

(Legislative Supplement No. 1)

LEGAL NOTICE NO. 1

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE TRANS NZOIA COUNTY ASSEMBLY (MORTGAGE SCHEME FUND)
REGULATIONS, 2014

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THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Committee Member for finance makes the following Regulations –

THE TRANS NZOIA COUNTY ASSEMBLY (MORTGAGE SCHEME FUND) REGULATIONS, 2014

PART I — PRELIMINARY

1. These Regulations may be cited as the Trans Nzoia County Assembly (Mortgage Scheme Fund) Regulations, 2014.

Citation.

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

Interpretation.

“Board” means the TransNzoia County Assembly Service Board established under section 12 of the County Governments Act;

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

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

“County Assembly” means the County Assembly of TransNzoia;

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

“Fund” means the County Assembly of Trans Nzoia Mortgage (Members) Scheme Fund established under regulation 6

“member of the Scheme” means elected and nominated members and the staff of the County Assembly;

“Trans Nzoia” means the Trans Nzoia County of as specified in the First Schedule to the Constitution;

“Officer administering the Fund” means the Clerk of the TransNzoia County Assembly;

“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; and

“valuer” means a person registered as a valuer under the Valuers Act.

3. There is established a Fund under the County Assembly Service Board to be known as the Trans Nzoia County Assembly Mortgage Scheme Fund.

Establishment of the Fund

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

The object and Purpose of the Fund

5. (1) The initial capital of the Fund shall consist of the sum of KSh. 120,000,000.00 appropriated by the County Assembly in the County Appropriation (Amendment) Act, 2013.

Initial Capital of the Fund

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

(3) The Fund shall be administered as a special Fund in the County Assembly Fund and shall be operated by the officer administering the Fund.

(4) The interest accruing to the Fund shall, where such interest constitutes a surplus after meeting the requirements of regulation 18(1)(b), be credited to the capital of the Fund.

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

The Loans Management Committee.

- (a) the vice-chairperson of the Board who shall be the chairperson;
- (b) the chairperson of the Member's Welfare Committee of the County Assembly;
- (c) the chairperson of the Finance Committee of the County Assembly;
- (d) one member of the Board nominated by resolution of the Board;
- (e) the Majority Whip of the County Assembly;
- (f) the Minority Whip of the County Assembly; and
- (g) the Clerk of the County Assembly who shall be the Secretary to the Committee;
- (h) the Principle Legal Counsel of the County Assembly; and
- (i) the Principal Accounts and Finance Officer.

(2) The Committee shall administer the Fund and shall—

- (a) process applications for loans in accordance with the existing terms and conditions of borrowing;
- (b) liaise with the housing company (if any) to set up a revolving fund for the disbursement of the loans;
- (c) supervise the day-to-day running of the Fund;
- (d) open an account in a recognized Commercial Bank to administer the Fund.

(3) The Chairperson of the Committee, the Clerk and the Principal Finance and Accounts Officer of the County Assembly shall be the mandatory signatories of the account.

(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 the Committee's functions.

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

7. Notwithstanding sub-regulation 6 (3), the Board may, if it considers it appropriate to do so, appoint a mortgage institution to administer the Fund on its behalf.

Board may appoint mortgage institution.

8. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall make the application to the officer administering the Fund in such manner as the Loans Management Committee may prescribe.

Utilization of loan monies

(2) 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.

(3) 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 a title deed to the land on which the development is intended to be carried out; or
- (b) if a member is in possession of other ownership documents that are authentic and certified by the County Executive Committee Member in charge of Lands, Physical Planning and Housing.

(4) where the member does not satisfy sub-regulation (3)(a) and (b) above, the Committee may issue the first installment for the purchase of the land at which the residential property is to be developed and a subsequent installment for the development of the property.

(5) The amount of the first installment granted for the purchase of land under sub-regulation (4) above shall not exceed forty per cent of the maximum loan amount for which the member of the Scheme is eligible.

9. The Committee may disburse the full loan amount for the development of a residential property if satisfied that the member has met the requirements set out in (3) and (4) above.

Disbursement of loans for development

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

Application for a loan.

- (a) copies of the designs of the proposed residential property duly approved by the Department of Public Works 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.

(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

sub-regulation (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 installment as may be appropriate and remit the deductions to meet the 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.

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 the lease is at least forty-five years beyond the final loan repayment date.

Leasehold property.

12. (1) The maximum loan to be granted under these Regulations to a member of the Scheme shall be a sum equivalent to the member's net emoluments at the time of application multiplied by the number of months remaining for the life of that County Assembly, but the loan granted to a member of the Scheme under these Regulations shall not exceed the sum of three million shillings.

Maximum Loan disbursement

(2) A member of the Scheme shall be required to give prior authority in writing for pension dues and or gratuity to be utilized to clear any outstanding debt in case the member loses his or her seat before fully repaying the loan.

(3) Subject to this regulation, a member of the Scheme shall be eligible for the maximum amount of loan specified under sub-regulation (1) in each term of the member to be accessed by the member in a maximum of two disbursements in that term.

13. A loan granted under these Regulations shall be fully repaid at the end of the term of that Assembly.

Repayment of loan.

14. (1) The interest chargeable on a loan shall be three per centum per annum on a monthly reducing balance and this rate may be reviewed from time to time as advised by the Salaries and Remuneration Commission.

Interest on loan

(2) A mortgage institution appointed under regulation 7 to administer the Fund may charge an interest of not more than one per centum above the interest chargeable under sub-regulation (1) of this regulation, to cover management costs.

(3) The interest charged under sub-regulations (1) and (2) of this regulation shall be met by the borrower.

15. (1) The Board may have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property.

Lien

(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

(3) All residential properties purchased through the Fund shall be constructed of such material as may be acceptable to 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;
- (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) No borrower shall be eligible for more than one loan at a time or more than a total of two loans from the Fund.

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

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.

Mortgage insurance

(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.

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.

Default in repayment

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

Administration of the Fund.

- (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;
- (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 months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him or her 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 such staff as may be necessary to assist him or her 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 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.

19. The responsibilities of the mortgage institution, if any, appointed under these Regulations shall be—

Responsibilities of mortgage institution

- (a) to operate individual accounts for each borrower, which shall provide details of recoveries of the loan;
- (b) to charge security on properties acquired through loans from the Fund to protect the interests of the Fund and act as custodian of such charges;
- (c) to disburse cheques for newly approved loans to various vendors, after the necessary documentation is completed by the Committee;
- (d) to pay all outgoings and issue demand notices where necessary to members through the officer administering the Fund;
- (e) upon repayment of the loan, interest and other expenses which may be outstanding, to discharge the charge and release the security documents to the borrower; and
- (f) upon default, to call in the loan and on behalf of the Board sell the charged property by public auction or private treaty, in which event the Fund shall meet any shortfall between the loan outstanding and the proceeds of sale.

20. (1) These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the Board and in the contract between the mortgage institution and the Board.

Responsibilities of Supplementary terms

(2) Subject to these 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.

Dated the 24th February, 2014.

ANDREW M. WANYONYI

Trans Nzoia County Executive Committee Member for Finance.

LEGAL NOTICE NO. 2

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE TRAN NZOIA COUNTY ASSEMBLY (CAR LOAN SCHEME FUND)
REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

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Regulations

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PART III—THE LOANS MANAGEMENT COMMITTEE

6— The Loans Management Committee

7 —Operation of the Fund

8 — Conditions for disbursement of funds

9 — Temporary release of log-book

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11— Interest rate

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THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE TRANS NZOIA COUNTY ASSEMBLY (CAR LOAN
SCHEME FUND) REGULATIONS, 2014

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Committee Member for finance makes the following Regulations:—

PART I—PRELIMINARY

1. These Regulations may be cited as the Trans Nzoia County Assembly (Car Loan Scheme Fund) Regulations, 2014. Citation

2. (1) In these Regulations, unless the context otherwise requires—

“Board” means the Trans Nzoia County Assembly Service Board established under section 12 of the County Government Act;

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

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

“Fund” means the County Assembly of Trans Nzoia Car Loan Scheme Fund established under regulation 3.

“hire purchase agreement” means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee;

“member of the Scheme” means elected and nominated members and the staff of the County Assembly; and

“Officer administering the Fund” means the Clerk of the County Assembly.

PART II—ESTABLISHMENT OF THE FUND

3. There is established a Fund under the Trans Nzoia County Assembly Service Board to be known as the County Assembly of Trans Nzoia Car Loan Scheme Fund.

4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase of vehicles by members of the Scheme. Object and purpose of the Fund.

5. The initial capital of the Fund shall consist of a sum of KShs. 80, 000,000.00 appropriated by the County Assembly in the Trans Nzoia County Appropriation (Amendment) Act, 2013. Initial capital.

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

(3) The Fund shall be administered as a special account in the County Assembly Fund and shall be operated by the officer

administering the Fund.

PART III—THE LOANS MANAGEMENT COMMITTEE

6. (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) one member of the Board nominated by the Board;
- (c) the Majority Whip of the County Assembly; and
- (d) the Minority Whip of the County Assembly; and
- (e) the Clerk of the Assembly who shall be the Secretary;
- (f) the Principal Counsel Legal of the County Assembly; and
- (g) the Principal Accounts and Finance Officer.

(2) 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 the Committee's functions.

(3) The quorum for meetings of the Committee shall be the chairperson and any three members.

(4) The Committee shall—

- (a) consider and may approve the loan applications presented by the officer administering the Fund;
- (b) open an account in a recognized Commercial Bank to administer the Fund.

(5) The Chairperson of the Committee, the Clerk and the Principal Finance and Accounts Officer of the County Assembly shall be the mandatory signatories of the account.

7. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall present to the officer administering the Fund a duly completed hire purchase proposal form in such form as the Management Committee may prescribe.

Operation of the
Fund

(2) The officer administering the Fund shall satisfy himself or herself of the applicant's financial status and capacity to repay the loan applied for and where so satisfied shall forward the application to the Committee for consideration.

(3) If the Committee approves the application, the applicant shall enter into a hire purchase agreement in such form as the Committee may prescribe.

8. (1) A loan approved under regulation 7 shall be released from the Fund in such manner, taking into account the security of the funds, as may be prescribed by the Committee.

(2) The log-book of a vehicle subject to a loan from the Fund

Conditions for
disbursement of

shall be issued jointly between the County Assembly Service Board and the member of the Scheme and shall be kept in the custody of the officer administering the Fund until the loan is repaid in full by the member of the Scheme.

funds

9. (1) A log-book kept in custody by the officer administering the Fund may be temporarily released to a member of the Scheme upon application in writing to the officer administering the Fund for purposes of renewal by that member of the necessary licences.

Temporary release of log-book.

(2) A log-book released under paragraph (1) shall be returned to the officer administering the Fund within seven working days from the date of such release.

(3) The officer administering the Fund shall acknowledge receipt of the log-book in writing.

10. (1) The loan amount 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.

Loan amounts.

(2) For the purpose of these Regulations, 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 of a registered Valuer or the Department of Public Works.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the Fund to a member of the Scheme an additional loan not exceeding ten per cent 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 deductions exceeding thirty per cent of the monthly emoluments of the member of the Scheme.

11. (1) A loan granted to a member of the Scheme under these Regulations shall carry an interest rate of three per cent per annum.

Interest rate.

(2) The interest charged under paragraph (1) shall be utilized to defray the administrative expenses of the Fund.

12. A loan advanced under these Regulations shall be repaid in full over a maximum period of five year irrespective of whether the vehicle purchased is new or used.

Repayment Period

13. (1) A member of the Scheme shall comprehensively insure any vehicle purchased through the Scheme.

Insurance

(2) Where a member of the Scheme is unable to raise the funds required for the initial insurance premium, such funds may be advanced from the Fund subject to an approved limit, but subsequently 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 paragraph (2) may apply to the fund for

a loan which shall be repaid within a period of one year.

(4) Every loan granted under these Regulations 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.

14. (1) Upon full repayment of the loan, a signed loan discharge certificate in such form as may be prescribed by the Committee shall be issued to the member of the Scheme and a copy thereof shall be forwarded to the Registrar of Motor Vehicles.

Loan discharge liability.

(2) The loan discharge certificates shall release the member of the Scheme from any further financial obligation in respect of the loan and shall act as sufficient authority to remove the caveat on the vehicle pursuant to regulation 8.

15. (1) The officer administering the Fund—

Administration of the Fund

- (a) shall supervise and control the administration of the Fund;
- (b) may impose conditions on the use of any moneys in the Fund and may also impose any reasonable restriction or other requirement concerning such use;
- (c) shall 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) shall prepare, sign and transmit to the Auditor-General in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him or her 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; and
- (e) shall furnish such additional information as he or she may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General.

(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.

Dated the 24th February, 2014.

ANDREW M. WANYONYI,

Trans Nzoia County Executive Committee Member for Finance.