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 Responsible for finance makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (WEST POKOT COUNTY CAR LOAN AND MORTGAGE (MEMBERS) SCHEME FUND) REGULATIONS, 2016

Citation

1. This Regulation may be cited as The Public Finance Management (West Pokot County Car Loan and Mortgage (Members) Scheme Fund) Regulations, 2016.

Interpretation

2. In this Regulation, unless the context otherwise requires—

“Applicant” means an Executive Committee Member, Members of the County Public Service Board, chief officers and any employee of the County Government of West Pokot;

“borrower” means a person in receipt of car loan and or mortgage out of the Fund;

“Committee” means any of the Committee established under this Regulation;

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

“fund” means the West Pokot County (members) car loan and mortgage scheme fund established under regulation 4;

“Member of the Executive Committee” means a member elected or appointed in accordance with Article 179(2) (b) and Article 180 of the Constitution of Kenya;

“member of the Scheme” means the members of the Executive Committee, members of the County Public Service Board, Chief Officers and any employee of the County Government of West Pokot;

“officer administering the fund” means the Chief Officer responsible for finance in the County Government;

“property” means a residential house purchased through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is to be developed;
The Object of the Fund

3. The object of the Fund is to enable Car loan and Mortgage to be advanced to the Members of the Scheme as may be prescribed by the Salaries and Remuneration Commission.

Establishment of the Fund

4. There is hereby established a Fund to be known as the West Pokot County Car Loan and Mortgage Fund.

Sources of fund

5. (1) The sources of the Fund shall consist of—
   (a) any amounts that may from time to time be appropriated by the County Assembly;
   (b) all sums of money received by or falling due to the Fund in respect of loans made therefrom and the interest on these loans;
   (c) all sums of money borrowed by the Fund with the approval of the County Assembly for the purpose of exercising any of its functions or discharging any of its obligations;
   (d) all other sums of money that may in any manner become payable to or vested in the Fund including grants and donations.

Bank to be designated as agent

6. The Committee may, by notification to the County Treasury, designate a bank to act as the financial agent of the Fund and the bank so designated shall be subject to the terms and conditions of any agreement for the purpose between the County Government of West Pokot and the Bank.

Officer administering the Fund

7. (1) The Officer Administering the Fund shall—
   (a) supervise and control the administration of the Fund;
   (b) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use;
   (c) cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund;
   (d) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund, prepared and signed, specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Committee may from time to time direct in accordance with the Public Finance Management Act; and
(e) furnish such additional information as may be required for the purpose of examination and audit by the Auditor-General;

(2) Every statement of account prepared under this Regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

The Car Loan Management Committee

8. (1) There is established a Committee to be known as the Car Loan Management Committee, which shall consist of—

(a) the Executive Committee Member responsible for Finance who shall be the chairperson;

(b) the vice-chairperson who shall be elected by the Committee Members;

(c) two members of the County Executive Committee elected by members of the County Executive Committee;

(d) the Officer in charge of transport in the County;

(e) the Officer in charge of human resource services in the County;

(f) the Chief Officer responsible for finance who shall be an ex officio member and Secretary to the Committee;

(g) the County Attorney;

(h) the Principal Finance Officer.

(2) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson; the vice-chairperson shall convene at such times as may be necessary for the discharge of the Committee’s functions.

(3) The quorum for meetings of the Committee shall be the chairperson and any other six members.

(4) The Committee shall be responsible for the general administration and management of the affairs of the Fund and specifically, the Committee shall be responsible for—

(a) making recommendations with respect to the conditions under which car loan shall be granted or repaid under this Regulation;

(b) processing applications for the granting of loans to Members of the scheme subject to the provisions of any agreement relating to the provision of the loan and or mortgage;

(c) receiving and administering the resources of the Fund;

(d) supervising the day-to-day running of the Fund;

(e) liaising with financial institutions (if any) to set up a revolving fund for the disbursement of the loans; and

(f) generally doing all that is expedient or necessary for the proper exercise of its duties and functions with respect to the fund.
Operation of the fund

9. (1) A member of the Scheme who wishes to apply for car loan from the Fund shall present to the committee a duly completed form prescribed by the Committee.

(2) The Officer Administering the Fund shall satisfy himself or herself of the applicant’s financial status and capacity to repay the loan applied for and where satisfied shall forward the application to the Committee for consideration.

(3) If the Committee approves the application, the applicant shall enter into a hire purchase agreement in a form prescribed by the Committee.

Conditions for disbursement of funds

10. (1) A loan approved under regulation 9 shall be released from the Fund in such manner, taking into account the security of the funds, as may be prescribed by the Committee.

(2) The log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the West Pokot County Government and the member of the Scheme and shall be kept in the custody of the Officer Administering the Fund until the loan is repaid in full by the member of the Scheme.

Insurance

11. A member of the Scheme shall comprehensively insure any vehicle purchased through the Scheme.

Default in Payment

12. The Car loan Management Committee may call in a loan and in default sell the vehicle obtained under this Fund where the borrower is in breach of the terms under the loan agreement.

Loan discharge

13. (1) Upon full repayment of the loan, a signed loan discharge certificate in a form prescribed by the Committee shall be issued to the member of the Scheme and a copy thereof shall be forwarded to the Registrar of Motor Vehicles.

(2) The loan discharge certificates shall release the member of the Scheme from any further financial obligation in respect of the loan and shall act as sufficient authority to release the log-book to the member and remove the caveat on the vehicle pursuant to Section 10 of this Regulation.

Establishment of Mortgage Loans Management Committee

13. (1) There is established a committee to be known as the Mortgage Loans Management Committee, which shall consist of—

(a) the Executive Committee Member responsible for Finance who shall be the chairperson;

(b) the vice-chairperson shall be elected by the Committee Members;

(c) two members of the County Executive Committee elected by members of the County Executive Committee;

(e) the Officer in charge of housing in the County;
(f) the Chief Officer who shall be an *ex officio* member and Secretary to the Committee;

(g) the deputy human resource officer in the County

(h) the County Attorney; and

(i) the Principal Finance Officer.

(2) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson, the vice chairperson shall convene at such times as may be necessary for the discharge of the Committee’s functions.

(3) The quorum for a meeting of the Committee shall be the chairperson/vice chairperson and any six members.

(4) The Committee shall be responsible for the general administration and management of the affairs of the Fund and specifically, the Committee shall be responsible for—

(a) making recommendations with respect to the conditions under which mortgage shall be granted or repaid under this Regulation;

(b) processing applications for the granting of mortgage to Members of the scheme subject to the provisions of any agreement relating to the provision and or mortgage;

(c) receiving and administering the resources of the Fund;

(d) supervising the day-to-day running of the Fund;

(e) liaising with financial institutions (if any) to set up a revolving fund for the disbursement of the loans; and

(f) generally doing all that is expedient or necessary for the proper exercise of its duties and functions with respect to the fund.

**Disbursement of loans for mortgage**

14. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall make such application to the chief officer in such manner as the Mortgage Management Committee may prescribe.

(2) A loan obtained under this Regulation shall be utilized for the purchase, development, renovation or repair of residential property for the occupation of the applicant and the applicant’s immediate family:

(3) A loan for the development of residential property may be granted at the discretion of the Committee—

(a) to a member of the Scheme who is in possession of a title deed/certified agreement to the land on which the development is intended to be carried out; or

(b) in two installments, for the purchase of the land at which the residential property is to be developed and for the subsequent development of the property.

(4) The amount of the first installment granted for the purchase of land under paragraph (b) shall not exceed fifty per cent of the maximum loan amount for which the member of the Scheme is eligible.
Utilization of loan monies

15. (1) A loan granted for the development of a residential property under this regulation shall be released to the applicant in the following phases-

(a) the first disbursement based on the value of the land on which the residential property is proposed to be developed; and

(b) the subsequent disbursements based on the rate of completion of the various phases of development as certified by a qualified valuer at the cost of the applicant.

Required documents

16. An application for a loan under this Regulation shall be accompanied by the following documents where appropriate—

(a) copies of the designs of the proposed residential property duly approved by the relevant county government department within whose area it is to be situated;

(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.

Leasehold property

17. Where the property intended to be purchased through a loan from the Fund is leasehold property, such loan shall be granted where the expiry date of such lease is at least twenty-five years beyond the final loan repayment date.

Lien

18. (1) The Officer Administering the Fund shall have a charge registered on the property financed through a loan granted under this Regulation and shall be entitled to have its name entered in all documents of title for such property.

(2) The borrower 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 mortgage management committee;

(b) 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 Officer Administering the Fund; and

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

(3) During the loan repayment period, every borrower shall—

(a) ensure that the property is used for residential purposes;

(b) maintain the property in a satisfactory state of repair; and
(c) not alter or make any structural alteration to the property, carry out any valuation, assessment or investigation relating to the property or title thereto, as the case may be, without the approval of the Management committee.

(3) All legal documentation and disbursement of funds shall be supervised by the mortgage management committee.

Mortgage Insurance

19. (1) A borrower shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by the mortgage Management committee, the cost of which shall be paid out of the Fund and debited in such borrower’s account.

(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.

20. The Mortgage Management Committee may call in a loan and in default sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement or the covenant contained in the charge of the mortgage instrument.

Dated the 15th February, 2016.

JOEL KIPTOO NG’OLEKONG,
County Executive Committee Member,
Finance and Economic Planning.