

THE KILIFI COUNTY RATING BILL, 2016
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THE KILIFI COUNTY RATING BILL, 2016**A Bill for**

AN ACT of the County Assembly of Kilifi to provide for the imposition of rates on land and buildings in the County of Kilifi, and for purposes connected therewith and incidental thereto

ENACTED by the County Assembly of Kilifi, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kilifi County Rating Act, 2016 and shall come into operation upon assent. Short title and commencement.

2. (1) This Act applies to all land in the County of Kilifi including public land as defined and provided for in section 25 of the Kilifi County Valuation for Rating Act, 2016. Application.

(2) Subject to the provisions of this Act, rates may be imposed only on rateable property.

3. In this Act, unless the context otherwise requires— Interpretation.

“agricultural rental value rate” means a rate levied on the annual value of agricultural land and has the meaning assigned to it in accordance with clause 1 of schedule 2;

“agricultural land” has the meaning assigned to it by the Agriculture Act;

“annual value”, in relation to an agricultural rental value rate, means—

- (a) in the case of land which is held on a lease from the Government for a term of 99 years and in respect of which an annual rent has been reserved by such lease, the annual rent so reserved; and
- (b) in the case of any other land, the annual rent which might reasonably have been reserved if such land had been held on a lease from the Government for a term of 99 years commencing with the year 2010;

“area rate” shall have the meaning assigned to it in clause 1 of schedule 1;

“county” has the meaning assigned to it in County Government Act;

“county revenue collector” has the meaning given by the Kilifi County Revenue Administration Act, 2013;

“financial year” means the period of twelve months starting on 1st July;

“improvement rate” shall have the meaning assigned to it in clause 2 of schedule 3;

“land” has the meaning assigned to it by the Kilifi County Valuation for Rating Act, 2016;

“prescribed” means prescribed by the rules made under this Act

“rate” means a rate imposed under this Act;

“rateable owner” has the meaning assigned to it by section 7 of the Kilifi County Valuation for Rating Act;

“rateable property” has the meaning as in the Valuation for Rating Act, 2016;

“rating area” means, in relation to any method of rating or rate adopted or levied under this Act, the area in, upon or in respect of which such method of rating or rate may, under this Act, be adopted or levied;

“rating authority” means the county government;

“site value rate” shall have the meaning assigned to it in section 6 (1);

“urban centre” means any urban centre established under the Urban Areas and Cities Act;

“valuation roll” and “supplementary valuation roll” mean any valuation roll or supplementary valuation roll prepared under and in accordance with the provisions of the Kilifi County Valuation for Rating Act, 2016.

4. (1) The County Assembly shall, for the purposes of Forms of rating. levying rates, adopt the following forms of rating—

- (a) an area rate in accordance with Schedule 1;
- (b) an agricultural rental value rate in accordance with Schedule 2;
- (c) a site value rate or an improvement rate in accordance with Schedule 3.

Provided that , where any one of the aforementioned forms of rating has been adopted in respect of any rating area, no

other form of rating under this subsection shall, at the same time, be adopted in respect of that area;

(2) The County Assembly may adopt different forms of rating for different rating areas.

(3) Where the rating authority has adopted for any rating area a form of rating under subsection (1) (b), the provisions of the Valuation for Rating Act, 2016 shall apply to the form of rating so adopted

5. (1) Subject to subsection (2), the county government may, adopt one or more of the following methods of rating—

Alternative
methods of area
rating

- (a) a flat rate upon the area of land;
- (b) a graduated rate upon the area of land;
- (c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;
- (d) an industrial rate upon the area of land used for other than agricultural or residential purposes;
- (e) a residential rate upon the area of land used for residential purposes;
- (f) such other method of rating upon the area of land or buildings or other immovable property as the county government may resolve, and a rate levied in accordance with any such method as aforesaid shall in this Act be known as an area rate.

(2) The rating authority may adopt different methods of area rating for different parts of the area of the county government and may from time to time vary the method or methods adopted, and may adopt in relation to any rating area the methods of area rating referred to in subsection (1) in the manner following, that is to say—

- (i) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive;
- (ii) method (d) or method (e), or both, in addition to method (a) or method (b), but not in addition to method (c);

- (iii) method (f) shall not be combined with any other method of area rating.

6. (1) Where there is in force in respect of any area of the county a valuation roll or supplementary valuation roll which, under the provision to section 6 of the Kilifi County Valuation for Rating Act, does not include the value of land or when no improvement rate is levied, the County Government may levy a rate on the unimproved value of land as appearing in such roll (in this Act referred to as a site value rate) for each financial year of such amount as the rating authority shall determine;

Site value and improvement rates.

provided that such rate shall not, exceed four per centum of the unimproved value of land.

(2) In any case to which subsection (1) does not apply, the county government may levy a site value rate in combination with a rate on the assessment for improvement rate as appearing in the valuation roll (in this Act referred to as an improvement rate);

Provided that—

- (i) any site value rate shall not, exceed four per centum of the unimproved value of land; and
- (ii) the estimated product of any improvement rate shall not, exceed in any financial year one quarter of the estimated aggregate product of the rate levied in such financial year by the rating authority.

(3) In this section “assessment for improvement rate”, “value of land” and “value of unimproved land” shall have the meanings assigned to those expressions in the Valuation for Rating Act.

7. The County Government may appoint one or more county public officers within the meaning of the County Governments Act, 2012 or other persons to value land for purposes of preparing a draft valuation roll or draft supplementary valuation roll under the County Valuation for Rating Act, 2016.

Appointment of Valuer.

8. The county government may levy a supplementary rate for any financial year if it thinks it is necessary to do so, having regard to the requirement of the county, as the case may be,

Supplementary Rate.

Provided that where a site value rate or an improvement rate is levied no such supplementary rates which, when added to the rate or rates previously levied in the same financial year, would exceed either of the limits laid down in the provisos to subsections (1) and (2) of section 6, may be levied.

9. (1) Rates may be imposed by the Act providing for annual county finances or by such other Act as the County Assembly determines. Imposition of Rates.

(2) Without limiting subsection (1), a rate may be imposed using the form of wording set out in Schedule 4.

10. (1) The county assembly may impose rates on all rateable property in the county for any Calendar year or Financial year. Imposition of rates by Calendar year or Financial year.

(2) If rates imposed for calendar years are not imposed for a particular calendar year, then the rates for that calendar year are deemed to be the rates that were imposed for the immediately preceding calendar year.

(3) If rates imposed for financial years are not imposed for a particular financial year, then the rates for that financial year are deemed to be the rates that were imposed for the immediately preceding financial year.

11. For the purpose of changing from a calendar year to a financial year for the imposition of rates, the county assembly may impose rates on all rateable property in the county for a period starting on 1st January in a year and ending on 30th June in the same year. Imposition of rates - Change from calendar year to financial year.

12. (1) A rate becomes due—

Rates fall due and payable.

(a) if the rate is imposed for a financial year, on 1st July of that financial year; and

(b) if the rate is imposed for a six month period under section 7, on 1st January being the first day of that six month period.

(2) The rating authority must by notice in the Gazette specify the date on which a rate becomes payable and may publish that date in a newspaper circulating in the County.

(3) For the purpose of the act, the valuation roll or any supplementary valuation roll in force on the day on which any rate becomes payable is conclusive evidence of all matters included in such roll.

13. land becomes payable is liable for payment of the amount of the rate. Liability for payment of rates.

(2) If the owners of the land are joint registered owners or tenants in common, they are jointly and severally liable for the payment of the rate.

(3) If the rateable owner of the land is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for the payment of the rate.

14. (1) Rates must be paid to the county revenue collector or any other person authorised by the rating authority to collect rates. Collection of rates.

(2) Rates are payable—

(a) by electronic transfer of funds or such other ways as are approved by the county revenue collector; or

(b) at the offices of the rating authority or at any place as is determined by county revenue collector.

(3) The county revenue collector must issue a receipt for the payment of any rates to the person who paid the rates.

15. The rating authority may allow a discount as determined by the County Assembly on any rate paid in full on or before the day on which the rate becomes payable. Discount for early payment of rates.

16. The rating authority may charge interest at a rate determined by the county Assembly on any amount of a rate remaining unpaid after the day on which the rate becomes payable. Penalty payable on late payment of rates.

17. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case requires, and any interest on any such unpaid rate or part as provided for in section 12, is recoverable in a court of competent jurisdiction as a debt due and owing to the rating authority from the person liable for payment of the rates. Recovery of rates.

(2) The County Revenue Collector is authorised to sue for and recover the debt for the rating authority.

(3) A certificate signed by the County Revenue Collector and certifying that—

- (a) an amount of rates is or was due and payable on or before a certain date; and
- (b) the amount or part of the amount has not been paid on or before that date,

is admissible as evidence against the defendant in proceedings brought under this section, and is prima facie evidence as to the matters certified.

18. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rating authority may serve a written notice under subsection(2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

Recovery of rates from persons paying rent.

- (2) The written notice—
 - (a) is to state the amount of such arrears, which may include interest calculated in accordance with section 12; and
 - (b) is to state that all future payments of rent (whether already accrued due or not) by the person paying the rent are to be made directly to the rating authority until such arrears and interest have been paid in full.

19. (1) Any rate due, together with interest calculated in accordance with section 12, is a charge against the land on which the rate was imposed.

Rates chargeable on property.

(2) If the title to such land is registered under any law relating to the registration of title to land, the rating authority may deliver a notification of such charge, in the prescribed form, to the registrar who must register it against the title to that land and the charge takes priority in accordance with such law.

20. The rating authority may, upon payment of the prescribed fee by any person, issue to that person a statement of the current status of the payment of rates for an area of land.

Statement of payment of rates and other charges.

21. Publication and services of documents

Publication and service of documents.

Documents are to be published, sent or served for the purpose of this Act in accordance with the requirements of

section 16 of the Kilifi County Revenue Administration Act, 2014.

22. (1) The County Executive Committee Member responsible for Finance may make rules generally for the better carrying out of the provisions and purpose of this Act, and different rules may be made in respect of different forms of rating or different rating areas. Power to make rules.

(2) Without limiting of subsection (1), rules may be made for the following purposes:

- (a) the collecting of rates;
- (b) prescribing cases in which rates may be reduced or remitted;
- (c) exempting any person or class of persons from the payment of rates or with respect to specified classes or cases;
- (d) prescribing the cases or circumstances in which the rating authority is to or may grant exemption from the payment of rates or of any rate or class of rates and the persons and classes of persons who may be exempted;
- (e) prescribing the extent to which any land is to be exempted from the payment of area rates;
- (f) prescribing fees.

23. (1) If, immediately before the coming into operation of this Act, there is in force under any law a form or method of rating in respect of any area of the county which the County Assembly is empowered to adopt under this Act, that form or method of rating continues to apply in respect of that area as if adopted by the county assembly, subject to such modifications (if any) as may be necessary to bring such form or method of rating into conformity with the provisions and requirements of this Act and any rules made under this Act, Savings.

(2) Any rules, in force immediately before the coming into operation of this Act, that apply to any form or method of rating which is continued under subsection (1) are deemed to have been under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force in respect of

such form or method of rating until rules are made under this Act to replace them.

(3) Any rules, in force immediately before the coming into operation of this Act, that exempt any charitable institution from the payment of rates in respect of any area in the county are deemed to have been made under section 19 and are, except to extent of any inconsistency with the provisions or requirements of this Act, to continue in force until rules are made under this Act to replace them.

(4) A valuation roll or supplementary valuation roll that, but for the operation of the Valuation for Rating Act, would have been in force immediately before the coming into operation of this Act in respect of an area of the county, is deemed to be in force for the purpose of this Act.

SCHEDULE I—AREA RATE

Section 4 (1) (a)

1. Area Rate

An area rate is a rate imposed on an area of land, and the County Assembly may for an area rate adopt one or more of the following methods of rating;

- (a) a flat rate upon the area of land;
- (b) a graduated rate upon the area of land;
- (c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put ,or capable of being put, or for which it is reserved.
- (d) an industrial rate upon the area of land used for other than agricultural or residential purposes;
- (e) a residential rate upon the area of land used for residential purposes;
- (f) such other method of rating upon the area of land or buildings or other immovable property as the county assembly may approve; and the county assembly may adopt different forms of rating for different rating areas.

SCHEDULE II—AGRICULTURAL RENTAL VALUE RATE

Section 4 (1) (b)

1. Agricultural Rental Value Rate.

An agricultural rental value rate is a rate imposed on the annual value of agricultural land, being a rate to which the Valuation for Rating Act, 2016 applies on being adopted.

2. Schedule 2 definitions

In this Schedule, “agricultural land” and “annual value” have the same meaning as in the Rating Act.

SCHEDULE 3—A SITE VALUE RATE OR AN IMPROVEMENT RATE

Section 4 (1) (c)

1. Site Value Rate

A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation, being a valuation roll or supplementary valuation roll that does not include the value of land.

2. Improvement Rate

An improvement rate is a site value rate in combination with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll.

3. Schedule 3 definitions

In this Schedule, “assessment for improvement rate”, “value of land” and “value of unimproved land” have the same meaning as in the Valuation for Rating Act, 2016.

SCHEDULE 4—WORDING TO IMPOSE A RATE

Section 9 (2)

Imposition of Rate

A rate is imposed on all rateable property in the county for the calendar year starting on 1st January, 2016 and the amount of the rate is not exceeding four per cent (4%) of the unimproved value of the rateable property.

MEMORANDUM OF OBJECTS AND REASONS

The Bill provides for the imposition of property rates in the county in accordance with Article 209 (3) (a) of the Constitution. With the repeal of the county Government Public Finance Management Transition Act on 30th, September 2013, it was no longer possible to rely on the Rating Act (national legislation) to impose rates. However for now, the Bill continues to rely on land valuations prepared under the Valuation for Rating Act (national legislation).

The enactment of the Bill shall not occasion additional expenditure of public funds.

Clause 1 is the Short title and commencement provision.

On enactment of the Bill, the short title of the Act will be the Kilifi County Rating Act, 2016.

Clause 2 provides for the application of Act.

The Act is expressed to apply to all land in the county, including Government land. However, rates currently may be imposed only on rateable property within the meaning of the Valuation for Rating Act (and Government land is excluded from rateable property).

Clause 3 provides for interpretation

This clause contains the definitions used in the Bill. Key definitions include;

“county revenue collector” which is a new office established under the County Revenue Administration Bill;

“rating authority” which is the county government.

The county revenue collector is responsible for the collection of rates and the rating authority is given specified regulatory responsibilities for the rating system. However, the county assembly is given the legal power to impose rates and set the amount of the rates

(see clause 5)

Clause 4 provides for the forms of rating

For the purpose of the imposing rates, the Bill allows the county assembly to adopt the existing forms of rating provided for under the Rating Act, namely—

(a) an area rate (see Schedule 1 of the Bill);

(b) an agricultural rental value rate (see schedule 2 of the bill);

(c) a site value rate or an improvement rate (see Schedule 3 of the Bill)

An area rate may be adopted as a flat rate; a graduated rate; a differential flat rate or a differential graduated rate; an industrial rate; a residential rate or such other method of rating as the county assembly approves. The county assembly may adopt different forms of rating for different rating areas.

Clause 5 states how rates are imposed.

The county assembly is expected to impose rates under the Annual County Finance Bill, but may use another Bill if it chooses. Schedule 4 sets out a form of wording that can be used by the county assembly to impose rates.

Clause 6 provides for imposition of rates for calendar year or financial year.

Rates are currently imposed for a calendar year, but can be imposed for a financial year. If rates are not imposed for a particular calendar year, for example the Annual County Finance Bill is not passed, then the rates from the previous calendar (or financial) year apply.

Clause 7 provides for imposition of rates for a change from calendar year to financial year.

This clause allows a county assembly to impose rates for a six month period in order to move from a calendar year to a financial year. It is a county revenue policy decision whether to stay with a calendar year or move to a financial year for rates.

Clause 8 provides for when rates become due and payable?

Legally rates become due at the start of the calendar year (or financial year). The county assembly is to determine the actual payment date (a later date), and must publish it in the Gazette and should also publish it in a newspaper. The practice is to give at least 30 days notice of the payment date.

Clause 9 provides for liability for payment of rates

The rateable owner of land is liable for the imposed rates.

Clause 10 provides for the collection of fees.

Rates must be paid to the county revenue collector or any other person authorised to collect rates. They can be paid electronically or at the offices of the rating authority. The county revenue collector can determine other methods and places of payment.

Clause 11 provides for discount for early payment of rates.

The county assembly may determine a discount for early payment of rates.

Clause 12 provides for the penalty payment on late payment of rates.

The county assembly may determine a penalty for the late payment of rates

Clause 13 gives power to recover of rates

The clause enables the rating authority to take civil proceedings in a court to recover unpaid rates and penalties from the taxpayer as a debt. The county revenue collector is authorised to sue for and recover the debt for the rating authority. To assist with debt recovery, the county revenue collector can issue certain evidentiary certificates.

Clause 14 provides for recovery of rates from persons paying rate.

This clause allows unpaid rates and penalties to be recovered from persons paying rent to the land owner. It gives effect to an existing payment practice.

Clause 15 provides for rates chargeable on property.

This clause provides that unpaid rates and penalties become a charge on the land, and be registered against the land. Their priority is determined by the relevant law.

Clause 16 is the statement of payment of rates and other charges.

This clause provides for the rating authority to issue a statement of the current status of the payment of rates, for example, if a purchaser is buying the land, the purchaser can use the statement to calculate any rates adjustment on settlement.

Clause 17 provides for publication and services of documents.

Documents are to be published, sent or served in accordance with the requirements of section 16 of the County Revenue Administration Bill.

Clause 18 gives power for the appointment of a Valuer

This clause gives power to the county executive member responsible for lands to appoint county public officers or other persons to value land for the purpose of preparing a draft valuation roll or draft supplementary valuation roll under the Valuation for Rating Act, 2016.

Clause 19 gives the County Executive Member power to make rules.

This clause gives power to the county executive member responsible for finance to make rules for the purposes of the Bill, including for—

- (a) collection of rules
- (b) reduction or remission of rates;
- (c) rate exemptions;
- (d) fees for services relating to the administration of rates.

Clause 20 is the Savings provisions

This clause continues in force existing forms and methods of rating, and treats them as if they had been adopted by the county assembly together with any supporting rules and rules exempting charities from rates. It also validates for the purpose of the Bill rolls that have lapsed under the Valuation for Rating Act, 2016.

Dated the 18th November, 2015.

BONIFACE K. MWINGO,
Leader of Majority.