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 Executive Member for Finance makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (THARAKA NITHI COUNTY ASSEMBLY HOUSING FUND) REGULATIONS, 2017

Citation

1. These Regulations may be cited as the Public Finance Management (Tharaka Nithi County Assembly Housing Fund) Regulations, 2017.

Interpretation

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 Tharaka Nithi County Assembly Service Board established under section 12 of the County Government Act;

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

“administrator” means a person designated by the County Executive Committee member for Finance to administer the Fund;

“Fund” means the Tharaka Nithi County Assembly Housing Fund established under regulation 3;

“member of Staff” means an employee of the Tharaka Nithi County Assembly Service Board;

“Government” means the County Government of Tharaka Nithi;

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

“property” means a residential house purchased through a loan from the Fund and includes the land purchased under a 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 (Cap. 532).
Establishment of the Fund

3. There is established a Fund to be known as the Tharaka Nithi County Assembly Housing Fund.

Object and purpose of the Fund

4. The object of the Fund is to—
(a) provide loans for the purchase, development, renovation or repair of residential houses to Members of the County Assembly and Members of Staff;
(b) raise funds for the implementation of the objectives stated in paragraph (a).

Capital of the Fund

5. (1) The capital of the Fund shall consist of—
(a) monies appropriated by the Government;
(b) all monies that shall be paid into the Fund;
(c) income generated from the proceeds of the Fund; and
(d) grants and donations.
(2) 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.

The Housing Loans Management Committee

6. (1) There is established a Committee to be known as the Housing Loans Management Committee, which shall consist of—
(a) the County Assembly Speaker who shall be the Chairperson;
(b) the Assembly Clerk who shall be the fund administrator;
(c) the Majority Leader;
(d) the Minority Leader;
(e) the Majority Whip;
(f) the Minority Whip;
(g) the Head Finance Department;
(h) the Head Human Resource Department; and
(i) the Head Legal Department.
(2) The Assembly Clerk shall be the officer administering the Fund.
(3) The Committee 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; and

(c) supervise the day-to-day running 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 the Committee's functions.

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

Board may appoint mortgage institution

7. The Board may, if it considers it appropriate to do so, appoint a mortgage institution to lend the funds to the staff on its behalf.

Application for a loan

8. (1) A Member of County Assembly or a Member of Staff who wishes to apply for a loan from the Fund shall make an application to the officer administering the Fund in such 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 house for the occupation of the applicant and his or her immediate family:

(3) A loan for the development of residential house shall be granted at the discretion of the Committee—

(a) to a Member of County Assembly or a Member of Staff who is in possession of a title document to the land on which the development is intended to be carried out; or

(b) in two installments, to a Member of County Assembly or a Member of Staff for the purchase of the land at which the residential property is to be developed and for the subsequent development of the property.

Disbursement of loans for development

9. A loan 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
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(b) the subsequent disbursements based on the rate of completion of the various phases of development as certified by a Valuer at the cost of the applicant.

Requirements for a Loan Application

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 relevant authority of the County Government within the 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; and

(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 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 of that borrower in such instalments 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.

Leasehold property

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

Maximum Loan Disbursement

12. (1) The loan amount that a Member of County Assembly or a Member of Staff may receive shall be the value of the property that the Member of County Assembly or a Member of Staff proposes to purchase and develop subject to the available funds and the maximum limit set by the Salaries and Remuneration Commission.

(2) A Member of County Assembly or a Member of Staff 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 their job before fully repaying the loan.

(3) Subject to these Regulations, a Member of County Assembly or a Member of Staff shall be eligible for the maximum amount of loan specified under paragraph (1) in each term of the Member of County Assembly or a Member of Staff which may be accessed by the Member of County Assembly or a Member of Staff in a maximum of two disbursements in each term.
(4) For a member of Staff to qualify for a loan, such a member shall be required to be—

(a) confirmed in appointment; or

(b) on permanent and pensionable basis.

(5) where a Member of Staff leaves public service employment for whatever reason other than disciplinary grounds, the terms of the loan remains in force and does not change for the life of the loan unless in cases of default in which case it reverts to commercial terms.

Repayment of loan

13. A loan granted under these Regulations shall be fully repaid within a period of not more than twenty (20) years for a member of staff and a period of not more than five (5) years for a member of County Assembly.

Interest on loans

14.  (1) The interest chargeable on a loan shall be three per centum per annum on a monthly reducing balance for the duration of the loan.

(2) A mortgage institution appointed under regulation 7 to administer the Fund may charge an interest of not more than 3 per centum 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 regulation shall be met by the borrower.

Lien

15.  (1) The Government shall register a charge on any property financed through a loan granted under these regulations and such charge shall impose an obligation on the chargee—

(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.

(2) All residential properties purchased through the Fund shall be constructed of such material as may be acceptable to the Board.

(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 of repair; and

(c) not alter or make any structural alteration to the property, or 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.

(4) No borrower shall be eligible for more than one loan at a time or more than a total of two loans from the Fund.

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

Mortgage insurance

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 the borrower’s account.

(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.

Default in repayment

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.

Functions of the officer administering the Fund

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 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 (3) months after the end thereof, a statement of accounts relating to the Fund, 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 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

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 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.

Supplementary terms

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 Regulations; and

(c) such other matters as may be necessary for the proper management and administration of the Fund.
LEGAL NOTICE NO. 3

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, with the approval of the County Executive Committee and the County Assembly makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (THARAKA NITHI COUNTY ASSEMBLY STAFF CAR LOAN FUND) REGULATIONS, 2017

Citation

1. These Regulations may be cited as the Public Finance Management (Tharaka Nithi County Assembly Staff Car Loan Fund) Regulations, 2017.

Interpretation

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

“Board” means Tharaka Nithi County Assembly Service Board;

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

“Committee” means the Car Loan 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 Tharaka Nithi County Assembly Staff Car Loan Fund established under Regulation 3;

“Government” means the County Government of Tharaka Nithi;

“Loan Agreement” means an agreement between the Fund and a member of County Assembly or a member of staff;

“member/(s)” means the Speaker of the County Assembly, the County Assembly members and an employees of Tharaka Nithi County Service Board;

“officer administering the Fund” means the Assembly Clerk of Tharaka Nithi County Assembly;

“valuer” means a person registered as a valuer under the Valuers Act (Cap. 532).

Establishment of the Fund

3. There is established a fund known as the Tharaka Nithi County Assembly Car Loan Fund.

Purpose of the Fund

4. The purpose of the Fund is to provide loans for the purchase of vehicles by members.
Sources of the Fund

5. The sources of the Fund shall consist of—
   (a) monies appropriated by the County Assembly through the Budget;
   (b) income generated from the proceeds of the Fund; and
   (c) sums received as contributions, gifts, grants or donations.

The car Loans Management Committee

6. (1) There is established a committee known as the County Assembly Members Car Loans Management Committee, which shall consist of—
   (a) the County Assembly Speaker who shall be the Chairperson;
   (b) the Assembly Clerk who shall be the fund administrator;
   (c) the Majority Leader;
   (d) the Minority Leader;
   (e) the Majority Whip;
   (f) the Minority Whip;
   (g) the Head Finance Department;
   (h) the Head Human Resource Department; and
   (i) the Head Legal Department.

Fund administrator

7. Pursuant to section 116(2) of the Public Finance Management Act, 2012 the Assembly Clerk shall be the designated officer for administering the Fund.

Other staff

8. The Committee may co-opt such staff to attend its meetings as may be deemed necessary.

Meetings of the Committee

9. The meetings of the Committee shall be convened by the Chairperson at such times as may be necessary for the discharge of the Committee’s functions.

Quorum

10. The quorum for a meeting of the Committee shall be the Chairperson and any three members.

Application for loan

11. (1) A member who wishes to apply for a loan from the Fund shall apply to the officer administering the Fund by presenting a form prescribed by the Committee.

   (2) The officer administering the Fund shall confirm the applicant’s financial status and capacity to repay the loan applied for in accordance with the laid down requirements and where so satisfied shall forward the application to the Committee for consideration.
(3) The Committee shall consider and may approve a loan application presented by the officer administering the Fund.

(4) Where the Committee approves an application, the applicant shall enter into a purchase agreement in such form as the Committee may prescribe.

Conditions for disbursement of funds

12. (1) A loan approved under regulation (11) 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 shall be issued jointly between the County Assembly Service Board and the member and shall be kept in the custody of the officer administering the Fund until the loan is repaid in full by the member.

Loan amount

13. (1) For the purpose of these Regulations, the value of a new motor vehicle shall be as quoted on the invoice from the supplier.

(2) The value of a used motor vehicle shall be as determined by a report from the body known as the Automobile Association of Kenya, or the Government department dealing with such matters or any such valuer as may be approved by the Committee.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the Fund to a member an additional loan not exceeding ten per cent of the value of the vehicle purchased by the member of Staff to cater for any additional expenses for a used motor vehicle.

Interest rate

14. (1) A loan granted to a member under these Regulations shall carry an interest rate of three per cent per annum on a reducing balance for the duration of the loan.

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

Repayment of loan

15. A loan advanced under these Regulations shall be repaid in full over a maximum period of five years or less.

Insurance

16. (1) A member shall comprehensively insure any vehicle purchased through the Fund with an insurer approved by the Committee or the financial institution and the payment for the insurance premium shall be debited to the account of the member.

(2) Where a member 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.
A member who is unable to pay the subsequent annual premiums referred to in paragraph (2) may apply to the Car Loan Management Committee for a further loan, which shall be repaid within a period of one year.

Without prejudice to sub-clause (3) above where a borrower defaults in repayment of the loan for a period of four consecutive months, the committee shall repossess and sell the vehicle to another deserving member or employee provided that the committee shall serve ninety days' notice to the member to regularize the arrears and in default face repossession.

**Loan discharge**

17.  (1) Upon full repayment of the loan, a signed loan discharge certificate and a duly signed transfer form in such forms as may be prescribed by the committee shall be issued to the member and a copy of the two documents shall be forwarded to the Registrar of Motor Vehicles.

2. The loan discharge certificates shall release the member 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 12.

**Administration of the Fund**

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 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) pursuant to section 116 (7) (b) of the Public Finance Management Act, 2012 prepare, sign and transmit to the Auditor-General in respect of each financial year and within three months after the end of each financial year, a statement of accounts relating to the Fund, prepared and signed by the officer administering the Fund 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; and

e) furnish such additional information as may be required for the purpose of examination and audit by the 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.

3. All monies of the Fund shall be paid into a bank account operated by the officer administering the Fund.

4. The bank account referred to in sub-regulation (3) shall be used solely for the purposes of the Fund.
19. (1) The officer administering the fund and the Committee may, if they consider it appropriate to do so, appoint a financial institution to administer the Fund on behalf of the Committee subject to the Salaries and Remuneration Commission guidelines.

(2) The Responsibilities of the mortgage institution, if any, appori these regulations shall be—

(a) to operate individual accounts for each borrower, we 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.

Committee guidelines

20. Subject to these Regulations, the Committee may issue guidelines on such other matters as may be necessary for the proper management and administration of the Fund.

Comprehensive insurance requirement

21. Every motor vehicle purchased with monies from the Fund shall be covered under a comprehensive motor vehicle insurance cover.

Made on the 30th May, 2017.

AARON MUTEGI,

Executive Committee Member for Finance and Economic Planning.