LEGAL NOTICE No. 1

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—

PUBLIC FINANCE MANAGEMENT (MARSABIT COUNTY STATE OFFICERS AND OTHER PUBLIC OFFICERS MORTGAGE SCHEME FUND) REGULATIONS, 2015

PART I—PRELIMINARY

Citation
1. These Regulations may be cited as the Public Finance (Marsabit County State Officers and other Public Officers Mortgage Scheme Fund) Regulations, 2015.

Interpretation
2. In these Regulations, unless the context otherwise requires—

“Committee” means the Mortgages 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 State Officers and other Public Officers Mortgage Scheme Fund established under Regulation 3;

“loanee” means a person in receipt of a mortgage out of the Fund;

“member of the Scheme” means county state officers and other public officers;

“officer administering the Fund” means the Chief Finance Officer of the County Government;

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

“staff” means an employee of the County Government designated to the Fund;

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

Establishment of the Fund
3. There is established a Fund to be known as the County State Officers and other Public Officers Mortgage Scheme Fund.
Object and Purpose of the Fund

4. The object and purpose of the Fund shall be to provide a mortgage 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 Fund shall consist of the monies 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.

The Mortgages Management Committee

6. (1) There is established a committee to be known as the County State Officers and other Public Officers Mortgage Scheme Management Committee, which shall consist of—

(a) the County Chief Officer responsible for finance, who shall be the Chairperson;
(b) the County Chief Officer responsible for the Governor’s office.
(c) the Chief Finance Officer, who shall be the secretary and officer administering the Fund;
(d) county chief officer responsible for public administration;
(e) county chief officer responsible for transport;
(f) Secretary to the County Public Service Board;
(g) one representative from the Workers Union.

(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 staff to attend its meetings.

(4) The Committee shall manage the Fund and as such shall—

(a) process applications for mortgages in accordance with the existing terms and conditions of borrowing;
(b) liaise with the mortgage company (if any) to set up a revolving fund for the disbursement of the mortgages; and
(c) oversee the day-to-day running of the Fund.

(5) 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.

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

Appointment of a Mortgage Institution

7. Notwithstanding Regulation 6(4) the Committee may, if it considers it appropriate to do so, appoint a mortgage institution to administer the Fund on behalf of the Committee.
Application for Mortgage

8. A member of the Scheme who wishes to apply for a mortgage from the Fund shall make such application to the Chairperson of the Committee of the Fund in the form specified in the Schedule or such other manner as the Committee may prescribe.

Utilization of Mortgage Monies

9. (1) A mortgage 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 mortgage 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) 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 (2)(b) shall not exceed forty per cent of the maximum mortgage amount for which the member of the Scheme is eligible.

Disbursement of Mortgage for Development

10. (1) A mortgage granted for the development of a residential property under these 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 valuer at the cost of the applicant.

Requirements for Application for Mortgage

11. (1) An application for a mortgage 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 Urban 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.

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

(3) Where a loanee fails to comply with the requirements of paragraph (2) within the stipulated time, the officer administering the Fund shall, upon giving the loanee fourteen days’ notice, deduct the amount due from the salary of that loanee 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 Committee.
Leasehold Property

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

Maximum Mortgage Disbursement

13. (1) The maximum mortgage to be granted under these Regulations shall be as provided by the SRC Circular dated—

(a) 17th December 2014 for the Governor, the Deputy Governor and other public officers; and

(b) 30th September 2014 for other County Executive Committee members.

(2) A member of the Scheme benefiting from the advisory in the SRC Circular dated 17th December, 2014 shall be required to give prior guarantee in writing of personal commitment to continue servicing the outstanding net mortgage uninterrupted from personal sources after the expiry of the current contract.

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

Repayment of Mortgage

14. A mortgage granted under these Regulations shall be payable over a maximum duration of twenty years as provided for in the SRC Circular dated 17th December, 2014 and SRC Circular dated 30th September 2014.

Interest Chargeable

15. (1) The interest chargeable on the mortgage shall be three per centum per annum on a monthly reducing balance basis and this rate may be reviewed from time to time as may be prescribed; and the interest accruing thereof shall be credited to the capital Fund.

(2) A mortgage institution appointed under regulation 7 to administer the Fund may charge an interest of not more than four per centum to cover management costs.

(3) The interest charged under paragraphs (1) and (2) of this regulation shall be spread over the loan duration and shall be met by the loanee.

Lien

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

(2) The loanee 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 Committee;

(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 Committee; and

(c) provide a transfer deed duly signed by the loanee and a letter authorizing the Committee to sell the property in case of default in payment.
(3) All residential properties purchased through the Fund shall be constructed of such material and standard as may be approved by the Committee.

(4) During the mortgage repayment period, every loanee 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 Committee.

(5) No loanee shall be eligible for more than one mortgage at a time from the Fund.

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

Mortgage Insurance

17. (1) A loanee shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by the Committee, the cost of which shall be paid by cash or out of the Fund and debited in the loanee's account.

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

Default in Repayment

18. The Committee may call in a mortgage and incase of default, sell the charged property by public auction or private treaty where the loanee is in breach of the terms under the mortgage agreement or the covenant contained in the charge of the mortgage instrument.

Administration of the Fund

19. (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 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 mortgagees 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 the Committee Chairperson and him or herself specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Committee 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 any other county relevant authority; 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.

**Responsibilities of Mortgage Institution**

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

(a) to operate individual accounts for each loanee, which shall provide tracks of recovery details of the mortgage;

(b) to charge security on properties acquired through mortgages from the Fund to protect the interests of the Fund and act as custodian of such charges;

(c) to disburse cheques for newly approved mortgages 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 mortgage, interest and other expenses which may be outstanding, to discharge the charge and release the security documents to the loanee; and

(f) upon default, to call in the mortgage and on behalf of the Committee sell the charged property by public auction or private treaty, in which event the Fund shall meet any shortfall between the mortgage outstanding and the proceeds of sale.

**Committee Guidelines**

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

(2) Subject to these Regulations, the Committee 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.

**Revocation of Legal Notice No. 1**

22. The Public Finance Management (Marsabit County State Officers and other Public Officers Mortgage Scheme Fund) Regulations, 2015 published under Legal Notice No. 1 of 14th May, 2015 are hereby revoked.
## APPLICATION FORM FOR COUNTY STATE OFFICERS AND OTHER PUBLIC OFFICERS MORTGAGE SCHEME FUND

**CONFIDENTIAL**

### I. PARTICULARS OF APPLICANT

<table>
<thead>
<tr>
<th>Name in Full</th>
<th>Mobile No.</th>
<th>Age</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>ID No.</td>
<td>Personal Identification No.</td>
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</tbody>
</table>

**Amount of Loan Required**

for............. Years

### II. EMPLOYMENT DETAILS

<table>
<thead>
<tr>
<th>a) Position</th>
<th>Years of service</th>
<th>terms of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>b) Current Net Salary/House Allowance received (attach recent pay slip)</td>
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</table>

**c) I confirmed that the information above is as per records in our file**

<table>
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<tr>
<th>Principal Personal Officer</th>
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### III. TRANSFER OF EXISTING MORTGAGE

<table>
<thead>
<tr>
<th>Existing Mortgage Account No.</th>
<th>Name of Company providing</th>
</tr>
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</table>

**Outstanding amount Ksh.**

**Do you want to transfer this amount to County Executive Mortgage Scheme Fund?** Yes ( ) No ( )

### IV. PARTICULARS OF PROPERTY

1. **Address of property to be mortgage** L.R. (Street/Road)

   (Estate) Description of property

2. **State if the property is** : Freehold ( ) Leasehold ( )

3. **If Leased, state length or unexpired item**

### V. IF THE APPLICATION IS ON EXISTING BUILDING

1. **State if:** Bungalow ( ) Maisonette ( ) Flat ( ) with main Rooms.........Bedrooms.........WC.........Kitchen/s.........Servant quarter.........Garage.........Purchase Price..............

2. **Vendor name**

   Address

   **Is property now mortgaged?** Yes ( ) No ( )

   **If Yes, please attach a letter of consent from the issuing company.**

### IF THE APPLICATION IS ON BUILDING UNDER CONSTRUCTION

1. **Purchase price of land Ksh.**

   **Estimate cost of building Ksh.**

2. **Name and Address of Architect:**

3. **Name and Address of Contractor:**

4. **Has the building work commenced?** Yes ( ) No ( )

   **If yes, date of completion:**
Return the application with the following: -

1. **EXISTING PROPERTY:** Copy of sale/purchase Agreement Duly signed and stamped. Copy of Title Document, Official Search, Valuation report, Or
2. **UNDER CONSTRUCTION:** copy of Title Document, Specifications of works, Approved Building Plans, Registration Certificates for Contractor and Architects valuation report.

I declare the foregoing statement and particulars to be true. I can maintain the Mortgage payment the other outgoings in connection with the property.

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<tr>
<th>Applicant Signature</th>
<th>Date</th>
</tr>
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(VI) **FINANCIAL APPRAISAL**

1. A third of Net salary/House Ksh.
2. Monthly Deductions including interest and cost of mortgage insurance Ksh.
3. I certify that after the monthly installments, there will be remaining a net salary of Ksh.

I recommended Mr/ Hon/ Mrs/Miss proposal be/is not approved.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
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</table>

Chairperson Mortgage scheme Fund

(VII) **FUND ADMINISTRATOR**

<table>
<thead>
<tr>
<th>Date document received</th>
<th>Date of Search</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date charge registered</td>
<td>Reference No</td>
</tr>
<tr>
<td>Loan agreement signed and registered on</td>
<td></td>
</tr>
<tr>
<td>Is Transfer Deed signed by borrower and letter authorizing sales in case of default</td>
<td></td>
</tr>
<tr>
<td>Receipt for deposit, Stamp Duty and legal fees No.</td>
<td></td>
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CONFIDENTIAL REPORT:

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<th>Signature</th>
<th>Date</th>
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Approval by Fund Administrator

X. **ACCOUNTS TRANSACTIONS/MORTGAGE PROCESSING**

| Date documents received from Fund Administrator | |
| Cheque No. | Amount | ID/NO. |
| Signature | Date |

FUND ACCOUNTS SECTION

Return the application with the followings:

1. **EXISTING PROPERTY:** Coy of sales, Valuation report, or
2. **UNDER CONSTRUCTION:** Copy of Title Document, Specifications of Works,
   Approved Building Plans, Registration Certificates for contractor and Valuation report, official search.