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COUNTY ASSEMBLY BILLS, 2013

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THE BUSIA COUNTY ACCELERATED WARD DEVELOPMENT FUND BILL 2013

A Bill for

AN ACT of the County Assembly of Busia to establish the Accelerated Ward Development Fund for the eradication of poverty through the implementation of community-based projects and for connected purposes

ENACTED by the County Assembly of Busia, as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Busia County Accelerated Ward Development Fund Act, 2013 and shall come into operation three days after the Governors’ assent.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

"Accelerated Ward Development Fund Committee" means the committee established under section 24;

"Board" means the Accelerated Ward Development Fund Board established by section 5;

"Chairperson" means the Chairperson of the Board appointed under section 5(4);

"Chief Executive Officer" means the Chief Executive Officer of the Board appointed under section 8;

"Member of the Executive Committee" means the Member of the Executive Committee responsible for finance.

"Community" mean residents of a particular geographical area or region defined as a Ward, location, sub location or Ward and having common interests;

"Ward" has the meaning assigned to it in the Elections Act, 2011;

"Ward Fund Account" means the account maintained for every Ward in accordance with section 38;
"County Projects Committee" means the committee established under section 36;

"Fund" means the Accelerated Ward Development Fund established under section 4;

"Officer of the Board" means an officer of the Board appointed under section 37;

"County Assembly Committee" means a County Assembly Committee established in accordance with section 28:

"Project" means an eligible development project as described in the Act;

"Prescribed" means prescribed by the Member of the Executive Committee responsible for finance;

"Sub-project" means a complete unit or part of a project that can be put to use towards the achievement of the project objectives;

"Youth" means a person who has attained the age of eighteen years but has not attained the age of thirty five years.

Object and purpose of Act

3. The purpose of this Act is to provide a comprehensive, harmonized, efficient and effective legal and regulatory for the management and operation of the Accelerated Ward Development Fund for Busia County to achieve the following objectives—

(a) to cascade the use of public funds at the lowest level of governance where the most vulnerable exist;

(b) to ensure efficiency and transparency in the disbursement of funds; and

(c) to ensure local-level participation in the provision of county government activities.

PART II—ESTABLISHMENT OF THE ACCELERATED WARD DEVELOPMENT FUND

Establishment of the Fund

4. There is established a fund to be known as the Accelerated Ward Development Fund which shall—
(a) comprise of any moneys accruing to or received by the Board from any other source;

(b) be administered by the Board.

Establishment of the Board

5. (1) There is established a Board to be known as the Accelerated Ward Development Fund Board.

(2) The Board shall be administered by a Board of Directors which shall consist of—

(a) the County Executive Committee member responsible for finance or a designated alternate, not being below the level of Head of Department appointed in writing;

(b) the County Executive Committee member responsible for public service or a designated alternate, not being below the level of Head of Department appointed in writing;

(c) the officer in charge of legal affairs in the County Executive;

(d) four persons, qualified in matters relating to law, finance, accounting, engineering, economics, community development, County Governance appointed by the Governor in accordance with subsection (5) taking into account ethnic and gender balance;

(e) the Chief Executive Officer who shall be the secretary of the Board.

(3) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing money or making investments; and

(d) doing or performing all other acts or things for the proper performance of its functions under this
Act which may lawfully be done or performed by a body corporate.

(4) The Governor shall appoint the Chairperson of the Board from amongst the four persons appointed in accordance with paragraph (d) of subsection (2).

(5) The names and curriculum vitae of the persons nominated to be appointed as members of the Board pursuant to paragraph (d) of subsection (2) shall be submitted to the County Assembly for approval before appointments are made.

Functions of the Board

6. (1) The functions of the Board shall be to—

(a) to ensure timely and efficient disbursement of funds to every Ward.
(b) to ensure efficient management of the Fund;
(c) to receive and discuss annual reports and returns from the Wards
(d) ensure the compilation of proper records, returns and reports from the Wards
(e) receive and address complaints and disputes and take any appropriate action;
(f) consider project proposals submitted from various Wards in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective Ward fund account of the approved projects;
(g) perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund.

(2) Where any issues of policy arise in the course of the performance of its functions under this Act, the Board shall refer the same to the Governor.

Conduct of business and affairs of the Board

7. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Fourth Schedule.
(2) Except as provided in the Fourth Schedule, the Board may regulate its own procedure.

**Chief Executive Officer of the Board**

8. (1) There shall be a Chief Executive Officer of the Board who shall be recruited by the Board on a competitive basis and recommendations made to the Governor for appointment, with the approval of the County Assembly.

(2) A person shall not be appointed under this section unless such person—

(a) has a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;

(b) has at least five years' working experience in the relevant field.

(3) The Chief Executive Officer shall subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the Board.

(4) The chief executive officer shall serve for a renewable term of five years.

**Disbursement from the Fund**

9. (1) Each and every disbursement from the Fund shall be approved and minuted by the Board.

(2) All disbursements from the Fund shall be for specific projects as submitted by the Wards in accordance with the procedures outlines in this Act.

(3) All disbursements shall be made through the Ward bank accounts maintained for every ward in accordance with section 38 of the Act.

(4) Notwithstanding the provisions of subsection (3), payments for a joint project as outlined in section 23 (4) or a joint procurement, may be made directly to a supplier or to an account established for the purpose with due approval of the Board.

(5) The record of the amounts received by each ward and the record of expenditure of amounts so received shall be submitted to the Board within thirty days after the close of the relevant financial year together with a copy of the relevant bank statements and no disbursements for the
succeeding financial year shall be made into the accounts until the said records are duly received.

(6) The Board shall set out general conditions and requirements for release of funds, to ensure efficient and effective management of resources.

(7) The Board may impose reasonable requirements, including restrictions, on a particular ward and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Governor in accordance with this Act.

**Allocation of funds**

10. (1) The County Treasury, with the concurrence of the relevant County Assembly Committee, shall for each financial year allocate funds to each Ward in accordance with section 20.

(2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the account of the Ward from which the funds were withdrawn.

(4) Unspent funds shall be allocated to any eligible project and such project may be new or ongoing at the end of the financial year.

(5) For the avoidance of doubt, a return as set out in the Third Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

**Funds to be retained in the Fund**

11. (1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be returned to the Fund and applied in accordance with section 10 (5) of this Act.

(2) All funds allocated to a ward shall be cumulative and shall be carried forward from one financial year to the next, including funds returned into the accounts in
accordance with section 10(3) or funds which are not utilized for whatever reasons.

**Emergency reserve**

12. (1) A portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Ward.

(2) The Accelerated Ward Development Fund Committee shall determine the allocation of the emergency reserve in accordance with the Act.

(3) "Emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the people.

**PART III—SUBMISSION OF WARD PROJECT PROPOSALS**

**Submission of projects**

13. (1) The list of proposed Ward-based projects to be covered under this Act shall be submitted by the chairman of the Accelerated Ward Development Fund Committee to the Board.

(2) The Board shall receive and compile the list of proposed Ward projects submitted to it under this Act and submit it to the County Assembly Committee for approval.

**Submission deadline**

14. The list of the proposed Ward projects shall be submitted to the Board before the end of the month of February in each year or such other month as may be determined by the Board in order to ensure timely inclusion of the projects in the annual County Government budget of a particular financial year.

**Submission Form**

15. (1) The list of projects shall be submitted on a Ward Projects Submission Form set out in the First Schedule to this Act accompanied by minutes of the Accelerated Ward Development Fund Committee approving the projects.
(2) All projects proposed for every Ward shall be listed in the Form together with the cost estimates, amounts allocated and amounts disbursed to such projects.

**Projects description Form**

16. For every project listed in the Form, there shall be attached a Project Description Form set out in the Second Schedule.

**Approval of projects**

17. (1) The list of projects received by the Board pursuant to section 13 shall be tabled for review at a meeting of the Board.

(2) The Board shall scrutinize and approve for funding those project proposals that are consistent with the Act.

(3) Where the Board does not approve a proposal submitted to it under this section, it shall refer the matter to the Accelerated Ward Development Fund Committee giving reasons as to why it has declined the proposal.

**Discretion of Accelerated Ward Development Fund Committee**

18. The allocation of funds to various projects in each Ward is the responsibility of the Accelerated Ward Development Fund Committee to be exercised at its own discretion within the provisions of this Act.

**List to be serialized**

19. The projects listed for each Ward shall be numbered by the Board and the serial numbers of all projects in a Ward shall bear the number of the Ward as delineated by the Governor in order to ensure that a project retains the same serial number every year until its completion.

**Basis for allocation to Wards**

20. (1) Unless otherwise prescribed, the allocation to each Ward shall be done equitably.

(2) The Chair of a Committee of the County Assembly shall table in the County Assembly a schedule showing the sums allocated to each Ward, which shall be determined in accordance with sub section (1).
Criteria for Projects

21. (1) The types of projects submitted for funding under this Act shall comply with the provisions of this Act.

(2) It shall be the responsibility of the Accelerated Ward Development Fund Committee to ensure that the list of projects submitted for funding comply with the provisions of the Act and their total cost does not exceed the allowable ceiling for the particular Ward or is not below that ceiling.

PART IV—TYPES OF PROJECTS

Projects to be community based.

22. (1) Projects under this Act shall be community-based in order to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants in the Ward.

(2) Any funding under this Act shall be for a complete project or a defined phase of a project and may include the acquisition of land and buildings.

(3) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility.

(4) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities.

(5) Notwithstanding the provisions of subsection (4), the Accelerated Ward Development Fund Committee may identify a religious body or organization as an appropriate specialized agency for purposes of section 12 with regard to emergency support.

(6) The Accelerated Ward Development Fund Committee office project shall be considered as a development project for purposes of the Act and may include appropriate furniture and equipment for the office.

(7) Notwithstanding the provisions of subsection (3), up to a maximum of six per centum of the total annual allocation for the Ward may be used for administration, recurrent expenses of vehicles, equipment and machinery
(8) Projects may include the acquisition of vehicles, machinery and other equipment for the Ward.

(9) Sports activities shall be considered as development projects for purposes of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the Ward in that financial year.

(10) Monitoring and evaluation of ongoing projects and capacity building of various operatives may be considered as a development project provided that not more than three per centum shall be allocated for this purpose.

(11) Environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed two per centum of the total allocation of the Ward in that financial year.

(12) Each of the projects shall be listed on the First Schedule including the emergency item under section 11 and, where applicable, the activities under subsections (6), (7), (8), (9), (10) and (11) of this section.

**Number of projects**

23. (1) The number of projects to be included in the Ward Projects Submission Form specified in the First Schedule shall be a minimum of five and a maximum of twenty five for every Ward in each financial year.

(2) Wards unspent funds at the end of the financial year shall submit new proposals to the Board for approval in accordance with section 10(5) of this Act.

(3) Project activities of a similar nature in a particular Ward may be combined and considered as one project for purposes of subsection (1) provided that the sub projects are listed in the Second Schedule.

(4) Wards may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the Board of each of the participating wards and shall be reflected on the projects listed for each of the participating wards.
(5) Where wards have joint projects, the Board shall co-ordinate such projects.

**Composition of the Accelerated Ward Development Fund Committee.**

24. (1) There shall be an Accelerated Ward Development Fund Committee for every Ward.

(2) Each Accelerated Ward Development Fund Committee shall comprise—

(a) the Ward Administrator who shall be the Ex-officio of the Committee and therefore the Secretary to the Committee.

(b) two men appointed in writing by the Ward representative and one of whom shall be a youth at the date of appointment;

(c) two women appointed in writing by the Ward representative and one of whom is a youth shall be a youth at the date of appointment;

(d) one person with disability appointed by the ward representative;

(e) one person appointed by the Ward representative from a list submitted by the active Non-Governmental Organizations in the Ward;

(f) The committee in its first committee meeting shall elect a chairperson and the Vice-Chairperson from the appointed members, putting gender into consideration.

(4) The Member of the Executive Committee shall cause the names of persons appointed as members of the Accelerated Ward Development Fund Committee, pursuant to sub-section (2) to be published in the County Gazette.

(5) The first meeting of the Accelerated Ward Development Fund Committee shall be convened within the first forty days of a new County Assembly or a by-election, by the county government official at the Ward or in his or her absence, by an officer of the Board seconded to the Ward, on such day as may be designated by the Member of the Executive Committee responsible for finance.
(6) The Accelerated Ward Development Fund Committee shall ensure public participation in its activities.

(7) Each Village Administrator shall come up with a list of priority projects to be submitted to the Accelerated Ward Development Fund Committee.

(8) The quorum of the Accelerated Ward Development Committees shall be one half of the total membership.

(9) The term of office of the members of the Accelerated Ward Development Fund Committee shall be three years irrespective of a county assembly term but shall be renewable and shall come to an end upon the appointment of a new Accelerated Ward Development Fund Committee in a manner provided in this Act.

(10) The Ward Administrator be the custodian of all records and equipment of the Ward during the term of the County Assembly and during transitions occasioned by general elections or a by-election.

(11) Whenever a vacancy occurs in the Accelerated Ward Development Fund Committee by reason of resignation, incapacitation or demise of a member then the vacancy shall be filled from the same category of persons where the vacancy has occurred.

(12) The Accelerated Ward Development Fund Committee shall meet at least six times in a year and not more than twenty four times in every financial year including sub-committee meetings.

(13) The Accelerated Ward Development Fund Committee shall, at its discretion, determine the quantum of installments to various projects in the Ward, taking into account the disbursement received and the requirement of different projects.

(14) A member of the committee may be removed on any one or more of the following grounds—

(a) lack of integrity;
(b) gross misconduct;
(c) embezzlement of public funds;
(d) bringing the image of the committee into disrepute through unbecoming personal public conduct;

(e) promoting unethical practices;

(f) causing disharmony within the committee;

(g) physical or mental infirmity.

(15) A decision to remove a member under subsection (14) shall be made through a resolution of at least five members of the Committee and the member sought to be removed shall be given a fair hearing before the resolution is made.

(16) A vacancy arising as a result of the removal of a member under subsection (14) shall be filled in the manner set out in subsection (11) and minutes of the meeting shall indicate the fact of the removal or appointment of a member.

(17) The committee may employ staff, not exceeding three in number, and such staff shall have knowledge in information and communications technology, construction and basic accounting.

(18) Staff employed under subsection (17) shall help in project monitoring evaluation, co-ordination and proper keeping of records and such staff shall be remunerated from the funds allocated for administration and recurrent expenses.

Cost estimates to be realistic

25. (1) The Accelerated Ward Development Fund Committee may make appropriate consultations with the relevant County Government departments is done to ensure that cost estimates for the projects are as realistic as possible.

(2) The Accelerated Ward Development Fund Committee shall rank the projects in order of priority and whenever, in the opinion of the Board, the total cost of the projects listed exceed the ceiling for a particular Ward, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that on-going projects shall take precedence over all other projects.
Personal awards to be excluded

26. (1) A project or any part thereof which involve personal awards to any person in cash or in kind, shall be excluded from the list of projects submitted in accordance with section 13 of the Act.

(2) Notwithstanding the provisions of subsection (1), an education bursary scheme, mocks and continuous assessment tests shall be considered as a development project for purposes of the Act provided that such a project shall not be allocated more than twenty five per centum (25%) of the total finds allocated for the Ward in any financial year.

Counter-part funding to be permitted

27. For the purposes of this Act, the Board may consider part funding of a project financed from sources other than the Fund so long as the other financiers or donors of that project have no objection and provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated under this Act.

PART V—COUNTY ASSEMBLY COMMITTEE ON ACCELERATED WARD DEVELOPMENT FUND

Establishment of the County Assembly Select Committee.

28. (1) The County Assembly shall, in accordance with its Standing Orders, establish a Select Committee consisting of a chairperson and not more than ten other members of the County Assembly.

(2) In determining the membership of the County Assembly Select Committee, the County Assembly shall ensure proportionate representation of the County Assembly Political Parties.

(3) The term of office of the members of the County Assembly Select Committee shall be three years renewable or upon the appointment of a new committee in a manner provided for in this Act, whichever comes earlier.
(4) The procedures and rules for the operations of the County Assembly Committee shall be governed by the Standing Orders of the County Assembly.

(5) The functions of the County Assembly Select Committee shall be—

(a) to oversee the policy framework and legislative matters that may arise in relation to the Fund;

(b) to continually review the framework set out for the efficient delivery of development programmes financed through the Fund;

(c) to carry out any other functions relevant to the work of the Fund.

(6) The Committee may make reports other than the statutory report stated in sub section 5(b) to appraise the County Assembly on various matters relating to the Fund and to seek various approvals as required by the Act.

Quarterly reports on projects and disbursements

29. The Board shall, on a monthly basis, submit a report to the County Assembly Select Committee detailing—

(a) a summary of the project proposals received from the Wards in the preceding month and indicating the approval status of such projects;

(b) a summary of the status of disbursements of funds to the Wards for that preceding month;

(c) a summary of the status of disbursements from the County Treasury to the Wards Account; and

(d) any restriction imposed on a Ward account in accordance with the Act.

Projects

30. The Board shall ensure that the list of projects forwarded to it by each Ward is, upon approval, funded in accordance with the Act.

PART VI—IMPLEMENTATION OF PROJECTS

The Accelerated Ward Development Fund Committee to implement projects

31. (1) Projects under this Act shall be implemented by the Accelerated Ward Development Fund Committee in
each case, with the assistance of the relevant department of the County Government and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force.

(2) Where a project in a Ward involves the purchase of equipment, such equipment shall remain for the exclusive use of that Ward.

(3) The Board shall be responsible for monitoring the implementation of projects.

(4) All fixed and movable assets, including equipment bought under this Act for use by the Accelerated Ward Development Fund Committee shall be the property of the Board to be insured in the name of the Board.

(5) No asset or equipment acquired under this section shall be disposed of without the prior approval of the Board.

(6) Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (5) shall be credited to the account of the Ward from whose funds the asset was acquired and such funds shall be reflected and declared as part of the following year’s Ward fund for that Ward.

Procurement of services and Works

32. All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposals Act 2005 and relevant regulations

Record of receipts and disbursement

33. The officer of the Board in every Ward shall compile and maintain a record showing all receipts, disbursements and actual expenditures on a monthly basis in respect of every project and sub-project under this Act and shall—

Audit

34. All funds received under this Act shall be audited and reported upon by the Auditor-General.

Community Initiatives to be eligible

35. Projects initiated by a community shall be eligible for support under this Act provided that such projects shall
be submitted with the other projects in conformity with the requirements of this Act.

**Duplication of projects to be avoided**

36. The Accelerated Ward Development Fund Committee shall liaise with the Constituency Development Fund Committee established under the Constituency Development Fund Act 2013 County Projects Committee to ensure that no duplication of projects occurs.

**PART VIII—FINANCE AND ADMINISTRATION**

**Staff of the Board**

37. (1) The Board shall appoint such officers and other staff as are necessary for the proper management of the Fund and discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

(2) The principal management structure of the Board shall be established or varied by the Board with the approval of the Member of the Executive Committee responsible for finance.

**Ward account**

38. (1) For the purpose of disbursement of funds under this Act there shall be opened and maintained a Ward account for every Ward at any commercial bank, approved by the Member of the Executive Committee responsible for finance into which all funds shall be kept and such an account shall be known by the name of the Ward for which it is opened and each Ward shall maintain only one account.

(2) The bank account opened pursuant to subsection (1), shall be separate from that of the County Treasury.

(3) At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from a Ward account and the signing instructions shall be such that there shall be at least one signature of an officer seconded by the Board and at least two signatures of two members of the Ward Development Fund Committee.

(4) The Ward Administrator shall hold the authority to incur expenditure of the funds at the Ward account.
(5) Funds from the Ward account shall only be withdrawn as disbursements for a particular project in accordance with the provisions of section 9 of the Act.

(6) Every payment or instruction for payment out of the Ward fund account shall be strictly on the basis of a minuted resolution of the Accelerated Ward Development Fund Committee.

(7) All receipts, savings and accruals to the Ward account and the balances thereof at the end of each financial year shall be returned to the Board Fund Account.

(8) All unutilized funds shall remain in the Ward account and no investment elsewhere shall be permitted, provided that funds meant for a project that is cancelled or discontinued shall be returned to the Fund Account in accordance with section 10 of this Act.

(9) Any accruing revenues, interest and liabilities from any Ward account shall be declared to the Board together with the annual returns.

Bank account of the Fund

39. (1) A bank account of the Fund shall be opened and maintained at a reputable bank.

(2) The signatories to the account of the Fund maintained in accordance with subsection (1), shall be the Chief Executive Officer and three other persons appointed by the Board from amongst its members.

(3) The signing instructions shall be such that the signature of the Chief Executive Officer shall be mandatory on all payment cheques and/or instruments intended for actual release of money from the fund, plus any two of the other three signatories.

Record of disbursements to be kept

40. (1) An accurate record of all disbursements made for projects to every Ward shall be kept and updated every month by the Board.

(2) The disbursement of funds to the Ward fund account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five per centum of the annual allocation for the Ward and thereafter the Ward fund
account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year.

(3) The Chairperson of the Board shall submit an annual report on the activities, operations and expenditure under the Act.

(4) At the end of every financial year the Board shall submit separate accounts of the wards and the Board to the Auditor General.

PART VIII—MISCELLANEOUS PROVISIONS

Finances of the Board

41. (1) The expenditure for running the Board and related purposes shall be set aside at the beginning of the financial year and not more than five per centum of the total allocation to the Fund in the financial year may be used for this purpose, the annual budget of which shall be approved by the Member of the Executive Committee responsible for finance.

(2) The personal emoluments of Government officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of County Government but any other emoluments or payments to such officers from the Fund shall be determined by the Member of the Executive Committee responsible for finance.

(3) Sitting allowances the Accelerated Ward Development Fund Committee shall be paid out from funds set aside in section 22 (7).

(4) The accounts of each Ward and secretariat of the Board shall be audited and reported upon in accordance with the Public Audit Act, 2003 (No. 12 of 2003) and the Public Finance Management Act, 2012 (No. 18 of 2012).

Power to make regulations

42. (1) The Member of the County Executive Committee may make regulations for the smooth running of the Fund and such regulations shall be approved by the County Assembly before implementation.

(2) The Member of the Executive Committee may amend any of the Schedules through a notice in the County
Gazette, provided that such amendments shall first be approved by the County Assembly before implementation.

**Provisions in the Act are complimentary**

43. (1) The provisions of this Act shall be complimentary to any other development efforts by the national government, the county governments or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development programmes.

(2) For the avoidance of doubt, normal County Government development allocations shall continue alongside the projects funded under this Act.

**Offences and penalties**

44. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not less than five years or to a fine not less than five hundred thousand shillings or to both.

**Dispute resolution**

45. (1) All complaints and disputes by persons arising due to the administration of this Act shall be forwarded to the Board in the first instance.

(2) Complaints of a criminal nature shall be forwarded by the Board to the relevant government agencies with prosecutorial powers.

(3) Disputes of a civil nature shall be referred to the Board in the first instance and where necessary an arbitration panel whose costs shall be borne by the parties to the dispute, shall be appointed by consensus of the parties to consider and determine the matter before the same is referred to court.

(4) Notwithstanding subsection (3), parties shall be at liberty to jointly appoint an arbitrator of their choice in the event of a dispute but where parties fail to jointly agree on an arbitrator, the County Executive member for Finance may appoint an arbitrator whose costs shall be jointly borne by the parties.
Subject to this Act, no person in the management of the Fund shall be held personally liable for any lawful action taken in his official capacity or for any disputes against the Fund.

**FIRST SCHEDULE** (s. 15)

**WARD PROJECTS SUBMISSION FORM**

Ward No. ...... Ward Name ........................................ Financial year ........

Chairman AWDF Committee ..........Signature .......... Date .................

<table>
<thead>
<tr>
<th>Serial</th>
<th>Name of Project</th>
<th>Amount allocated</th>
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Total for the Financial Year

**SECOND SCHEDULE** (S. 16)

**PROJECT DESCRIPTION FORM**

Ward No: ............ Ward Name ......................... ......Ward............

Project Number ............................

Project Title ............................

Sector ..................................

Status of projects (tick one) New .. Extension... On-going.................,

Rehabilitation ..........................
Brief statement on project status at time of submission

Financial year .................. 1st July .................. to 30th June ...........

Original Cost estimates, in KSh. .................. dated ..................

Amount allocated last financial year ..................

Person completing form: .................. Signature ..................

Name .................. Position ..................

Date ..................

THIRD SCHEDULE

Project Re-Allocation Form

Ward No: ........ Name .................. Financial year ...........

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Project Title</th>
<th>Amount allocated (Kshs)</th>
<th>Amount disbursed (Kshs)</th>
<th>Balance (Kshs)</th>
<th>Unspent to be re-allocated</th>
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Signature .......... Date .................

Name .................. Position ............
FOURTH SCHEDULE (s. 7)

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Tenure of office

1. The Chairperson or a member of the Board other than ex-officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two terms.

Vacation of office

2. (1) A member other than an ex-officio member may—

(a) at any time resign from office by notice in writing to the Governor;

(b) be removed from office by the Governor on recommendation of the Board if the member—

(i) has been absent from three consecutive meetings of the Board without its permission;

(ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or

(iv) is otherwise unable or unfit to discharge his functions.

(2) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1).

Meetings

3. (1) The Board shall meet not less than six and not more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding sub paragraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be five members.
(5) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereof.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Committees of the Board

4. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

Disclosure of interest

5. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) shall cease to be a member of the Board upon direction of the Executive Member for Finance.
Contracts and instruments

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Common seal

7. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson, the Chief Executive Officer and one member nominated by the Board and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson, the Chief Executive Officer and that member nominated by the Board.

(3) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

8. The provisions of this Schedule shall apply to the conduct of the business of the Accelerated Ward Development Fund Committee but only where no specific provisions have been made in this Act, and only in so far as they do not constitute a contradiction or negation of the provisions of the Act.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish the Accelerated Ward Development Fund for eradication of poverty through the Implementation of Community-based projects and for connected.

Purposes

PART I provides for preliminary matters.

PART II establishes the Fund as a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued, taking purchasing or otherwise acquiring, charging or disposing of movable and immovable property, borrowing money or making investments and doing or performing all other acts or things for proper performance of its functions under this act which may lawfully be done or performed by a body corporate.

Section 6 of this part lists the objectives of the Fund as:

(a) To ensure timely and efficient disbursement of funds to every Ward;

(b) To ensure efficient management of the Fund;

(c) To receive and discuss annual reports and returns from the Wards;

(d) Ensure the Compilation of proper records, returns and reports from the Wards

(e) Receive and address complaints and disputes and take any appropriate action;

(f) Consider project proposals submitted from various Wards in accordance with the Act, approve for funding those project proposals that are consistent with this Act and send funds to the respective Ward fund accounts of the approved projects;

(g) Perform such other duties as the Board may deem necessary from time to time for proper management of the Fund.

PART III outlines the procedure for submission of Ward Project Proposals

PART IV provides the types of Projects to be funded by the Act.

PART V Provides for the establishment of the County Assembly Select Committee.

The functions of the Committee are to:

(a) Consider and recommend to the County Assembly any matter
requiring action by the County Assembly pursuant to the provisions of this Act;

(b) Oversee the implementation of this Act and in this respect, shall after two years submit a report to the County Assembly and where necessary propose any amendments to this Act, in particular, with respect to the quantum of funds repayable into the Fund in accordance with section 4 of the Act;

(c) Oversee the policy framework and legislative matters that may arise in relation to the Fund;

(d) Continually review the framework set out for the efficient delivery of development programs financed through the Fund;

(e) Consider and report to Assembly with recommendations, names of persons required to be approved by County Assembly under this Act; and

(f) Carry out any other functions relevant to the work of the Fund.

PART VI outlines the Procedure for implementation of Projects.

PART VII provides the Finance and Administration of the Fund. The Administrative powers of the Ward Administrator to incur expenditure of the Funds at the Ward account are provided for in Clause 38(4).

PART VIII contains miscellaneous provisions. Clause 42 empowers the Member of the County Executive Committee to make regulation for the smooth running of the Fund and such regulations shall be approved by the County Assembly before implementation.

The Schedules contain the statutory forms and provisions as to conduct of business and affairs of the Board of the Fund.

The enactment of the Bill shall occasion additional expenditure of public funds which shall be provided for in the County Government of Busia estimates.

Dated the 24th October, 2013.

GODFREY ODONGO,
Chair-Budget and Appropriations Committee,
County Assembly of Busia.