every loan granted under this Act shall be insured for the benefit of the member of the scheme and the premium in respect thereof shall be debited to the account of the member of the Fund.

Amendment of Section 12 of No.10 of 2015

16. S.12 of the principal Act is amended—

by inserting a new Section 12A immediately after S. 12-

S.12A. (1)A loan advanced under this Act shall be repaid in full over a maximum period of sixty months irrespective of whether the property purchased is new or used.

2017 *West Pokot County Assembly Car Loan and Mortgage (Amendment)*

Amendment of Section 13 of No. 10 of 2015

17. S. 13 of the Principal Act is amended by deleting the entire Section.

Amendment of Section 14 of No. 10 2015

18. S. 14 of the principal Act is amended—

i. In sub section (1) by deleting the words, “mortgage management” appearing immediately after the word “the” .

ii. In sub section (2)

-by deleting the word “applicant” and substituting thereof with the following word, “borrower”

-by deleting the words, “his or her” in Sub-section (2).

iii. In sub section (3) (a) by deleting the words, “/” and substituting with the word, “or”.

iv. In Section (3) by deleting the word “discretion” appearing after the word “may be granted”

19. The principal Act is amended—

by inserting the following Section 14A immediately after Section 14-

S. 14A. A member of the scheme who has no title deed and who wishes to access the Fund shall enter into a guarantee agreement with a third party who has title deed to land and use such title deed as security to accessing the Fund.

(a) A title acquired through a third party for purposes of accessing a mortgage loan by a member of the scheme, shall be deposited at the county assembly and be kept as a security while the loan subsists and up to the time the loan is fully repaid.

(b) Where a member of the scheme who uses a third party title to access a mortgage-loan acquires own title, such Member of the scheme is obligated to replace that third party’s title with own title.

(c) The committee shall place a caution on the third party’s title.

(d) A guarantor should fill and complete discharge documents as may be prescribed by committee and free a guarantor’s title of any charge.

Amendment of Section 16 of No. 10 of 2015

20. Section 16 of the Principal act is amended by adding a new sub-paragraph

(d) copy of title of the seller.

No. 10 *West Pokot County Assembly Car Loan and Mortgage (Amendment) Bill, 2015*

Amendment of Section 17 of No. 10 of 2015

20. S.17 of the Principal Act is amended-

By deleting the word, “twenty-five” appearing immediately after the word “least” and substituting therefore with the following word, “ten (10)”.

Amendment of Section 18(1) of No 10 2015

21. S.18. (1). Of the principal Act is amended—

by adding a new Sub-section(1A)-

18(1A) A member of the scheme who uses a third party title as a collateral shall deposit such title under sworn affidavit for custody by the officer administering the Fund.

Amendment of Section 18 (2) to (4) of No. 10 of 2015

22. S. 18 (2) to (4) of the Principal Act is amended—

i. by deleting the word, “ mortgage management” in Sub-section (1) sub-paragraphs (a) appearing immediately after the words “of the”, (c) appearing immediately after the words “authorizing the” and Sub-section 3 appearing immediately after the words “by the”.

ii. by deleting the word, “management” in Sub-section 2(c) appearing immediately after the words, “approval of the”.

Amendment of Section 20 of No. 10 of 2015

23. S. 20 of the Principal Act is amended—

by deleting the words, “mortgage management” appearing immediately after the word, “The”.

Amendment of Section 21 (2) of No 10 of 2015

24. S.21. (2) of the Principal Act is amended—

by deleting the word, “instituting” and substituting therefore with the following word, “institution”.