

THE KITUI COUNTY EMERGENCY FUND BILL, 2018

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THE KITUI COUNTY EMERGENCY FUND BILL, 2017

A Bill for

AN ACT of the County Assembly of Kitui to establishment a Kitui County Emergency Fund, provide for its management, operation and for connected purposes

ENACTED by the County Assembly of Kitui, as follows-

PART I – PRELIMINARY

Short title **1.** This Act may be cited as the Kitui County Emergency Fund Act, 2018.

Interpretation **2.** In this Act, unless the context otherwise requires-

“Appropriation” means funds appropriated by the County Assembly through an Appropriation Act for purposes of paying for the supply of goods and services;

“Emergency” means an urgent and unforeseen need for expenditure that is not budgeted for, cannot be delayed, is of small scale limited to the county and the event threatens human life, welfare or environment.

“County” means the County Government of Kitui as established under Article 176 of the Constitution;

“County Assembly” means the County Assembly of Kitui County as established under Article 176 of the Constitution;

“Fund” means the County Emergency Fund established under Section 3 of this Act;

“County Executive Committee Member” means the County Executive Committee member at the time being responsible for finance matters in the county;

“Financial year” means the period of twelve months ending on 30th day of June.

PART II – EMERGENCY FUND

Establishment of
the County
Emergency Fund

3. (1) There is established a Fund to be known as the Kitui County Emergency Fund.

(2) The Fund shall consist of –

(a) monies appropriated by the County Assembly; and

(b) grants and donations made into the Fund.

(3) The County Assembly shall, in appropriating monies under subsection (2)(a) in each financial year, ensure that the monies contained in the Fund shall not exceed two per cent of the County’s budget.

Purpose of the
Fund

4. The object and purpose of the Fund is to enable payments to be made in respect of the County when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority arises.

Officer responsible
for administering
the Fund

5. (1) The County Executive Committee Member shall be responsible for administering the Fund in accordance with this Act.

(2) The County Executive Committee Member shall open and maintain a separate account into which all money appropriated to that Fund and received as grants or donations shall be paid.

Power of County
Executive
Committee
Member

6. (1) The County Executive Committee Member may make payments from the Fund only if satisfied that—

(a) there is an urgent and unforeseen need for the expenditure for which there is no legislative authority;

(b) the event cannot be delayed until a later financial year without harming the general public interest

(c) an event has caused a damage, loss, hardship or suffering to residents of the County or threatens to damage the environment and the event is limited to the County.

(2) For the purposes of subsection (1)—

(a) there is an urgent and unforeseen need for expenditure if, in the opinion of the County Executive Committee Member –

(i) payment cannot be delayed until the next financial year without harming the general public interest of the County;

(ii) the payment is necessary to alleviate the damage, loss, hardship or suffering which may be directly caused by the event; and

(b) need for expenditure is unforeseen and has not been provided for in an appropriation law made by the County Assembly for the current financial year.

Limitation on power of County Executive Committee Member

7. The County Executive Committee Member shall not, during a financial year, make a payment under Section 6 if the payment exceeds two per cent of the total revenues as shown in the county's audited financial statements for the previous financial year.

Accruals

8. All receipts, earnings and accruals to the Fund and the balance of the Fund at the close of the financial year shall be retained by the Fund for the purpose for which it is established subject to the Fund balance not exceeding two per cent of the revenues as shown in the county's audited financial statements for the previous financial year.

Approval by the County Assembly

9. (1) The County Executive Committee Member shall notify the County Assembly in writing within two months after payment is made out of the Fund

(2) If the County Assembly is not sitting during the period referred to in subsection (1) and the County Executive Committee Member has not sought the approval of the County Assembly before the end of that period, the County Executive Committee Member shall seek the approval of the County Assembly for the payment within fourteen days after it next sits.

(3) As soon as practicable after the County Assembly has approved the payment, the County Executive Committee Member shall arrange for an Appropriation Bill to be introduced into the County Assembly for the appropriation of the money paid and for the replenishment of the Fund to the extent of the amount of the payment.

Financial Statement

10. (1) Within three months after the end of each financial year, the

County Treasury shall prepare and submit to the Auditor General a financial statement in respect of the Fund for that year

(2) The financial statement prepared under subsection (1) shall include the following information-

- (a) the total monies appropriated by the assembly and all grants and donations made into the Fund.
- (b) the date and the amount of each payment made out of the Fund;
- (c) the person to whom the payment was made;
- (d) the purpose for which the payment was made;
- (e) whether the person to whom the payment was made spent the money for that purpose and a statement made to that effect;
- (f) if the person to whom the payment has been made has not spent the money for that purpose, a statement specifying the reasons for not having done so: and
- (g) a statement indicating how the payment conforms to section 6 of this Act, the legislation or the policy of the County relating to disaster management.

Regulations

11. The County Executive Committee Member may make regulations for the better carrying out of the provisions of this Act.

MEMORANDUM OF OBJECT AND REASONS

The Bill establishes the Kitui County Emergency Fund to provide payments for unforeseen needs for expenditure which cannot be delayed to the next financial year. It further provides for payments for the need for expenditures to alleviate damage, loss, hardship or suffering of Kitui county residents that may be caused by unforeseen events such as a drought, fire, flood, storm, or outbreak of disease, among others.

The Bill is structured as follows:

Clause 1 provides for the short title of the Act.

Clause 2 provides for the interpretations of terms used in the Bill. This is intended to provide clarity during the implementation of the Act.

Clause 3 establishes the Fund. It provides that the Fund will consist of funds appropriated by the County Assembly plus any other funds that may be paid into the Fund from donations and grants. It further provides the maximum monies the Fund should have in relation to the total budget of the County. The section also provides for the fund to be maintained in a separate bank account.

Clause 4 highlights the purpose of the Fund once established.

Clause 5 provides for the administration of the fund by the County Executive Committee Member responsible for finance while **Clause 6** sets out the power of the County Executive Committee Member in relation to making payments out of the Fund in the case of an emergency.

Clause 7 sets out the limitation to the powers of the County Executive Committee Member to make payments out of the Fund, this payment shall not exceed two percent of the county's total revenue. **Clause 8** provides for the retention of the monies in the Fund at the close of the financial year in the Fund.

Clause 9 compels the County Executive Committee Member to obtain the approval of the County Assembly for the payments made out of the Fund within two months of such payment.

Clause 10 provides for the County Treasury to prepare a financial statement within three months after the end of each financial year, highlights the information to be contained in the financial statement and requires submission of the statement to the Auditor General.

Clause 11 confers on the County Executive Committee Member the powers to make Regulations under the Act.

The Bill shall occasion additional expenditure to the County that shall be appropriated by the County Assembly.

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Hon. Boniface Kasina Kilaa, **Mca**
Chairman, Budget and Appropriations Committee