LEGAL NOTICE NO 6

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 MORTGAGE SCHEME FUND) REGULATIONS 2014

PART I—PRELIMINARY

1 These Regulations may be cited as the Kiambu County Assembly (Mortgage Scheme Fund) Regulations 2014

2 In these Regulations, unless the context otherwise requires—

Board’ means the County Assembly Service Board

“Check off system” means where a system where salary of a Staff or a County Assembly Member is deducted every month by the officer administering the Fund or the Payroll Manager for the payment of the Loan granted under these regulations

Committee” means the County Assembly Loans Management and Advisory Committee established under Regulation 9

“County Assembly” means the County Assembly of County Government of Kiambu

“financial year” means the period of twelve months ending on the 30th June of each year

“Fund” means the Kiambu County Assembly Mortgage Scheme Fund established under Regulation 3,

‘ Officer administering the Fund” means Clerk of the County Assembly of Kiambu,

“property” means a residential house purchased, developed, renovated or repaired through a loan from the Fund and includes the land on which such house is to be developed,

valuer” means a person registered as a valuer under the Valuers Act (Cap 532),
3 (1) There is established a County Assembly Mortgage Establishment of the Scheme Fund

(2) The Fund shall be maintained in a separate account opened in accordance with the Public Finance Management Act, 2012

4 The object and purpose of the Fund is to provide loans to Members of the County Assembly to purchase, develop, renovate or repair a residential property

5 The Fund shall be administered by the Clerk of the County Assembly

6 (1) A person shall be eligible for a loan from the Fund if he or she is a Member of the County Assembly and not more than three quarters of his or her salary is committed in serving another loan

(2) A member of the County Assembly shall be eligible for a loan from the Fund once in each Assembly term

7 (1) The initial Capital of the Fund shall be such amount as may be appropriated by the County Assembly

(2) The County Assembly may appropriate more monies to the Fund from time to time as need arise

8 (1) There is established a Mortgage Loan Management Committee which shall consist of the County Assembly Service Committee

(2) The Officer administering the Fund shall be an ex official Member and a Secretary to the Committee

(3) The Meetings of the Committee shall be convened by the Chairperson and in his or her absence a member designated by him

(4) The meeting of the committee shall be convened at such times as may be necessary for the discharge of its functions but not more than once every month

9 (1) The functions of the Committee shall be to—

(e) receive and analyze reports from the officer administering the Fund,

(f) endorse loan application forms,

(g) advise on any additional funds that may be required for the fund

(h) liaise with the mortgage company (if any) to set up a
revolving fund for the disbursement of the loans, and

(i) perform any other function that may be necessary for the administration of the loan

10 (1) Notwithstanding Regulation 8, the Board may appoint a Mortgage institution to manage the Fund on behalf of the Committee

11 A person shall apply for a loan to the officer administering the Fund

12 (1) An Application for a loan 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,

(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,

(d) a certified copy of the sale agreement relating to the property

13 (1) A person granted a loan under the Fund shall use it to purchase, develop, renovate or repair a residential property for the occupation of the Applicant and his/her immediate family

14 (1) The Applicant shall bear the costs of stamp duty and legal fees

(2) All Legal transactions in respect of the property being purchased shall be conducted in a reputable law firm

15 Where the property intended to be purchased is leasehold property the loan shall be granted where the expiry date of such lease is at least forty-five years beyond the final loan repayment date

16 (1) The Maximum loan to be granted to an Applicant shall not exceed the sum of three million shillings

(2) A person granted a loan from the fund shall give prior authority in writing for his/her pension dues to be utilized to clear any outstanding debt in case the applicant loses the Assembly seat before fully repaying the loan

17 (1) A loan granted to a member of the County Assembly shall be fully repaid at the end of the term of the Assembly provided that the repayment period of the loan shall
not exceed the last three months of the term of the Member of the County Assembly

(2) The repayment of the Loan shall be through check-off system

(3) The minimum principal amount of the loan payable per month shall be determined based on the amount of loan borrowed by an applicant and the time required to repay the loan

18 (1) The interest chargeable on a loan shall be three percentum per annum on a monthly reducing balance

(2) A mortgage institution appointed under regulation 10 to manage the fund may charge an interest of not more than four percentum to cover the management costs

(3) The interest charged under paragraphs (1) and (2) of this regulation shall be met by the borrower

19 (1) The Committee shall have a charge registered on the property financed through a loan granted under these regulations

(2) The person granted a loan shall—

(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 committee,

(b) Meet and pay all rates, rents, insurances and any other charges in respect of the property and send the proof of such payments to the officer administering the fund

(c) Ensure that the property is used for residential purposes only during the loan repayment period

20 A person granted a loan shall take and maintain a mortgage protection policy and a fire policy for the property with a reputable insurance firm

(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

21 The Committee may call in the person granted a loan is in default of and sell the charged property by public auction or private treaty where the person is in breach of the terms under the loan agreement or the covenant contained in the charge of the mortgage instrument

22 The officer administering the fund shall—
(i) Supervise and control the administration of the Fund,

(j) keep all legal documents relating to the Fund,

(k) cause to be kept books of account and other books and records in relation to the fund,

(l) prepare sign and transmit to the auditor general in respect of each financial year and within three 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 may be required in accordance with the Public Finance Management Act,

(m) furnish such additional information as maybe required for the purpose of examination and audit by the auditor general,

(n) designate and appoint such staff as maybe necessary to assist him or her in the administration of the Fund,

(o) carry out such inspections as maybe necessary to verify any information submitted by loan applicant,

(p) prepare and submit quarterly reports on the Fund to the Committee

23 The Mortgage institution, if any appointed under these Regulations shall—

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

(b) charge Security on properties acquired through loans from the Fund to protect the interests of the Fund and act as a custodian of such charges

(c) transfer funds of approved loans to various applicants after the necessary documentation is completed by the committee

(d) pay all charges and issue demand notices where necessary to members through the officer administering the loan

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

(f) upon default call in the loan and on behalf of the committee sell the charged property by public auction or private treaty
24 The Fund shall be audited by the Auditor General

25 (1) These Regulations shall be supplemented by such terms as may from time to time, be detailed in the application form and in the Contract between the mortgage institution and the Committee

(2) Subject to these Regulations, the Committee in consultation with the County Executive Committee Member in charge of finance may issue guidelines for the proper management and administration of the Fund

Dated the 13th May 2014

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