LEGAL NOTICE NO. 1

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 assembly service board of Kilifi makes the following regulation—

THE KILIFI COUNTY ASSEMBLY MEMBERS CAR LOAN SCHEME FUND REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

Regulations

PART I — PRELIMINARY

1—Citation.
2—Interpretation.

PART II — ESTABLISHMENT OF THE FUND

3—Establishment of the Fund.
4—Object and purpose of the Fund.
5—Initial Capital of the Fund.

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.
10—Loan Amounts.
11—Interest Rate.
12—Repayment Period.
13—Insurance.
14—Loan Discharge.
15—Administration of the Fund.
PART I — PRELIMINARY

1. These Regulations may be cited as the Car Loan Scheme Fund Regulations, 2014.

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

   “Board” means the County Assembly Service Board of Kilifi established under section 12 of the County Government Act;
   
   “Committee” means the Loans Management Committee established under regulation 6;
   
   “County Assembly” means the County Assembly of Kilifi;
   
   “financial year” means the period of twelve months ending on the 30th June in each year;
   
   “Fund” means the County Assembly of Kilifi Car Loan Scheme Fund established under section 116 of the public Finance Management Act;
   
   “hire purchase agreement” means an agreement for the bailment of goods under which the bailment may buy the goods or under which the property in the goods will or may pass to the bailee; “member of the Scheme” means a member of the County Assembly, a member of the County Assembly Service Board who is not a member of the County Assembly, the Clerk of the County Assembly and the senior staff of the County Assembly as may be approved by the Board.
   
   “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 County Assembly Service Board of Kilifi to be known as the County Assembly of Kilifi 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.

5. (I) The initial capital of the Fund shall consist of the Sum of Kenya shillings one hundred and eight million Appropriated by the County Assembly in the County Appropriation Act, 2013.

   (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 Leader of Majority in the County Assembly who shall be the chairperson, or a member of the County Assembly
designated by the Leader of Majority, to deputise him or her;

(b) The Minority Leader of the County Assembly;

c) Chairman, Budget and Appropriation Committee;

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 or a staff of the County Assembly appointed by the Clerk to deputise him or her.

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

(3) 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.

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

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

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 sale agreement or a duly completed hire purchase proposal form in such from as the Committee may prescribe.

(2) The officer administering the Fund shall satisfy himself 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 forms as the Committee may be prescribe.

(4) A member of the Scheme may apply to the Committee for loan to clear an existing bank loan, advanced to the member to buy a vehicle provided that the loan granted to a member of the Scheme under this regulation shall not exceed the maximum sum of two million shillings.

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 the vehicle subject to a loan from the Fund 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.

9. (1) A log-book kept in custody 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 purpose of renewal by that member of the necessary licenses.

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

(2) For the purpose of these Regulations, the value of a new vehicle shall be quoted on the invoice from the supplier whereas the value of a used vehicle shall be as determined by a report from the body known as the Automobile Association of Kenya, or other approved body or the Government department dealing with such matters.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the Fund to a member of the Scheme an additional loan to cater for an overhaul of the engine of the vehicle subjected to the maximum amount of two million shillings.

(4) Subject to these regulations, a member of the County Assembly shall be eligible for the maximum amount of loan specified under sub-regulation (1) in each term of the member of the County Assembly.

(5) A member of the County Assembly Service Board who is not a member of the County Assembly shall be qualified for a subsequent loan, if re-appointed by the County Assembly.

(6) The Clerk of the County Assembly and the senior staff of the County Assembly approved by the Board to be members of the Scheme shall be qualified for a subsequent maximum loan, after repayment of the first or subsequent loan, but not earlier than five years from the date of the first or subsequent loan.

(7) No member of the Scheme shall receive a loan the repayment of which shall result in salary deductions exceeding such amount of the monthly emoluments of the member of the Scheme, as the Committee may determine from time to time.

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.

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

(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 the maximum amount of two million shillings, but the subsequent annual premium shall be paid by the member of the scheme.

(3) Every loan granted under these Regulations shall be insured for the benefits of the member of the Scheme and the premium in respect thereof shall be paid by the member of the Scheme.

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.

(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 –

(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 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 a financial Statement of accounts relating to the Fund to the County Assembly, prepared a 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: and

(e) Shall furnish such additional information as he 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 year concerned.

16. (1) These Regulations shall be supplemented by such terms as may From time to time, be detailed in the application from supplied by the Board And in the hire purchase agreement between the member of the Scheme and the Board.

(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 of car by member of the Scheme under these Regulation; and such other matter as may be necessary for the proper management and administration of the Fund.

Dated the 10th February, 2014.

JOHN H. KOMBO,
County Executive Committee Member for Finance.

LEGAL NOTICE NO. 2

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 Assembly Service Board of Kilifi makes the following Regulations—

THE KILIFI COUNTY ASSEMBLY MEMBERS (MORTGAGE SCHEME FUND) REGULATIONS, 2014

ARRANGEMENTS AND REGULATIONS

Regulations

PART I—PRELIMINARY

1—Citation.
2—Interpretations.

PART II—ESTABLISHMENT OF THE FUND

3—Establishment of the fund.
4—Object and purpose of the fund.
5—Initial capital of the fund.

PART III—THE LOANS MANAGEMENT COMMITTEE

6—The loans Management Committee.
7—The board my appoint mortgage institution.
8—utilization of the funds monies.
9—Disbursement of loans foe development.
10—Application for a loan.
11—leasehold property.
12—Maximum loan disbursement.
13—Repayment of loan.
14—Interest rates and loans.
15—Lien.
16—Mortgage insurance.
17—default in repayment.
18—Administration of the fund.
19—Responsibilities of mortgage institutions.
20—supplementary terms.
PART I—PRELIMINARY

1. These Regulations may be cited as the public as the Kilifi County Assembly Members Mortgage Scheme Fund Regulations, 2014.

2. In these Regulations, unless the context otherwise requires—
   “borrower” means a person in receipt of a loan out of the Fund;
   “Board” means the County Assembly Service Board of Kilifi established under section 12 of the County Government Act;
   “Committee” means the Loans Management Committee established under regulation 6;
   “County Assembly” means the County Assembly of Kilifi.
   “Financial year” means the period of twelve months ending of the 30th June in each Year
   “Fund” Means the County Assembly Of Kilifi Mortgage Scheme Fund established under section 116 of the Public Finance Management Act.
   “Members of the Scheme” means a member of the County Assembly, member of the County Assembly Service Board who is not a member of the County Assembly, the clerk of the County Assembly and the senior staff of the County Assembly may be approved by the board.
   “Officer administering the Fund” means the Clerk of the 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 are established a Fund under the County Assembly Service Board to be Known as the County Assembly of Kilifi Mortgage Scheme 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 by members of the Scheme.

5 (1) The initial Capital of the Fund shall consist of the sum of Kenya shillings One hundred and sixty two million appropriated by the County Assembly in the county Appropriation Act, 2013.

   (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) and 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 consists of—

(a) the Leader of Majority in the County Assembly who shall be the chairperson, or a member of the County Assembly designated by the leader of Majority, to deputise him or her;

(b) the Minority leader of the County Assembly;

(c) the chairman of the Budget and Appropriation Committee of the County Assembly.

done 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 or a staff of the County Assembly appointed by the Clerk to deputise him or her.

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

(3) The committee shall administer the Fund 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 sort up a revolving Fund for the disbursement of the loans; and

(c) Supervise the day-to-day running of the fund.

(4) The meetings of the Committee shall be convened by the chairman or in the absence of the chairman, 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 chairman and any two members.

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

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

(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 Member of the scheme and his or her immediate family:
(3) A member of the Scheme may apply to the Committee for a loan to clear an existing bank loan advanced to the member to buy a residential property provided that a loan Granted to a member of the scheme under this regulation shall not exceed the The maximum sum of the three million shillings.

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

(a) To a member of the scheme of the Scheme who is in possession of the title deed to the land on which the development is intended to be carried out; 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.

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

9. A loan granted for the development of a residential property under these Regulation shall be released to the Member of the Scheme in the following phases—

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

(b) The subsequent disbursements based on the rate of completion of various phases of the development as certified by a qualified valuer at the cost of the member of the Scheme.

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 local authority 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 member of the Scheme 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 in such installments as may be appropriate and remit 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.

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

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 subject to the maximum amount of the three million shillings.

(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 losses there seat before fully repaying the loan.

(3) A loan granted to a borrower under these regulations shall be refunded at the rate of one hundred per centum of the value of the property, for purchase of property in Kenya; and

(4) Subject to these regulations, a member of the County Assembly shall be eligible for the maximum amount of loan specified under sub-regulations (1) in each term of the member of the County Assembly.

(5) The clerk of the County Assembly Senior staff of the county Assembly approved by the board to the members of the Scheme shall be qualified for a subsequent loan, but not earlier than five years from the date of the first or subsequent.

(6) The member of the County Assembly Service Board who is not a member of the county Assembly shall be qualified for a subsequent loan, if re-appointed by the County Assembly.

(7) No member of the Scheme shall receive a loan the repayment of which shall result in salary deductions exceeding such amount of the monthly emoluments of the member of the scheme, as the Committee may determine from time to time.

(13) A loan advanced under these regulations shall be repaid in full over a maximum period of five year months.

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.

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

(3) The interest charged under paragraphs (1) and (2) of this regulations and shall be met by the borrower.
15. (1) The Board shall 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.

(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 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.

16. (1) A borrower shall take out and maintain a mortgage protection policy and a fire policy at his or her own cost, with an insurance firm approved by the Board.

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

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 operation 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 (3) months after the end thereof to the County Assembly, a financial 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 and the Board may from time to time direct in accordance with the Public Finance Management Act;

(e) Furnish such additional information as may be require 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—

(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 though 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.

(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 Regulation; and

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

Dated the 10th February, 2014.

JOHN H. KOMBE,

County Executive Committee Member for Finance.