LEGAL NOTICE NO. 1

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 and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (KIAMBU COUNTY EXECUTIVE STAFF MORTGAGE SCHEME FUND) REGULATIONS, 2016

1. These Regulations may be cited as the Public Finance Management (Kiambu County Executive Staff Mortgage Scheme Fund) Regulations, 2016.

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

   “borrower” means a person in receipt of a loan out of the Fund;
   “committee” means the Loans Management and Advisory Committee established under Regulation 7;
   “county” means the County Government of Kiambu;
   “county Assembly” means the County Assembly of Kiambu.
   “county Executive Committee member” means the County Executive Committee member responsible for finance;
   “county staff” means all employees of the executive arm of the County Government of Kiambu and includes a member of the County Executive Committee;
   “financial year” means the period of twelve months ending on the 30th June of each year;
   “fund” means the Kiambu County Staff Mortgage Scheme Fund established under Regulation 3;
   “fund administrator” means the officer appointed under Regulation 6;
   “loan repayment period” means the period from the time the loan is granted until repayment in full;
   “member of the scheme” means a Member of the County staff;
   “prescribe” means as prescribed by the Committee.
   “property” means a residential house purchased through a loan from the Fund;
"valuer" means a person registered as a valuer under the Valuers Act (Cap. 532).

3. (1) There is established the Kiambu County Staff Mortgage Scheme Fund.

4. The objects of the Fund shall be to provide a loan scheme for the purchase, development, renovation or repair of a residential property by the member of the scheme.

5. The sources of the Fund shall consist of—
   (a) monies appropriated by the County Assembly;
   (b) all monies earned by or arising from investment made in respect of the Fund;
   (c) any interest that may accrue from monies borrowed from the Fund; and
   (d) any monies accruing to the Fund from any other source.

6. The County Executive Committee member shall on such terms and conditions as shall be appropriate designate a Fund administrator to administer the Fund.

7. (1) There is established the Kiambu County Loans Establishment and Management and Advisory Committee which shall consist of—
   (a) the chairperson of the County Public Service Board or his nominee.
   (b) the Chief Officer responsible for matters relating to finance;
   (c) the Chief Officer responsible for matters relating to housing and planning;
   (d) the head of human resources in the County; and
   (e) one member of the scheme nominated by the Governor.

   (2) The Fund administrator shall be an ex officio member of the committee and the secretary to the committee.

   (3) The members of the Committee shall elect a chairperson from amongst themselves.

8. (1) The functions of the committee shall be to—
   (a) consider and approve all applications for a mortgage loan;
   (b) approve all housing development and financial proposals related to the Fund;
   (c) approve the criteria for the disbursement of the funds;
   (d) perform other duties as may be directed by the County Executive Committee member for the proper management of the Fund.

   (2) 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.

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

(4) The decision of the Committee shall be by a simple majority
and in the case of a tie, the chairperson shall have a casting vote.

(5) The committee may co-opt any person with the knowledge
and skills necessary for the performance of any of its functions to
attend any of its meetings provided that a person so co-opted shall not
have any voting rights.

9. (1) Notwithstanding Regulation 8 (1), the County Executive
Committee member may appoint a committee or a board of an existing
house mortgage scheme fund in the public service, or a financial
Institution to manage the Fund.

(2) A committee, board or financial institution appointed under
sub-regulation (1) shall be deemed to have taken the role of the
Kiambu County Loans Management and Advisory Committee.

(3) The committee, board or financial institution appointed under
sub-regulation (1) shall conduct its affairs as provided under these
regulations.

10. A loan granted under these Regulations shall be solely
utilized for the purchase, development, renovation, repair or
improvement of residential property for the occupation of the borrower
or his immediate family members.

11. (1) A loan for the development of residential property may be
granted by the committee to a county staff in possession of a title deed
to the land on which the development is intended to be carried out.

(2) The first disbursement shall be based on twenty five per cent
of the total cost of construction provided that the cost of construction
shall not exceed the maximum funding due to the borrower under these
Regulations or twice the open market value of the land on which the
residential property is proposed to be constructed, whichever is less.

(3) The subsequent disbursements shall be based on the rate of
completion of the various phases of development as certified by a
valuer at the borrower's cost.

12. (1) A County staff may apply for a mortgage loan from the
Fund provided that the county staff shall qualify to apply for the loan
only after confirmation of appointment in writing.

(2) An application under Sub-regulation (1) shall be made to the
Fund administrator in such manner as the committee may prescribe.

(3) A borrower who prior to the commencement of these
Regulations had purchased, developed, renovated or repaired
residential property stipulated under Sub-regulation (1) on a loan from
a financial institution, may apply for a loan under these Regulations to
offset the balance or to have the loan transferred from the financial
institution to the loan scheme under these Regulations.
(4) A loan granted under these Regulations shall be funded at the rate of ninety per centum of the value of the property or the cost of construction subject to the limits set out under these Regulations.

(5) A loan granted under these Regulations shall—

(a) be based on the borrower's ability to repay;

(b) not exceed the maximum loan threshold set out in the Schedule; and

(c) be repaid under a check off system.

13. (1) An application for a loan for construction purposes shall be accompanied by such documents as the committee may require and shall include where applicable—

(a) copies of the designs of the proposed residential property duly approved by the County authority within whose area it is to be situated;

(b) priced 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 of the property;

(e) proof of availability of ten percent of the value of the property; and

(f) any other document that the committee may require for the purpose of determining the application.

(2) The borrower shall bear the cost of stamp duty, legal fees, transfer fees and any other related costs.

(3) The stamp duty, transfer fee and other related charges shall be paid by the borrower into the Fund.

(4) The Committee may, where it deems appropriate, recommend the appointment of an advocate to act on its behalf in respect of transactions relating to the property under these Regulations.

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

15. (1) A loan granted under these Regulations shall be fully repaid by the borrower within a period of twenty years; or before the borrower's retirement date, whichever comes earlier.

(2) A state officer who is appointed at the age of seventy years or above shall be required to repay the loan for the duration of the state officer's appointment.

(3) A borrower shall give authority in writing for his pension dues or gratuity to be utilized to clear any outstanding debt in case the borrower retires before fully repaying the loan.
16. (1) The interest payable on a loan granted under these regulations shall be three per centum per annum on a monthly reducing balance or such other rate as may be determined from time to time.

(2) The interest charged under sub-regulation (1) shall be paid by the borrower.

17. (1) The Fund shall register a charge on any property financed through a loan granted under these Regulations and such charge shall impose an obligation on the borrower—

(a) not to mortgage, charge, surrender the lease, or sell or agree to sell or in any other way part with possession of the charged property or part thereof without the prior written consent of the Fund administrator;

(b) to 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 Fund administrator; and to fulfill all other obligations imposed under the charge;

(c) to provide a transfer deed duly signed by the borrower and a letter authorizing the fund to sell the property in case of default in payment.

(2) All residential properties purchased or developed through the Fund shall be of such standards as the Committee may approve.

(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 repair; and

(c) make no extension or any structural alteration, or part with possession of the whole or any part of the title to the property without the prior approval of the committee.

(4) A borrower granted a loan under these Regulations shall not be eligible for a second loan until full repayment of the first loan provided that no borrower shall be eligible for more than two loans.

(5) Where the spouse of a county staff is also a county staff, the granting of a mortgage loan to one spouse shall not bar the other spouse from benefiting from the Fund.

(6) Submission of all documentation and disbursement of funds shall be supervised by the Fund administrator.

18. (1) A borrower shall take out and maintain a life insurance policy and a fire insurance policy with an insurance firm approved by the Committee.

(2) A borrower of a loan whose house is under construction shall take a mortgage protection cover for the provisional sale price of the property.
19. The originals of all documents relating to the property financed by a loan from the Fund shall be kept by the Fund administrator.

20. The Committee shall be entitled to do everything lawful and necessary to protect the County Government’s interest in the property in respect of which a loan is granted.

21. (1) Where the repayment of a loan is not made in accordance with the terms and conditions of the loan, the sum of money due to the Fund shall be recoverable, without prejudice to any other remedy, in civil proceedings in a court of law.

(2) Recovery of loans under Sub-Regulation (1) shall include—
(a) the sums of money specified as outstanding with respect to the principal sum initially advanced;
(b) interest accrued on the principal; and
(c) all costs and charges incurred to recover the unpaid money and interest.

(3) Where a borrower ceases to be a County staff before full loan repayment, the borrower shall continue to repay the loan on the same terms as set out in these Regulations provided that when the borrower defaults in payment for a period of four months the outstanding loan shall revert to prevailing commercial interest rates.

(4) Notwithstanding these Regulations, where a borrower leaves service on disciplinary grounds before serving for the contract period, the committee may grant the borrower a maximum period of four months to repay the full outstanding loan or permit the borrower to repay the outstanding loan at the prevailing market rate and such other terms and conditions as the committee may from time prescribe.

(5) Where the commercial rate is applicable, and the borrower is in default for a period of four months, the Fund may call in the loan and sell the charged property by public auction or private treaty.

22. (1) The Fund administrator shall—
(a) open and manage a bank account for the Fund;
(b) supervise and control the administration of the Fund;
(c) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use;
(d) cause to be kept books of accounts and other records in relation to the Fund;
(e) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General;
(f) furnish such additional information as may be required by the County Executive Committee Member; and
(g) perform such other function as may be assigned by the County Executive Committee Member.

23. (1) A person shall not sell or in any way transfer any property acquired through the Fund under these Regulations unless—

(a) the final payment of the full purchase price of the property together with such interest as may be due is made;

(b) the final repayment of the full loan advanced by the Fund together with such interest as may be due is made; or

(2) A sale or transfer under regulation 23 (1) shall be approved by the Committee.

24. (1) Where the County Executive Committee Member appoints a financial institution to administer the Fund, the institution shall—

(a) operate individual accounts for each borrower, and provide details of recoveries of the loan;

(b) charge security on properties acquired through loans from the Fund and act as a custodian of such charges;

(c) disburse cheques or transfer funds for newly approved loans to borrowers after the necessary documentation is provided;

(d) pay all outgoings and issue demand notices to defaulting borrowers through the officer administering the Fund;

(e) upon repayment of the loan, interest and other expenses which may be outstanding, discharge the charge and release the security documents to the borrower; and

(f) perform such other duties as may be assigned from time to time.

25. The Fund may enter into a viable financing or development partnership with a legal entity for the purposes of achieving its objectives.

26. The Fund may enter into viable management partnership with another housing scheme from any other public body.

27. The Fund or where applicable the financial or mortgage institution referred to under Regulation 9, may charge an interest of not more than two percent per annum of the value of the loan to cover its management costs.

28. These Regulations shall be supplemented by such requirements as may be detailed in the loan application form prescribed by the Fund and in the contract between the Fund or financial institution and the borrower.

29. The Committee may from time to time recommend to the County Executive Committee Member any amendment to these regulations.
Beneficiaries | Threshold
---|---
County Governor | Up to KSh. 40 Million
Deputy County Governor | Up to KSh. 25 Million
Civil Service Grades S, T, U and Equivalent grades in Public Service | Up to KSh. 20 Million
Civil Service Grades P, Q, R and Equivalent grades in Public Service | Up to KSh. 15 Million
Civil Service Grades K, L, M, N and Equivalent grades in Public Service | Up to KSh. 10 Million
Civil Service Grades G, H, J and Equivalent grades in Public Service | Up to KSh. 6 Million
Civil Service Grades A, B, C, D, E, F and Equivalent grades in Public Service | Up to KSh. 4 Million

Dated the 20th January, 2016.

MARY NGULI,
County Executive Committee Member for Finance and Economic Planning.

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 Committee Member for Finance and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (KIAMBU COUNTY ASSEMBLY STAFF MORTGAGE SCHEME FUND) REGULATIONS, 2016

1. These Regulations may be cited as the Public Finance Management (Kiambu County Assembly Staff Mortgage Scheme Fund) Regulations, 2016.

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

“borrower” means a person in receipt of a loan out of the Fund;
“Committee” means the County Assembly Loans Management and Advisory Committee established under Regulation 8;
“county” means the County Government of Kiambu;
“county Assembly” means the County Assembly of Kiambu;
“county Executive Member” means the County Executive Committee Member responsible for finance;
“financial year” means the period of twelve months ending on the 30th June of each year;