

**LEGAL NOTICE NO.....**

**PUBLIC FINANCE MANAGEMENT ACT  
(No. 18 of 2012)**

**COUNTY GOVERNMENT OF KIRINYAGA**

**IN EXERCISE** of the powers conferred by Section 116 of the Public Finance Management Act, 2012, the County Executive Committee Member for Finance and Economic Planning makes the following Regulations –

**PUBLIC FINANCE MANAGEMENT (KIRINYAGA COUNTY STAFF MORTGAGE SCHEME FUND) REGULATIONS, 2015**

**PART I- PRELIMINARY**

Citation.

**1.** These Regulations may be cited as the Public Finance Management ( Kirinyaga County Staff Mortgage Scheme Fund) Regulations, 2015.

Interpretation.

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

“County Assembly” means the County Assembly of the County Government of Kirinyaga;

“County Government” means the County Government of Kirinyaga;

“County Executive Committee Member” means the County Executive Committee Member for Finance and Economic Planning and Head of the County Treasury;

“County Staff” means employees of the executive arm of the county government of Kirinyaga who are on permanent and pensionable terms as well as those employed on contract terms;

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

“Committee” means the Advisory Committee of the Fund established under regulation 6;

“financial year” means the period of twelve months ending on the 30<sup>th</sup> June of each year;

“Fund” means the County Staff Mortgage Scheme Fund established under Regulation 3;

“member of the scheme” means a Member of County staff;

“mortgage finance company” has the meaning assigned to it under section 2 of the Banking Act;

“officer administering the Fund” means the officer appointed under Regulation 6(2)

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

Establishment of the Fund. **3.** There is established a Fund to be known as the Kirinyaga County Staff Mortgage Scheme Fund in accordance with the provisions of the Public Finance Management Act 2012.

Object and purpose of the Fund **4.** The object and purpose of the Fund shall be to:

- (i) Provide a loan scheme for the purchase, development, renovation or repair of residential property by members of the Scheme;
- (ii) Provide a loan scheme for the refinancing of an existing mortgage facility
- (iii) Provide a loan scheme for the purchase of a parcel of land for residential development

Capital of the Fund **5.** (1) The initial capital of the Fund shall consist of the monies advanced or appropriated and standing to the credit of the account on the date of the coming into operation of these Regulations.

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

- (3) The Fund shall be administered as a special account in the County Fund and shall be operated by the officer administering the Fund.
- (4) The interest accruing to the Fund shall be credited to the capital of the Fund as a revolving Fund.

Establishment of an Advisory Committee of the fund

**6.** (1) There is established an advisory committee to be known as the County Staff Mortgage Scheme Fund Advisory Committee, which shall consist of-

- (a) the County Executive Committee member for Finance who shall be the chairperson;
- (b) the County Executive Committee member in charge of lands and housing;
- (c) the Chief Officer in charge of Finance;
- (d) the County Secretary or his nominee
- (e) the County Executive Committee Member for Health

The Advisory Committee shall be supported by a secretariat consisting of the following officers:

- (a) Director of Administration
  - (b) County Attorney
  - (c) County Treasury Nominee nominated by Head of the County Treasury
  - (d) County Treasury Nominee nominated by the Head of the County Treasury
- (2) The County Executive Committee Member shall

appoint an officer to administer the Fund in accordance with Section 116 (2) Public Finance Management Act 2012 who shall be an ex officio member and secretary to the committee.

(3) The functions of the Committee shall be to—

- (a) process applications for loans in accordance with the existing terms and conditions of borrowing;
- (b) approve all housing development and financing proposals;
- (c) perform such other duties as may be directed by the County Executive Committee Member for the purpose of proper management of the Fund

(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 its functions.

(i) The Officer Administering the fund shall be the Secretary of the Advisory Committee

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

(6) The decision of the committee shall be by simple majority and in the case of a tie, the Chairman shall have a casting vote

Appointment of mortgage financial institutions.

7. (1) Notwithstanding Regulation 6(1), the County Executive Committee Member may, if he/she considers it appropriate to do so, appoint in accordance with the Public Procurement & Disposal Act 2005, a mortgage financial institution to administer the Fund.

Application for loan.

8. Any county member of staff 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 Committee may prescribe.

Requirements

for 9. (1) An application for a loan under these

Application for loan.

Regulations shall be accompanied by the following documents where appropriate-

- (a) copies of the designs of the proposed property / certified copies of title duly approved by the County Government department 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 certified copy of the sale agreement relating to the property.
- (e) Any other document that the committee may require for the purpose of granting the loan

(2) The applicant shall bear the cost of stamp duty, legal fees, transfer fees and any other related costs.

(3) Where a borrower fails to comply with the requirements of sub-regulation (2) above 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 instalments as may be appropriate and remit such deductions to meet such costs as may be due.

(4) The Advisory Committee may, where it deems appropriate, recommend the appointment of an advocate to act on its behalf in respect of transactions relating to the property under these Regulations

Disbursement of loan

**10. (1)** A loan granted for under these Regulations shall be released to the applicant in the following phases-

- (a) the first disbursement shall be based on twenty five (25%) per cent of the loan limit

provided that the disbursement shall not exceed the maximum funding due to the borrower under these regulations;

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

At all times, disbursement shall be subject to the County Treasury prevailing cash flow position

(2) A borrower, who, prior to the commencement of these Regulations had purchased, developed, renovated or repaired residential property on loan from a financial institution, may apply for loan under these Regulations to offset any remaining balance or to have the loan transferred from the financial institution to the loan scheme under these Regulations.

(3) A loan granted under these regulations shall be based on the borrower's ability to pay and shall not exceed the maximum loan threshold set out in the Schedule

(4) The borrower may repay the loan from his/her other sources of income subject to the approval of the Advisory Committee

Leasehold property.

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

Maximum loan disbursement

**12.** (1) The maximum loan to be granted under these Regulations shall be as set out in the Salaries and Remuneration Commission circular Schedule

(2) A member of the Scheme shall be required to give prior authority in writing for pension dues or gratuity, whichever applies, to be utilized to clear any outstanding debt in case the member loses his job, attains the

retirement age before fully repaying the loan or becomes unable to repay the loan.

#### Repayment of loan

**13.** A loan granted under these Regulations shall be fully repaid within a period of twenty years; or before the staff's retirement date, whichever comes earlier.

#### Interest chargeable

**14.** (1) The interest payable on a loan granted under these regulations shall not exceed four per centum per annum inclusive of management & administrative costs on a monthly reducing balance.

(2) The interest charged under sub-regulation (1) shall be paid by the borrower to the fund.

#### Lien.

**15.** (1) The Fund shall register a charge on any property financed through a loan granted under these Regulations and such charge shall impose an obligation on the borrower-

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

(b) to 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 administrator of the Fund ; and

(c) to provide a transfer deed duly signed by the borrower and a letter authorizing the administrator of the Fund to sell the property in case of default in payment.

(2) All residential properties purchased or developed through the Fund shall be of such standards as may be approved by the Committee.

(3) 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 or repair; and
- (c) make no extension or any structural alteration to the property, or title thereto without the prior approval of the administrator of the Fund

(4) No borrower shall be eligible for more than one loan at a time from the Fund

(5) Notwithstanding paragraph (4) the Committee shall grant another loan or a house to a state officer in event of change of status or maximum threshold, as long as there shall not be any outstanding loan repayment due to the Fund

(6) Where the spouse of a state officer is also a state officer, the granting of a loan or house to one spouse shall not bar the other spouse from benefiting from the Fund

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

Safe Custody of documents **17.** The originals of all documents relating to property financed by a loan from the Fund shall be kept in safe custody by the administrator of the Fund.

Default in repayment. **18.** (1.) Where a borrower defaults in the repayment of the loan for a period of three consecutive months, the administrator of the Fund shall repossess and sell the property by public auction or private treaty.

(2) Where a borrower ceases to be a county staff before full loan repayment, the administrator of the fund shall allow the borrower to continue repaying the loan on the same terms as set out in these Regulations provided that when the borrower defaults for a consecutive period of four months, the outstanding loan shall revert to prevailing commercial interest rate.

(3) Notwithstanding these Regulations, where a borrower leaves service on disciplinary grounds or resigns before serving for the contract period, the Committee may grant the borrower a maximum period of four months to repay the full outstanding loan or permit the borrower to repay the outstanding loan at the prevailing market rate and on such other terms and conditions as the Committee may from time to time prescribe

(4) Where the commercial rate is applicable, and the borrower is in default for a period of four months, the administrator of the Fund may call in the loan and sell the charged property by public auction or private treaty

Administration of the Fund.

**19.** (1) The officer administering the Fund shall in accordance with the provisions of the Public Finance Management Act 2012 -

- (a) open and manage a bank account for the Fund in accordance with the Public Finance Management Act 2012;
- (b) supervise and control the administration of the Fund in accordance with section 116 Public Finance Management Act 2012;
- (c) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use;
- (d) cause to be kept books of accounts and other records in relation to the Fund; and
- (e) 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, in accordance with the

Public Finance Management Act, 2012;

- (f) furnish such additional information as may be required by the County Executive Committee Member
- (g) perform such other function as may be assigned by the County Executive Committee Member

Transfer or sale of loan property **21** No person shall sell or in any way transfer any property acquired through the fund under these Regulations unless:

- (a) A period of not less than eight years has expired from the date
  - (i) The final payment of the full purchase price of the full property together with such interest as may be due is made; or
  - (ii) the final repayment of the full loan advanced by the fund together with such interest as maybe due is made
- (b) The sale or transfer has been approved by the advisory committee and a loan payment clearance certificate has been issued

Duties of mortgage financial institutions

**22** Where the County Executive Committee Member appoints a financial institution to administer the Fund, the institution shall—

- (a) operate individual accounts for each borrower, and provide details of recoveries of the loan;
- (b) charge security on properties acquired through loans from the Fund and act as a custodian of such charges;
- (c) transfer funds for newly approved loans to borrowers after the necessary documentation is provided;
- (d) pay all outgoings and issue demand notices to defaulting borrowers through the officer administering the Fund;

- (e) upon repayment of the loan, interest and other expenses which may be outstanding, discharge the charge and release the security documents to the borrower; and
- (f) perform such other duties as may be assigned from time to time.

Financing or developing partnership **23** The Fund may enter into a viable financing or development partnership with a legal entity for the purposes of achieving objectives of the Fund.

Partnership with other schemes **24** The Fund may enter into viable management partnership with a scheme from any other public body.

Miscellaneous **25** (1) These Regulations shall be supplemented by such requirements as may be detailed in the loan application form prescribed by the Fund and in the contract between the Fund or financial institution and the borrower.

(2) Subject to these regulations, the Loans Committee shall issue guidelines on-

(a) the purchase and development of land and properties under these regulations;

(b) the utilization of surplus funds for the purchase and development of land ad property under these regulations;

(c) such other matters as may be necessary for the proper management and administration of the Fund.

## SCHEDULE

<b>BENEFICIARIES</b>	<b>THRESHOLD</b>
County Governor	Up to Kshs.40 Million
Deputy County Governor	Up to Kshs. 25 Million

Civil Service Grades S,T,U and Equivalent grades in Public Service	Up to Kshs.20 Million
Civil Service Grades P,Q,R and Equivalent grades in Public Service	Up to Kshs.15 Million
Civil Service Grades K,L,M,N and Equivalent grades in Public Service	Up to Kshs.10 Million
Civil Service Grades G,H,J and Equivalent grades in Public Service	Up to Kshs.6 Million
Civil Service Grades A,B,C,D,E,F and Equivalent grades in Public Service	Up to Kshs.4 Million

Dated the .....,2015.

**MURIMI MURAGE**  
County Executive Committee Member & Head of the County Treasury