

KERICHO COUNTY ASSEMBLY

THE HANSARD

Second Assembly

Fifth Session

Wednesday 30th June, 2021

(The House met at 9.30 a .m.)

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

PRAYERS

The Speaker (Hon. Dominic Rono): Let's proceed!

NOTICE OF MOTION

The Speaker (Hon. Dominic Rono): Chairman Lands, Housing, Physical Planning and Settlement committee

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning & Settlement Committee, Member for Kipchimchim Ward): Thank you very much Mr. Speaker for giving me this opportunity so that I can present the motion that this House adopts the report on Lands, Housing, Physical Planning and Settlement committee on the Memorandum from H.E The Governor on the Kericho County Regularization of Development Bill, 2021. Thank you very much Mr. Speaker.

MOTION

The Speaker (Hon. Dominic Rono): Chairman Lands, Housing, Physical Planning and Settlement committee

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement committee, Member for Kipchimchim Ward): Thank you very much Mr. Speaker Sir for giving me this opportunity once again. Before I talk on this motion, I would like to make a request that we suspend this motion for about 10 minutes so that we can get the quorum Mr. Speaker, Thank you.

The Speaker (Hon. Dominic Rono): Honorable Members we suspend for 10 minutes.

(The Speaker leaves the chair for ten minutes then resumes)

The Speaker (Hon. Dominic Rono): Take your seats!

MOTION

**REPORT ON MEMORANDUM FROM H.E. THE
GOVERNOR ON THE KERICHO COUNTY REGULARIZATION
OF DEVELOPMENT BILL, 2021**

COMMITTEE OF THE WHOLE HOUSE

(The speaker leaves the chair)

(The Chairman takes the Chair)

The Chairman (Hon. Joshat Rutto, Member for Soin Ward): Welcome Honorable Members to the committee of the whole house so that we can discuss the report on the Kericho County Regularization of Development Bill, 2021. The Chairman! Clerk!

Title of the Bill

THAT the title of the bill be amended to read ‘Kericho County Regularization of unauthorized development Bill 2021.

Benard Mutai (Chairman Lands, Housing and Physical Planning & Settlement Member for Kipchinchim Ward): Thank you Mr. Chairman for this opportunity. The reason as to why we retained the title is because the title is more clear than the amended one just a correction. Thank you.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Thank you.

Question proposed

Question put and agreed to

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Clerk!

INTERPRETATION

“Land transaction” means allocation of land, confirmation of lease, extension of lease, renewal of lease, change of user, extension of user, sub- division of land, amalgamation of land, consent to charge, or consent to transfer land;

"family" in relation to a person means an individual, wife or husband, as the case may be, of such individual and their unmarried minor children;

“public” means residents of an area who are directly or indirectly affected by any unauthorized development;

“Revenue site” means any commercial building, residential building, industrial building, or space, used for any trade or to generate revenue by any person or persons and that is or can be issued with a business license or permit by the county government;

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"Unauthorized construction" means any construction made without obtaining a building permit, or after obtaining a building permit which is issued in violation of any law relating to town and country planning or erection of building;

"Permanent structure" means any building whether of masonry, bricks, wood, mud, metal or any other materials whatsoever;

"Prescribed" means prescribed by rules made under this Act;

"Approved Development Plans" means the initial approved physical development plans for both urban land uses and rural human settlement and land adjudication plans containing access road layouts and other demarcations for public purposes

"Declared Urban area" means a city, municipality, town or market declared in accordance with the provisions of Urban Areas and Cities Act (Amendment 2019)

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement Committee, Member for Kipchimchim Ward): Thank you so much Chairman, these initials are very important in the bill and it was omitted in the amended bill, so it is very important we include these initials in the bill. Thank you.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Thank you.

Question proposed

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Any comment? Thank you if there is none.

Question put and agreed to

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Clerk!

That Clause 5 be amended by adding the following sub clauses

(5) On receipt of the reply under subsection (2) or an application under subsection (3), or a petition under sub- section (4), the Executive Committee Member shall, after making an inquiry in the manner as he or she considers necessary, and is of the opinion that the development can be regularized, issue an order requiring the owner to pay the fees for the regularization of the unauthorized development within 30 days.

(6) Where a petitioner under sub-section (4) is not satisfied with the executive committee member's response, the petitioner may submit an appeal to the liaisons committee in a prescribed format.

(7) Petitions under sub- section (4) relating to unauthorized developments under Section 7 of this Act shall not be regularized.

(8) The executive committee member shall, while considering matters under sub- section (2) and sub- section (4), invite for public comments through a publication in at least two newspapers of widest circulation

(9) The executive committee members determine the matters under sub- section (2) and sub- section (4) within 60 days and the decision shall be published in the gazette, and in at least two newspapers of widest circulation.

(10) Any person not satisfied with the Executive Committee Member's decision in (9) above may appeal against the decision to the appeals committee.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Chairman!

(9) The executive committee members determine the matters under sub- section (2) and sub- section (4) within 60 days and the decision shall be published in the gazette, and in at least two newspapers of widest circulation.

(10) Any person not satisfied with the Executive Committee Member's decision in (9) above may appeal against the decision to the appeals committee.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Thank you, Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement, Member for Kipchimchim Ward): Thank you Chairman, in the first amended bill we had only three sections which were omitted. That is just an addition for all this explanations. We were missing these numbers from five to ten so chairman it is just an addition. Thank you.

(Question proposed)

(Question put and agreed to)

THAT clause 7 sub clause 1 appearing for the second time be renumbered to clause 7 sub clause 2

THAT the word “Planning Authority” be replace with word “ County Executive Committee Member” wherever it appears in the Bill, the two terms as defined by the Physical and Land use planning Act (2019) are one and the same.

THAT clause 7 be amended by adding the following sub clause

(6) No person shall be eligible to seek regularization of more than one unauthorized construction either in his name or in the name of any member of his family.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement, Member for Kipchimchim Ward): Thank you Chairman, the first explanation that is planning authority and executive committee are one and the same thing, number two that is clause 7 be amended by adding the following sub clauses, so that clause 6 was missing it is just an addition. Thank you.

(Question proposed)

(Question put and agreed to)

THAT clause 12 be amended by adding the following sub clause

(3) At the expiry of twelve months from the effective date, unauthorized developments not regularized in accordance with this Act shall not be licensed as revenue sites by the County Government

The Chairman (Hon. Joshat Rutto, Member for Soin Ward): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement, Member for Kipchimchim Ward): Thank you Chairman, the reason as to why we are adding this is because this is a critical enforcement component. So it should be included in the bill. Thank you Chairman.

(Question proposed)

(Question put and agreed to)

THAT clause 16 be amended by adding the following sub clauses

(1) The County executive committee member shall maintain a register of documents submitted by applicants for regularization and shall issue a submission certificate to every applicant who submits such documents.

(2) The County executive committee member shall maintain a register of applications for regularization and shall enter the details of each petition or application for regularization, whether or not permission was granted to that applicant or petitioner and the details of the unauthorized development for which application or petition has been submitted for.

(3) A register maintained by the county executive committee member under this Act shall be open to the public for scrutiny

(4) The County executive member shall, within 90 days of the enactment of this Act, publish guidelines for public access to that register.

The Chairman (Hon. Josphat Rutto Member for Soin Ward): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement Committee, Member for Kipchimchim Ward): Thank you Chairman, that is also an addition but the main reason is that it should be for transparency and objectivity of regularization bill. Thank you.

(Question proposed)

(Question put and agreed to)

That clause 20 be amended by adding the following sub clauses

(4) Members appointed into this committee shall serve for a one-year renewable term.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement Committee, Member for Kipchimchim Ward): Thank you chairman the main reason is that it should be for transparency and diligence of the bill. Thank you.

The Chairman (Hon. Josphat Rutto Member for Soin Ward): Thank you!

Question proposed

Question put and agreed on

That clause 23 sub clause 2 be amended by deleting the words ‘**on the recommendation of the advisory committee**’.

The Chairman (Hon. Josphat Rutto Member for Soin Ward): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement Committee, Member for Kipchimchim Ward): The main reason as to why we are deleting this one chairman is just to give the CEC an authority to implement the bill. Thank you.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Thank you.

Question proposed

Question put and agreed on

That Part V be amended by adding the following sub clauses.

Part V- Enforcement Provisions

- (1) A person commits an offence if that person —
 - (a) After the expiry of regularization period, continues to use or causes to be used any authorized development either as revenue site or for private purposes
 - (b) Being a public officer, issues a trading license or causes to be issued with a trading license to any business operating in an unauthorized development
 - (c) Being a public officer, grants regularization permission or comments on an application for regularization contrary to this Act or any other law.
 - (d) Being a public or government officer, fails to publish the regularization of unauthorized developments register or knowingly and wilfully omits from the register petitions or applications submitted in relation to unauthorized developments
 - (e) Provides falsified information relating to any unauthorized development for the purposes of regularization under this Act
 - (f) Obstructs the undertaking of any process relating to the regularization of unauthorized developments under this Act

- (2) A person who commits an offence under this section is liable, on conviction to a fine of not less than one million shillings or to imprisonment for a term of not less than five years or to both.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement Committee, Member for Kipchimchim Ward): Thank you so much Chairman, this one being the last part that is part five it was totally omitted in the first bill and you see from the explanation it is very important so that the bill can be implemented. We need this enforcement team. It is very important that we include this part five in the bill. Thank you so much.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Thank you.

Question proposed

Question put and agreed on

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): Chairman maybe you can make some recommendations and also thank members on the amendments.

Hon. Benard Mutai (Chairman Lands, Housing and Physical Planning & Settlement Member for Kipchimchim Ward): Thank you very much chairman. Let me take this opportunity to congratulate honourable members for supporting all these amendments. They are very important and the bill will be of great importance to Kericho County Government. I think it is now time we call the Speaker so that we can pass the bill. Thank you.

The Chairman (Hon. Josphat Rutto Member for Soin Ward): Thank you. Honourable members. I do agree with you that we have made the Regularization Development Bill amendments and I beg that we report it to the Speaker so that he can consider this bill. Thank you.

The Chairman (Hon. Josphat Rutto, Member for Soin Ward): I beg that we call the speaker so that we consider this bill, thank you.

(The Chairman leaves the Chair)

(The Speaker takes the Chair)

(The House resumes)

The Speaker (Hon. Dominic Rono): Chairperson!

The Chairman (Hon. Josphat Rutto Member for Soin Ward): Thank you very much Mr. Speaker sir for giving me this opportunity. I want to report that the Committee of the Whole House has considered The Kericho Regularization of Development Bill, 2021 approved thereof with amendments. Thank you.

The Speaker (Hon. Dominic Rono): Thank you, Mover?

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement, Member for Kipchimchim Ward): Thank you very much Mr. Speaker Sir, I beg to move that the House do agree with the committee on the said report. Thank you. I do request Honorable Rono to second.

The Speaker (Hon. Dominic Rono): Honorable Sammy Rono?

(Honorable Sammy Rono bows in secondment)

The Speaker (Hon. Dominic Rono): Thank you.

(Question proposed)

(Question put and agreed to)

The Speaker (Hon. Dominic Rono): Chairman!

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement Committee, Member for Kipchimchim Ward): Thank you very much Mr. Speaker sir for giving me this opportunity. First I would like to thank your office for the support you gave to this committee. Second, I would like to take this opportunity to congratulate the honorable members for supporting this bill, this bill is very important in our county; it will assist this county in various ways. Thank you.

The Speaker (Hon. Dominic Rono): You have not stated that it's now being read for the third time.

Hon. Benard Mutai (Chairman Lands, Housing, Physical Planning and Settlement Committee, Member for Kipchimchim Ward): Thank you Mr. Speaker. Allow me to take this opportunity so that I can request that this bill be read for the 3rd time. Thank you.

The Speaker (Hon. Dominic Rono): Thank you, so honorable members, The Kericho Regularization of Development Bill, 2021 is now read for the 3rd time. Clerk!

THE KERICHO COUNTY REGULARIZATION OF DEVELOPMENT BILL, 2021,

A Bill for AN ACT of the County Assembly of Kericho to provide for regularization of unauthorized development and for connected purposes.

Adjournment

The Speaker (Hon. Dominic Rono): Thank you honorable members, we adjourn until 2:30 pm in the afternoon.

(The house rose at 10:10am)

