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BILLS, 2014

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THE WEST POKOT COUNTY REVENUE ADMINISTRATION BILL, 2014

A Bill for

AN ACT of the West Pokot County Assembly to provide for the general administration of certain taxation laws and other revenue raising laws and for related purposes

ENACTED by the County Assembly of West Pokot as follows—

PART I — PRELIMINARY MATTERS

1. (1) This Act may be cited as the West Pokot County Revenue Administration Act, 2014 and shall come into operation on the date of publication in the County and Kenya Gazette.

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

   "county public officer" has the same meaning as in the County Governments Act, 2013;

   "premises" includes—
   (a) any part of a building or structure; and
   (b) any part of a vehicle or vessel; and
   (c) an area of land;

   "prescribed" means prescribed by the rules made under this Act;

   "rate" means a rate imposed under the West Pokot County Rating Bill, 2014;

   "receiver of revenue" has the meaning given by section 3;

   "revenue law" means—
   (a) this Act; or
   (b) the West Pokot County Rating Act, 2014 or
   (c) the West Pokot County Trade Licence Act, 2014 or
   (d) any other Act imposing an entertainment tax or any other tax that is payable to the County
Government; or

(e) any Act or other law providing for the payment to the County Government of fees or charges for services provided; or

(f) any other prescribed law;

"relevant person" means—

(a) a revenue payer; or

(b) an employee or agent of the revenue payer; or

(c) any other person whom the receiver of revenue believes on reasonable grounds may be able to assist in determining the liability (if any) of the revenue payer to pay a rate, tax, fee or charge payable under a revenue law;

"revenue payer" means a person liable to pay rate, tax, fee or charge to the County Government under a revenue law.

PART II — ADMINISTRATION OF REVENUE LAWS

3. (1) The receiver of revenue is:

(a) in the case of taxation, the person who is the receiver of revenue designated in respect of taxation under section 157 of the Public Finance Management Act, 2012; or

(b) in the case of any other kind of revenue, the person who is the receiver of revenue designated in respect of that other kind of revenue under section 157 of that Act.

4. (1) The receiver of revenue:

(a) is responsible for the administration and enforcement of revenue laws and for that purpose to ensure the assessment, collection and accounting for all rates, taxes, fees and charges payable by or under any of those laws; and

(b) is to advise the County Government on all matters relating to the administration and enforcement of county revenue laws, and the assessment and collection of rates, taxes, fees and charges under
(c) must perform such other functions as the County Government directs.

(2) Without limiting the functions and powers of the receiver of revenue under the Public Finance Manage Act, 2012, the receiver of revenue has such powers and other functions as are provided for by or under the revenue laws.

5. The receiver of revenue may, by instrument in writing, delegate all or any of his or her functions or powers under any revenue law to a county public officer, except this power of delegation.

6. The County Government may enter into an agreement authorizing a person to collect rates, taxes, fees and charges payable under revenue laws on such terms and conditions as are specified in the agreement.

7. (1) The receiver of revenue must prepare an annual report on the operation and administration of all revenue laws.

(2) The receiver of revenue must give the annual report to the County Executive Member responsible for finance within 90 days after the end of the year to which the report relates.

(3) The County Executive Member responsible for finance must table the annual report in the County Assembly as soon as practicable.

PART III — RECORDS AND INFORMATION OF REVENUE PAYERS

8. (1) A revenue payer must make and keep such books, accounts and records as are reasonably necessary to determine the revenue payer’s liability to pay rates, taxes, fees or charges under a revenue law for a period of at least seven years after the completion of the transactions to which they relate.

(2) The county receiver of revenue may, by notice in writing, given to a revenue payer direct the revenue payer as to the books, accounts and records the revenue payer is required to make and keep.

(3) If a revenue payer fails to comply with subsection
(1) or a notice under subsection (2), the revenue payer is
guilty of an offence punishable on conviction by a fine not
exceeding:

(a) in the case of an individual —100,000 shillings; or

(b) in any other case — 500,000 shillings

9. (1) For the purposes of determining the liability (if
any) of a revenue payer to pay a rate, tax, fee or charge
payable under a revenue law, the receiver of revenue may,
by notice in writing, given to a relevant person require the
relevant person to do either or both of the following:

(a) provide the receiver of revenue with such
information as the receiver of revenue requires;

(b) attend and give evidence before the receiver of
revenue, including on oath administered by the
receiver of revenue.

(2) If a person fails to comply with a notice under
subsection (1), the person is guilty of an offence punishable
on conviction by a fine not exceeding 100,000 shillings.

10. (1) For the purpose of determining the liability (if
any) of a revenue payer to pay a rate, tax, fee or charge
payable under a revenue law, the receiver of revenue has
full and free access to any premises of, or in the custody or
control of, a relevant person and may, at all reasonable
times, exercise all or any of the following powers:

(a) enter and inspect those premises and any goods in
or on those premises, including opening any
packaging or containers that may contain goods;

(b) obtain, copy and print information or data from
any computer system in or on those premises and
retain all information and data that is obtained,
copied or printed;

(c) take extracts from or copies of any books,
accounts, records and other documents in or on
those premises and retain all extracts or copies
taken.

(2) If the county receiver of revenue is of the view that
it is impractical to exercise any of the powers under
paragraph (1) (a), (b) or (c), the receiver of revenue may
remove all or any of the things referred to in that paragraph to offices of the County Government for such time as is reasonably necessary to determine a revenue payer’s liability to pay.

(3) A relevant person must give all reasonable assistance to the receiver of revenue so as to allow him or her to exercise all or any of his or her powers under this section.

(4) If a person:
   (a) fails or refuses to provide access to premises required by the county receiver of revenue; or
   (b) obstructs or hinders the county receiver of revenue in the discharge of his or her duties under paragraph (1) (a), (b) or (c); the person is guilty of an offence punishable on conviction by a fine not exceeding 100,000 shillings.

11. (1) The receiver of revenue may take into his or her possession any property, other than land, that may be required as evidence in a court for proceedings to be brought under this Act or any other revenue law.

   (2) When property is no longer required under subsection (1), the property must be returned as soon as practical to the person entitled to it.

PART IV — MISCELLANEOUS

12. (1) In performing any function or exercising any power under this Act, the receiver of revenue must produce written identification establishing his or her position if requested by any person.

   (2) In performing any function or exercising any power under this Part, a delegate of the receiver of revenue must produce written identification establishing his or her position as the county receiver of revenue’s delegate if requested by any person.

13. (1) The county receiver of revenue must establish a revenue register and keep it up to date.

   (2) The register must contain the prescribed information and may be kept in such form as the receiver of revenue decides.
14. The receiver of revenue may approve forms for the purposes of a revenue law.

15. If a person contravenes or fails to comply with any provision of this Act, the person commits an offence against this Act and, unless another penalty is expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding 10,000 shillings.

16. (1) Any document required to be published under a revenue law may be published by advertisement in the Gazette and in one or more newspapers circulating in the county.

(2) Any document required or authorized to be sent or served under or for the purposes of a revenue law may be sent or served—

(a) by delivering it to the person to or on whom it is to be sent or served; or

(b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or

(c) by ordinary or registered post; or

(d) by emailing it to the person; or

(e) Any method which may be prescribed.

(3) However, if the county receiver of revenue having attempted to send or serve a document by one of the methods provided under subsection (2) and is satisfied that such notice has not been received by the person to whom it was addressed, the county receiver of revenue may advertise, in the manner provided in subsection (1), the general purport of such document, and upon such advertising the document is deemed to have been received by that person.

(4) An advertisement referred to in subsection (3) may refer to one or more documents and to one or more rateable owners.

(5) Any document under a revenue law required or authorized to be served on the owner or occupier of any premises may be addressed by the description "owner" or "occupier" of the premises (naming them), without further
17. (1) The receiver of revenue may issue guidelines for the purposes of a revenue law.

18. The County Executive Member responsible for finance may make rules generally for the better carrying out of the provisions and purposes of this Act.
MEMORANDUM OF OBJECTS AND REASONS

The Bill confers a general power and responsibility for the administration of county revenue laws on a public official who is to be held accountable for that administration. To achieve this purpose, the Bill sets out additional relevant administrative and enforcement provisions relating to revenue legislation.

The enactment of this Bill into law does not occasion additional expenditure of public funds.

Dated the 4th November, 2014.

HON. LIMANYANG JAMES KAPELION,
Chairman, Committee on Finance, Planning and Housing.