

KERICHO COUNTY ASSEMBLY

THE HANSARD

Second Assembly

Fifth Session

Tuesday 11th May 2021

(The House met at 9.30 a.m.)

[Speaker (Hon. Dominic Rono) in the Chair]

PRAYERS

The Speaker (Hon. Dominic Rono): We may proceed.

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Dominic Rono): So honorable members we shall be having a short meeting with the Women Caucus after this session and we shall also be having a small training by the department of ICT with respect to use of Microsoft teams for our committee meetings. Thank you.

**THE KERICHO COUNTY REGULARIZATION OF
DEVELOPMENTS BILL, 2021 SECOND READING**

The Speaker (Hon. Dominic Rono): Chairperson, Committee on Lands, Housing and Physical Planning. The honorable Hezron Ngetich, you can do the second reading.

Hon. Hezron Ngetich (Majority Leader, Member for Chilchila Ward): Thank you honorable Speaker for giving me this opportunity so that I can stand on behalf of the Chairman Lands, Housing and Physical Planning. Allow me to start from page 15.

MEMORANDUM OF OBJECTS AND REASONS

The main objects of the Kericho County Regularization of Developments Bill, 2021 are to—

- (a) bring unauthorized developments under the umbrella of planning framework and to provide basic facilities and infrastructure to the residents of concerned areas in the County;
- (b) provide for Regularization of unauthorized developments commenced or completed before the date of commencement of this Bill;
- (c) exclude authorized allocation of land or development made on any public land from the benefit of Regularization;
- (d) provide for Regularization of authorized developments made in conservation area declared as such under the relevant law;
- (e) provide for Regularization of unauthorized developments which fall within the required set off specified in any law governing building;
- (f) provide for appointment of an advisory committee for the purposes of this Bill;
- (g) exclude illegally acquired land from process of Regularization.

The Bill is divided into 4 parts as below:

Part I—Preliminary

Part I of the Bill provides for preliminary matters such as the short title, Interpretation and the Objectives of the Bill.

Part II—Regularization Process

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Part II provides for regularization process any person on allotted land belonging to the County Government, or Private land, may, on the application of such person made before such date as prescribed, be regularized in accordance with the Provisions of this Bill. Developments shall be eligible for Regularization under the Act from the date of commencement of the Bill and shall lapse at the expiry of 3years from such date.

Regularization Notices: The Executive Committee Member may serve a notice to the owner of an unauthorized development, within a period of six months from the commencement of the Act, or within such period as may be extended, requiring him or her to furnish such particulars and documents within a period of one month from the date of notice.

Upon receipt of the notice the owner shall comply and furnish the relevant particulars and documents. List of unauthorized developments which shall not be regularized under this Bill.

Prior actions to be recognized under this Bill: All things done or omitted be done with respect to obtaining approval for development during the period before the commencement of this Bill shall in so far as they are in conformity with the provisions of this Bill shall be deemed to have been done or omitted to done, or taken or not taken as such provisions were in force at the time such things were done or omitted to be done during that period.

Conditional Regularization: The executive committee may regularize a development subject to conditions that he/she may impose. Certificate of Regularization shall not issue unless such conditions are met.

Amnesty: All notices issued by the county government for initiating action against unauthorized development shall be deemed to have been suspended and no punitive action shall be taken till the expiry of the Regularization period.

Payment of Regularization fees: Within two months from date of receipt of provisional order of Regularization.

Unauthorized developments not regularized to be demolished: Every unauthorized development which is not regularized under this act after expiry of the Regularization period shall be liable for demolition.

Conditional Regularization: The executive committee may regularize a development subject to conditions that he/she may impose. Certificate of regularization shall not issue unless such conditions are met.

Amnesty: All notices issued by the county government for initiating action against unauthorized development shall be deemed to have been suspended and no punitive action shall be taken till the expiry of the regularization period.

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Unauthorized developments not regularized to be demolished: Every unauthorized development which is not regularized under this act after expiry of the regularization period shall be liable for demolition.

Application of certain provisions of the National Physical Planning Act.

Liability: An owner undertaking any alteration, modification or addition in any authorized development so as to get it regularized shall be wholly and solely liable for any injury or damage that may be caused during the carrying out of such work.

Consequences of Regularization: The unauthorized development on being regularized shall be deemed to have been exempted from all other physical development and land use planning regulations.

Appeals: Any person aggrieved by the order or decision of the planning authority may within 30 days from the date of the receipt of the order, prefer an appeal to the appeals committee.

Protection of action taken in good faith: No suit, prosecution or other legal proceedings shall lie against any officer or authority and county government for anything which is in good faith done or intended to be done pursuant of this act.

Removal of doubt: It is hereby declared that regularization of unauthorized development under this Act shall be without prejudice to any civil or the criminal to which a person may be subject to under any other law.

PART III--- Regularization Advisory Committee

Establishment of the Regularization advisory committee: There is established the Regularization Technical Committee.

The committee shall be in existence for two years.

The committee shall consist of 11 members appointed by the county Executive Member from the amongst the county government public officers.

The establishment of the Regularization advisory committee: There is established the Regularization advisory committee.

The committee shall consist of 14 members appointed by the Governor.

Part IV --- Miscellaneous Provisions

Regulations: The Executive Committee Member may, on recommendation of the advisory committee and with the approval of the governor, make regulations for better carrying into effect the provisions of the Bill.

Administrative and other arrangements.

The Speaker (Hon. Dominic Rono): Thank you, next order!

**THE KERICHO COUNTY CESS BILL, 2021 SECOND
READING**

The Speaker (Hon. Dominic Rono): Chairperson, Finance and Economic Planning Committee.

Hon. Alex Bett (Chairperson, Finance and Economic Planning Committee, Member for Litein Ward): Thank you Honorable Speaker for giving me this opportunity so that I may present the Kericho County Cess Bill, 2021 second reading, the purpose of this Bill is to facilitate collection of Cess on agricultural produce in the county. The Bill is meant to provide a legal framework for the collection of Cess on agricultural produce, waiver of Cess collection from specified category of produce, and provide for offences against the collection of Cess.

This Bill is in line with the Article 209 of the constitution. Imposition of Fees must be supported by a legal framework before such fees can be levied and collected and as such this Bill seeks to provide the legal basis and framework for the levying and collection of Cess Fees on agricultural produce in the County.

The Bill seeks to among other things;

- a) Contribute to increased revenue streams for the county through the Cess Fees established herein;
- b) Provide a legal framework for determination of category of crops to whom Cess shall be payable;
- c) Promote a disciplined approach in the levying and collection of agricultural Cess Fees within the county.
- d) Establish procedure to oversee law enforcement on issues regarding payment of Cess Fees on agricultural produce.

The Bill proposes that authorized officers under the supervision of the executive committee member shall manage the collection and administrative of Cess Fees in the county.

The enactment of the Bill into law shall entail expenditure of public funds to be provided for in the county estimates. Thank you, Mr. Speaker.

The Speaker (Hon. Dominic Rono): Thank you, next order!

**THE KERICHO COUNTY HOUSING BILL, 2021 SECOND
READING**

The Speaker (Hon. Dominic Rono): Chairperson, Land, Housing and Physical Planning Committee.

Hon. Bernard Mutai (Chairperson, Lands, Housing and Physical Planning Committee, Member for Kipchimchim Ward): Thank you very much Mr. Speaker for giving me this opportunity so that I can table The Kericho County Housing Bill, 2021 Second reading

**THE KERICHO COUNTY HOUSING BILL 2021 SECOND
READING.**

MEMORANDUM OF OBJECTS AND REASONS

The Constitution through section 43(1) (b) of the Bill of Rights provides for accessible and adequate housing as an economic and social right for all citizens. It further mandates and empowers the County Government with the housing function through Schedule four. The purpose of this Bill is to therefore ensure that the function of housing is immediately and effectively implemented at the county level and that mechanisms are provided for in county legislation.

The objects of the proposed law as set out in clause 3 are

- a) Give further effect to paragraph 8 of the fourth schedule to the constitution which mandates the county government with the housing function.
- b) To ensure that the national government policy on housing is implemented at the county level in accordance with the requirements of the constitution to the effect that Government at either level shall among other things, as appropriate ,implement the legislation of the other level of government ; and
- c) To provide for the county institutions and for procedures applicable to the housing sector in the county such as urban renewal and revenue generation.

The county Government is at liberty to establish its own institutions that will manage its housing function which are also expected to implement the national and county government policy on housing as they become effective.

This Bill provides for County Housing Management Committee and a Board of Survey who shall be appointed by the County Executive Committee Member in Charge of Housing Matters. In addition, it provides for a Rent Enforcement Unit that reports to the Revenue Director. These entities are meant to ensure efficient, effective, sustainable and well-coordinated management of Kericho County Housing matters.

Thank you very much Mr. Speaker.

The Speaker (Hon. Dominic Rono): Next order!

**THE KERICHO COUNTY AGRICULTURAL TRAINING
MECHANIZATIONS SERVICES BILL 2021, SECOND READING.**

The Speaker (Hon. Dominic Rono): So Hon. Nancy Kimetto you can read on behalf of Hon. David Rono.

Hon. Nancy Kimetto (Member for Tebesonik Ward): Thank you Hon. Speaker for giving me this chance to read, The Kericho County Agricultural Training and Mechanization Services Bill, 2021 for the second time.

MEMORANDUM OF REASONS AND OBJECTS

The main object of this bill is to provide for the establishment of the Kericho County Agricultural Training Centre and its management, and to provide for the regulation of the agricultural mechanization services and for other connected purposes.

Part 1 of the Bill provides for the preliminary matters such the short title, interpretation, objects and guiding principles, which are the national values and principles of governance as set out in the constitution.

Part 11 of the Bill provides for the establishment of the Kericho County Agricultural Training Centre, its functions and management.

Clauses 8 establish a Board of management to manage the centre as well as to coordinate the mechanization services in the County.

Clause 9 provides for the functions of the Board of management which inter alia includes the provision of strategic guidance and oversight on the management and implementation of the county policies on agriculture sector and mechanization.

Clause 10 provides for the qualifications for appointment as a member of the Board under paragraph 9(2) (e) and (f)

Part III contains the operational guidelines for mechanization services.

Clause 20 provides for the mechanization services which shall consist of agricultural machinery and equipment procured by the county to accelerate the sustainable growth and development of agriculture provisions.

Clause 21 provides for hiring of machinery

Part IV contains for miscellaneous provisions.

Clause 24 provides for the retainer of monies received, saved or accrued to the centre.

Clause 27 requires the Farmers association to file a report with the Board whilst clause 29 requires the Board to file a report with both the Executive committee members for Finance and Agriculture

Clause 30 provides for a general penalty for breach of the provisions of the Act and

Clause 31 mandates the Executive Committee member responsible for finance to make regulations to give effect to the provisions of the Bill.

The enactment of this Bill shall occasion additional expenditure on the exchequer.

Thank you Hon Speaker.

The Speaker (Hon. Dominic Rono): Thank you honorable Nancy Kimetto. Next order!

**THE KERICHO COUNTY DECENTRALIZED
STRUCTURE BILL, 2021 SECOND READING**

The Speaker (Hon. Dominic Rono): The Kericho County Decentralized Bill, 2021.
Chairperson Committee on Labor, Governance and Social Welfare honorable Anthony Rutto.
Honorable Grace Koech you may read the Bill for the second time.

Hon. Grace Betty Koech (Nominated Member representing Women): Thank you very much
honorable Speaker for giving me this opportunity to stand in on behalf of the Chairperson
honorable Anthony Rutto to read the Kericho County Decentralized Bill, 2021 second reading.

MEMORANDUM OF OBJECTS AND REASONS

1. PURPOSE

The purpose of this Memorandum is to request the County Assembly's consideration and approval of the Kericho County Decentralized Structures Bill, 2021 and its direction that the Bill be published for introduction in the County Assembly.

2. BACKGROUND

Article 6 of the Constitution of Kenya, 2010 divides Kenya into forty seven (47) counties and requires state organs to ensure reasonable access to their services in all parts of the Republic. At the same time Article 184 provides for urban areas and cities as units of decentralization under the counties. Moreover Article 176(2) requires county governments to decentralize their

functions and the provision of services to the extent that is efficient and practicable. Furthermore, Part VI of the County Government Act, 2012 requires that the functions and services of the county government should be decentralized along the units specified in the Act. The counties are administratively devolved further into sub-counties, wards and village units. Functional devolved governments are expected to bring services closer to the people and espouse the prerequisites for an economy that attracts and retains local and foreign investments. Efficient and effective devolved units have the potential to spur economic growth, political stability and social advancement in line with the precepts of the Constitution and national and county development plans including the Kenya Vision 2030. In view of the above, the County Government of Kericho finds it prudent to enact this proposed legislation that will go a long way in decentralizing services to the lowest possible level in terms of service delivery.

3. OUTLINE OF THE BILL

Part I This Part is preliminary. It names the proposed Act and defines words and expressions used in the Bill. It also provides for the main object of the Act as well as guiding principles. The Kericho County Decentralized Structures Bill, 2021 15

Part II establishes a Strategic and Development unit that will among others be mainly be responsible for reviewing all functional policies of the decentralized units, overseeing the implementation of all county government policies and functions.

Part III provides for the administration of the decentralized units and contains provisions on the structure of decentralized units, functions of the decentralized units and boundaries of decentralized units. It also provides for the following offices; Town manager, Sub county administrator, Ward administrator, Village administrator and the Village council.

Part IV contains general provisions such as conduct of officers, support by the inspectorate, indemnity and the county executive committee member power to make regulations.

The Speaker (Hon. Dominic Rono): Thank you honorable Grace Koech. Next order!

**THE KERICHO COUNTY URBAN AREAS
MANAGEMENT BILL, 2021 SECOND READING**

The Speaker (Hon. Dominic Rono): The Kericho County Urban Areas Management Bill, 2021, Chairperson Committee on Lands, Housing and Physical Planning Honorable Bernard Mutai!

Hon. Bernard Mutai (Chairman, Lands, Housing and Physical Planning Committee, Member for Kipchimchim Ward): Thank you, once again Mr. Speaker for giving me this opportunity so that I can table the Kericho County Urban Areas Management Bill, 2021 second reading.

MEMORANDUM OF OBJECTS AND REASON

One of the principal objects of devolution under Article 174 of the Constitution is to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya. Article 10 of the Constitution recognizes sustainable development as a national value that binds all persons in Kenya. Article 184 of the Constitution requires that national legislation shall provide for the governance and management of urban areas and in particular-

- (a) establish criteria for classifying areas as urban areas;
- (b) establish the principals of governance of urban areas; and
- (c) provide for participation by residents of urban areas.

This Bill seeks to give effect to Article 184 of the Constitution as read with the Urban Areas and Cities Act to provide for the governance and management of urban areas within the County and participation of residents. It confers general power and responsibility on Boards and town committees to make Regulations for the better governance and management of urban areas and sets out a criterion for accountable expenditure of public resources in urban areas. The enactment of this Bill will occasion additional expenditure of public funds.

Thank you very much Mr. Speaker Sir;

The Speaker (Hon. Dominic Rono): Thank you the Honorable Benard Mutai, next order!

**THE KERICHO COUNTY KABIANGA TEA FARM BILL,
2020 SECOND READING**

The Speaker (Hon. Dominic Rono): The Kericho County Kabianga Tea Farm Bill, 2020 (Second Reading), the Chairperson Agriculture, Livestock and Fisheries. Though the bill reads County Executive Committee Member for Agriculture, Livestock and Fisheries. Please give us the objects of the Bill.

Hon. Nancy Kimeto (Member for Tebesonik Ward): Once again thank you very much Mr. Speaker for giving me this time to stand in for the Chair, Hon. David Rono. This is now the Bill on the Kericho County Kabianga Tea Farm Bill, 2020 being read for the second time. I now read the Memorandum of Objects and Reasons.

MEMORANDUM OF OBJECTS AND REASONS

The bill aims at establishing the legal and institutional framework for county investment in order to inter alia enhance financial and economic prudence in the county and create an efficient and effective agency. The promoting and coordinating investment undertaken in the tea farm.

Part I of the Bill provides for the preliminary, which include the short title of the proposed investment legislation and the interpretation of terms used in the Bill.

Part II of the Bill proposes to establish the Kabianga Tea Farm as an agency a body corporate, its composition, objects, functions and powers. The part also vests the management of the agency to the board of directors, which consists of seven members including the manager who is an

Ex-officio member. It is also provides for the administration of the agency and also imposes a requirement for the agency to prepare annual report in order to enhance accountability.

Part III of the Bill provides for finances of the agency. It stipulates that the finances of the agency include moneys appropriated by the county assembly, loans grants or revenues realized from the agency's investment. The part also obligates the agency to maintain accounting and financial records as well as preparing financial records for auditing.

Part IV of the Bill provides for the finances of the agency. It provides for investment principles that shall guide the agency as well as investment powers of the board. It goes further to provide for capitalization investment strategy and plan, dividend policy as well as partnership. It also provide for sustainability, profitability, and competitiveness of investment.

Part V of the Bill provides for miscellaneous provisions. It empowers the executive committee member to make regulations for better implementation of the Act. The part also provides for the transfers of assets that may be set aside for investment for the purposes of investing under the Act and dispute resolution mechanism.

Dated the 8th October, 2020

Thank you very much.

The Speaker (Hon. Dominic Rono): Thank you the honorable Nancy Kimetto.

Adjournment

The Speaker (Hon. Dominic Rono): So honorable members that marks the end of the session which shall resume back in the afternoon. Thank you.

The house rose at 10:12 am.

