

**RULES AND REGULATIONS FOR THE OPERATIONALISATION OF
THE
KITUI COUNTY ASSEMBLY SERVICE BOARD EMPLOYEES’ MORTGAGE
FUNDS SCHEME.**

KITUI COUNTY ASSEMBLY SERVICE BOARD EMPLOYEES’ MORTGAGE SCHEME

IN EXERCISE of the powers conferred by Section 12 (7) of the County Governments Act 2012 and further in line with Circular Ref. No. SRC/ADM/CIR/1/13 Vol. III (128) dated 17th December 2014; the Kitui County Assembly Service Board makes the following Rules and Regulations for the operationalization of the aforementioned Scheme –

PART I- PRELIMINARY

Citation.

1. These Rules and Regulations may be cited as the Kitui County Assembly Service Board Employees’ Mortgage Funds Scheme Rules and Regulations, 2015.

Interpretation.

2. In these Regulations, unless the context otherwise requires-

“Board” means the County Assembly Service Board;

“borrower” means a person in receipt of a loan out of the Fund;

“Committee” means the Loans Management Committee established under regulation 6;

“Commercial Interest rate” means the lowest of the prevailing interest rate offered by most of the commercial financial institutions at the time of the borrower’s default or cessation to be an employee of the Kitui County Assembly Service Board whichever the case.

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

“Scheme” means the Kitui County Assembly Service Board Employees’ Mortgage Funds Scheme established under Regulation 3;

“member of the Scheme” means, any person who is employed by the Kitui County Assembly Service Board on permanent and pensionable terms either on full or part time basis;

“officer administering the Fund” means the Clerk of the County Assembly;

“property” means a residential house purchased through a loan from the Scheme and includes the land purchased under loan from the Scheme on which such house is to be developed;

“valuer” means a person registered as a valuer under the Valuers Act (Cap. 532).

Establishment of the Scheme.

3. There is established a Scheme to be known as the Kitui County Assembly Service Board Employees’ Mortgage Funds Scheme.

Object and purpose of the fund.

4. The object and purpose of the Scheme shall be to provide a loan scheme for the purchase, development, renovation or repair of residential property by members of the Scheme.

Capital of the Fund.

5. (1) The initial capital of the Scheme shall consist of the monies standing to the credit of the account on the date of the coming into operation of these Regulations.

(2) County Assembly may appropriate additional monies to the Fund.

The Loans Management Committee.

6. There is established a committee to be known as the Mortgage Loan Management Committee, which shall consist of-

(a) One Board Member to represent the board who shall be the chairperson of the committee.

- (b) The Deputy Clerk of the Assembly who shall be the vice –chair person of the committee.
- (c) The Principal Finance Officer.
- (d) The Senior Legal Counsel.
- (e) The Person in-charge of Legislative and procedural Department.
- (f) The Head of Human Resource Department.
- (g) One senior Administrative Officer,

(2) The officer administering the Fund shall be an *ex-officio* member of the Committee and the secretary to the Committee.

(3) The Committee may appoint such other staff to attend its meetings.

(4) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson; the vice-chair person or 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) The quorum for a meeting of the Committee shall be the chairperson and any three members.

(6) The Committee shall consider and may approve the loan applications presented by the officer administering the Scheme.

Application for loan.

7. A member of the Scheme who wishes to apply for a loan from the Fund shall make such application to the officer administering the Fund in such manner as the Board may prescribe.

Utilization of loan monies.

8. (1) A loan obtained under these Regulations shall be utilized for the purchase, development, renovation or repair of residential property for the

occupation of the applicant and his or her immediate family.

(2) A loan for the development of residential property may be granted at the discretion of the Committee—

(a) to a member of the Scheme who is in possession of:

(i) a title document to the land on which the development is intended to be carried out; or

(ii) any other security as shall be approved by the Board ;

or

(b) in two installments, for the purchase of the land at which the residential property is to be developed and for the subsequent development of the property.

(3) The amount of the first installment granted for the purchase of land under paragraph (b) shall not exceed forty per cent of the maximum loan amount for which the member of the Scheme is eligible.

(4) where an applicant has a loan existing with any financial institution for which the funds of the loan were used to purchase a residential property within the provisions of these rules and regulations. The Applicant shall be eligible to have his or her loan taken over from the said institution provided the outstanding amount is within the entitlement of such applicant.

Disbursement of loan for development.

9. (1) A loan granted for the development of a residential property under these Rules and Regulations shall be released to the applicant in the following phases-

(a) the first disbursement based on the value of the land on which the residential property is proposed to be developed; and

(b) the subsequent disbursements based on the rate of completion of the various phases of development as certified by a qualified Architect at the cost of the applicant.

Requirements
Application for loan.

for **10.** (1) An application for a loan under these Regulations shall be accompanied by the following documents where appropriate-

(a) copies of the designs of the proposed residential property duly approved by the relevant office in the County government within whose area it is to be situated;

(b) bills of quantities in respect of the proposed development, renovation or repair;

(c) an official search of the title to the property intended to be purchased;

(d) a copy of the sale agreement relating to the property certified by lawyers appointed by the Board.

(2) The applicant shall bear the cost of stamp duty and other legal fees.

(3) Where a borrower fails to comply with the requirements of paragraph (2) within the stipulated time, the officer administering the Fund shall, upon giving the borrower fourteen days' notice, deduct the amount due from the salary of that borrower in such installments as may be appropriate and remit such deductions to meet such costs as may be due.

(4) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the board.

Leasehold property.

11. Where the property intended to be purchased through a loan from the Fund is leasehold property, such loan shall be granted where the expiry date of such lease is at least forty-five years beyond the final loan repayment date.

Maximum disbursement.

loan

12. (1) The loan amount that a member of the Scheme may receive shall be the value of the property that the member of the Scheme proposes to purchase or develop subject to the maximums prescribed herein below depending on an employee's job group:

(a) **Job Group: S,T,U** and equivalent grades in Public Service Kenya Shillings Twenty Million (KES. 20,000,000/=).

(b) **Job Group: P,Q,R** and equivalent grades in Public Service Kenya Shillings Fifteen Million (KES. 15,000,000/=).

(c) **Job Group: K,L,M,N** and equivalent grades in Public Service Kenya Shillings Ten Million (KES. 10,000,000/=) .

(2) A loan granted to a borrower under these Regulations shall be funded at the rate of one hundred per centum of the value of the property subject to the applicant's entitlement.

(3) a member of the Scheme shall not be eligible to more than one loan at a time.

Repayment of loan.

13. A loan granted under these Regulations shall be fully repaid within a maximum period of twenty years (240 months).

Interest chargeable

14. (1) The interest chargeable on a loan shall be three per centum per annum on a monthly reducing balance. The interest accruing herein shall be credited to the capital fund.

(2) The interest charged under paragraph (1) shall be utilized to defray the administrative expenses of the Scheme and any other surplus thereby shall be credited into the account of the Scheme.

(3) Any administrative expenses shall be approved by the Board in such terms as the Board shall deem fit.

(4) any member of the scheme shall continue to pay interest at the rate of three per centum per annum even after leaving public service employment for the life of the loan except upon default where the interest rate shall immediately be converted into commercial rate.

(5) interest rate under this rule shall be met by the Borrower.

PROVIDED that any member who leaves employment on disciplinary grounds shall have the interest rate converted into commercial interest immediately upon leaving employment for such disciplinary grounds.

Lien.

15. (1) The Board shall have a charge registered on the property financed through a loan granted under these Regulations.

(2) The borrower shall—

(a) not mortgage, charge, surrender the lease or sell or agree to sell or part with possession of the charged property or any part thereof without the prior written consent of the Board;

(b) meet and pay all rates, rents, insurances and any other outgoings in respect of the property and send the proof of such payments to the Board; and

(c) provide a transfer deed duly signed by the borrower and a letter authorizing the Board to sell the property in case of default in payment **PROVIDED** that the sale of the property upon default shall be effected in accordance with the Land Act,2012.

(3) All residential properties purchased through the Fund shall be constructed of such material as may be approved

by the Board.

(4) During the loan repayment period, every borrower shall-

- (a) ensure that the property is used for residential purposes only;
- (b) maintain the property in a satisfactory state of repair; and
- (c) not alter or make any structural alteration to the property, carry out any valuation, assessment or investigation relating to the property or title thereto, as the case may be, without the approval of the Board.

(5) All legal documentation and disbursement of funds shall be supervised by the officer administering the Fund.

Mortgage insurance.

16. (1) A borrower shall take out and maintain a Mortgage protection policy and a fire policy with an insurance firm approved by the Board, the cost of which shall be paid out of the Fund and debited in such borrower's account.

(2) The originals of all documents relating to property financed by a loan from the Fund shall be kept in safe custody by the officer administering the Fund.

Default in repayment.

17. The Board may call in a loan and in default sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement or the covenant contained in the charge of the mortgage instrument SUBJECT to the provisions of the Land Act ,2012.

Administration of the Fund.

18. (1) The officer administering the Fund shall-

- (a) supervise and control the administration of the Fund;

- (b) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use SUBJECT to the approval of the Board;
- (c) cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund;
- (d) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Board may from time to time direct in accordance with the Public Finance Management Act;
- (e) furnish such additional information as may be required for the purpose of examination and audit by the Auditor-General; and
- (f) designate and appoint SUBJECT to the approval of the Board such staff as may be necessary to assist him in the administration of the Fund and may require such staff to carry out such inspections as may be necessary to verify any information submitted under these Rules and Regulations.

(2) Every statement of account prepared under this regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

such terms as may, from time to time, be detailed in the application form supplied by the Board.

(2) Subject to these Rules and Regulations, the Board shall issue guidelines on-

- (a) the purchase and development of land and residential properties under these Regulations;
- (b) the utilization of surplus Funds for the purchase and development of land and residential property under these Regulations; and
- (c) such other matters as may be necessary for the proper management and administration of the Fund.

Made on thisday of.....2015

SIGN:.....,
The Chairman, Kitui County Assembly Service Board